Congress of the United States
U.S. House of Representatives
COMMITTEE ON WAYS AND MEANS
1102 LONGWORTH HOUSE OFFICE BUILDING
(202) 225–3625
Washington, DC 20515–6348
http://waysandmeans.house.gov

April 9, 2014

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Holder:

The Committee on Ways and Means (Committee) of the U.S. House of Representatives has discovered information in the course of its ongoing investigation of the targeting by the Internal Revenue Service (IRS) of taxpayers on the basis of their political views. This information suggests willful misconduct by an IRS official, and also suggests that she may have violated multiple federal criminal statutes.

Rule X.1(t) of the Rules of the House of Representatives for the 113th Congress delegates to the Committee legislative jurisdiction over "[r]evenue measures generally," including the Internal Revenue Code (IRC or Code) and the Department of Treasury (Treasury), which includes the IRS. As a result, the Committee is responsible for considering all legislation that raises the revenue required to finance the federal government. The raising of such revenue depends on voluntary compliance with the IRC, which is undermined when taxpayers and exempt organizations perceive that the administration of the IRC is unfair or, worse, is biased against them. Oversight of the IRS, and particularly investigation of IRS activity that could undermine voluntary compliance with the IRC, is thus a fundamental obligation of the Committee.[1] It is pursuant to this authority and in discharge of this obligation that the Committee has investigated allegations that the IRS mistreated certain taxpayers and exempt organizations on the basis of their political beliefs.

[1] *See also* Rule X.2(b)(1), Rules of the House of Representatives, 113th Congress (vesting Committee with authority to oversee and evaluate whether laws written by Committee are being administered consistent with congressional intent and whether such laws should be changed); *cf.* IRC § 6103 (expressly authorizing Committee review of certain material).

During the course of its investigation, the Committee has obtained information that reveals that former IRS Exempt Organizations Division (EO) Director Lois G. Lerner, while acting in her official capacity, may have violated one or more criminal statutes. Specifically, the Committee's investigation has uncovered conduct by Lerner that includes the following:

1. Lerner used her position to improperly influence agency action against only conservative organizations, denying these groups due process and equal protection rights under the law as guaranteed by the U.S. Constitution, in apparent violation of 18 U.S.C. § 242;

2. Lerner impeded official investigations by providing misleading statements in response to questions from the Treasury Inspector General for Tax Administration (TIGTA), in apparent violation of 18 U.S.C. § 1001; and

3. Lerner risked exposing, and may actually have disclosed, confidential taxpayer information, in apparent violation of IRC § 6103 by using her personal email to conduct official business.

These findings, supported by the evidence described below, suggest that Lerner may have violated multiple criminal statutes. The Committee asks that you pursue this evidence and ensure that the victims of IRS abuse do not also suffer neglect from the criminal justice system.

I. Lerner Showed Extreme Bias and Prejudice in Exercising Her Power and Influence Over the Non-Profit Sector

As EO Director, Lerner had authority to act on behalf of the IRS.[2] Lerner willfully used her authority to subject specific organizations to adverse treatment in defiance of IRS controls. Lerner directed subordinates to subject specific right-leaning groups to increased scrutiny and audits, and even the denial of exempt status.

a. *Lerner's Targeting of Crossroads GPS & Blind Eye to Priorities USA*

On October 19, 2010, Lerner explained to a group of Duke University students that 501(c)(4) organizations were spending money on campaign activity in the wake of the *Citizens United* decision.[3] She said, "[E]verybody is screaming at us, 'fix it now before the election...."[4] At the same time, Assistant Senate Majority Leader Dick Durbin, wrote then IRS Commissioner Doug Shulman to demand an investigation of Crossroads GPS.[5] Lerner explained to the students, "I won't know until I look at their 990s next year

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[2] See IRC § 7803 (setting out the authorities of the IRS Commissioner), *see also* Internal Revenue Manual (IRM) 1.1.23.5 (providing that Director of EO reports directly to Deputy Commissioner of TE/GE and, among other duties, "supervises and is responsible for the activities of . . . EO Rulings and Agreements and EO Examinations functions").
[3] *See generally, Citizens United v. Fed. Elec. Comm'n*, 558 U.S. 310 (2010).
[4] Transcribed from http://www.youtube.com/watch?feature=player_embedded&v=EH1ZRyq-1iM, Exhibit 1.
[5] *See* Letter from Assistant Majority Leader Dick Durbin to IRS Commissioner Doug Shulman on October 12, 2010. Available at: http://www.durbin.senate.gov/public/index.cfm/pressreleases?ID=833d8f1e-bbdb-4a5b-93ec-706f0cb9cb99.

whether they have done more than their primary activity as political or not, so I can't do anything right now."[6] While Lerner's public comments seemingly cast a wide, unbiased net across the entire 501(c)(4) spectrum, her private actions were different.

Documents produced to the Committee further link Lerner's actions with complaints from Democracy 21.[7] Those complaints chiefly focused on Crossroads Grassroots Policy Strategies (Crossroads) and other right-leaning groups, but also cite left-leaning groups such as Priorities USA.[8] On October 5, 2010, just two weeks before her remarks at Duke University, Fred Wertheimer of Democracy 21 and Gerald Hebert of the Campaign Legal Center (CLC) wrote to then-Commissioner Shulman and Lerner to, "Request for IRS investigation to determine whether 'Crossroads GPS' is operating in violation of tax status."[9] Later, on July 27, 2011, Democracy 21 and CLC sent the IRS a self-styled, "Petition for Rulemaking On Campaign Activities by Section 501(c)(4) organizations," in which they raised concerns about the political campaign activities of 501(c)(4) exempt organizations, including Crossroads and Priorities USA.[10] Finally, on December 14, 2012, Democracy 21 requested a meeting with Lerner to discuss its July 27, 2011 petition.[11]

Lerner quickly organized a meeting for Democracy 21 not only with herself, but also with the Office of Chief Counsel and the Office of Tax Policy at the Department of the Treasury for January 4, 2013.[12] In preparation for the meeting, Lerner asked David Fish, then acting Director of EO's Rulings and Agreement Division, and Andy Megosh with EO Guidance, for all "letters these orgs sent in asking for c4 guidance…."[13] While Democracy 21's petition raised concerns about groups across the political spectrum, documents IRS produced to the Committee show an aggressive and improper pursuit of Crossroads by Lerner, but no evidence she directed reviews of similarly situated left-leaning groups.[14]

For example, on January 2, 2013, the IRS's Chief for Media Relations circulated a ProPublica article to Lerner and Nikole Flax, then chief of staff to Acting Commissioner Steve Miller, among others, "FYI—Here is the latest inbound for ProPublica."[15] Following was an article titled: "Watchdog Groups Again Call on IRS to Deny Tax-Exempt Status to Karl Rove's Crossroads GPS, Cite $70 Million in 2012 Campaign

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[6] Exhibit 1.

[7] Democracy 21 describes itself as a "nonprofit, nonpartisan organization that…promotes campaign finance reform, lobbying and ethics reforms…and other government integrity measures." *See* "Petition for Rulemaking On Campaign Activities by Section 501(c)(4) Organizations" at ¶10. Available at: http://www.democracy21.org/uploads/D21_and_CLC_Petition_to_IRS_7_27_2011.pdf.

[8] *See* Democracy 21 "Letters to the IRS." Available at: http://www.democracy21.org/wp-content/uploads/2013/05/Letters-to-IRS.pdf.

[9] *See* http://www.democracy21.org/wp-content/uploads/2013/05/Letters-to-IRS.pdf.

[10] *See* fn 7.

[11] IRS00000122502-122505, Exhibit 2. *See* fn 8 for "Petition for Rulemaking."

[12] *See id.*

[13] *See id.*

[14] *See* Letter from House Ways and Means Committee Chairman Dave Camp to IRS Acting Commissioner Daniel Werfel of September 20, 2013 (requesting returns and return information of right-leaning American Crossroads, Crossroads GPS, and Americans for Prosperity, as well as left-leaning Priorities USA, Priorities USA Action, and Organizing for Action), Exhibit 3. The documents show no special scrutiny of the left-leaning groups.

[15] IRS0000122515-6, Exhibit 4.

Expenditures as *Prima Facie* Evidence Group is Campaign Operation, not 'Social Welfare' Group."[16] The "watchdog" groups to which the article refers are Democracy 21 and Campaign Legal Center (CLC). This email prompted Lerner to give notice to Flax and others about the meeting scheduled for January 4 with these groups:

> Just FYI for everyone's information—I received the incoming and will refer it to Exam as we do with any complaint. Ruth Madrigal, Vickie Judson and I are meeting with Democracy 21 and some others regarding their request for guidance on c4. This has been set up for some time. I plan to have David Fish there and begin the meeting by telling them we cannot discuss specific taxpayers… We will be very cautious.[17]

Notwithstanding Lerner's apparent careful adherence to the rule against discussing specific cases with people outside of the IRS, emails with her subordinates show a focused interest in Crossroads immediately following the meeting. Again, these emails show no apparent interest in left-leaning groups.

Lerner's calendar shows the January 4, 2013 meeting with Democracy 21 blocked off for 11:00 AM-Noon and, based on Lerner's subsequent actions, it is clear that the meeting went forward as planned.[18] Before or soon after the meeting, Lerner apparently contacted Tom Miller (EO Technical) to ask about the status of Crossroads (whether the group had been audited or selected for audit) because he replied by email at 1:55 PM the same day that the group had twice been before the Political Action Review Committee (PARC), in November 2010 and June 2011, but was not selected for audit.[19]

Following Tom Miller's response, Lerner sent an email to Nanette Downing, the Director of the EO Examinations Unit in Dallas, TX, demanding to know why Crossroads had not been audited.

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[16] Available at: http://www.propublica.org/article/watchdogs-to-irs-reject-rove-groups-tax-application. (The article updates an earlier ProPublica story from December 14, 2012 that was based on an IRS- leaked copy of Crossroads application for exempt status.)

[17] Exhibit 5. A "referral" is, in lay terms, a complaint; pursuant to the IRM it means:

> A. A document or other communication, including an electronic communication, received by EO Classification-Referrals from a source outside the Internal Revenue Service, which alleges possible noncompliance with a tax law on the part of an exempt organization, political organization, taxable entity, or individual.
>
> B. An internal document (referral) prepared by an Internal Revenue Service employee and forwarded to EO Classification-Referrals, which identifies current or potential noncompliance discovered during either the processing of an assigned case, or at any other time in the performance of official duties.

IRM 4.75.5.2 (05-13-2005).

[18] IRS0000378449 (displaying calendar entry), Exhibit 5. *See also,* Complaint of Van Hollen et al. v. IRS (D.D.C. August 21, 2013) at ¶41 (noting that "On January 4, 2013, representatives of Democracy 21 and the Campaign Legal Center met with Ms. Lerner and other IRS officials regarding the petition for rulemaking."). Available at: http://www.democracy21.org/wp-content/uploads/2013/08/Complaint-August-20-final-for-filing.pdf.

[19] IRS0000122549-122551, Exhibit 6. The PARC is responsible for determining whether allegations of improper political activity by an exempt organization merit an audit. *See* IRS0000378444-378446, IRS Memorandum to Congress, "IRS Exempt Organizations Processes with Respect to Examinations," Exhibit 7. At the direction of Lois Lerner, Nanette Downing created a special process for reviewing complaints of political activity by exempt organizations following the *Citizens United* decision. *See* Subcommittee on Oversight, Committee on Ways and Means, U.S. House of Representatives, Interview of: Nanette Downing, December 6, 2013 at 33-37, Exhibit 8.

> I had a meeting today with an organization that was asking us to consider guidance on the c4 issue. To get ready for the meeting, I asked for every document that (sic) had sent in over the last several years because I knew they had sent in several referrals. I reviewed the information last night and thought the allegations in the documents were really damning, so wondered why we hadn't done something with the org. The first complaint came in 2010 and there were additional ones in 2011 and 2012... The organization at issue is Crossroads GPS… I know the org is now in the ROO--based on allegations sent in this year, but this is an org that was a prime candidate for exam when the referrals and 990s first came in.[20]
>
> ***
>
> You should know that we are working on a denial of the application, which may solve the problem because we probably will say it isn't exempt. Please make sure all moves regarding the org are coordinated up here before we do anything.[21]

On the following Monday, January 7, 2013, Lerner sent a follow-up email to Downing which states, "As I said, we are working on the denial for the [Crossroads] 1024, so I need to think about whether to open an exam. I think yes, but let me cogitate a bit on it."[22] Interviews of IRS personnel and a review of Crossroad's file shows that Lerner was in fact actively seeking to ensure a denial of the group.

In a transcribed interview of Victoria Judson, Associate Chief Counsel (Tax Exempt & Government Entities), Committee staff asked Judson about Lerner's interest in Crossroads:

> Q: I think you said that it was in the spring of 2012 that you discussed with Ms. Lerner a Crossroads GPS case and she gave you advance notice that that might be a denial. Is that correct?
>
> A: That's the best of my recollection. And I don't know if I would characterize it as "discuss" as opposed to "she told me that…"[23]

Lerner's plan to deny the Crossroad application is evident from the work log for the Cincinnati-based revenue agent assigned to the case, as after her January 4, 2013 meeting with Democracy 21, the agent sprung into action. In the seven business days following her meeting, the revenue agent Joseph Herr, logged more time on the application than the entire year preceding.[24] But more, the log shows that Herr was directed to reach a particular result with Crossroads. Herr's log shows, in part:

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[20] Exhibit 6.
[21] *See id.*
[22] *See id.*
[23] Subcommittee on Oversight, Committee on Ways and Means, U.S. House of Representatives, Interview of: Victoria Ann Judson, Wednesday, September 11, 2013, at 57 (quotation marks added), Exhibit 9.
[24] *See* IRS00071224-71226, Exhibit 10.

> On January 4, 2013, Herr notes a conference call with EOT [Exempt Organizations Technical Division] in DC where specific guidance is given to him on "how to best proceed with the [Crossroads] case."
>
> On January 7, this guidance from EOT was memorialized in Herr's time sheet, "[b]ased on conference begin reviewing case information, tax law, and draft/template advocacy denial letter, all to think about how best to compose the denial letter."[25]

In the next journal entry from Herr, he notes,"[w]rite-up summary of idea on how I plan to make denial argument and share with Sharon Light, the Special Advisor to EO Director in Washington DC, for her opinion on whether the idea seems valid."[26] Nowhere in his 2012 log entries is there any discussion of denial. In fact, in an analysis of the Crossroads application in November 2011, among many others, EO Technical lawyer Hillary Goehausen makes no recommendation for denial.[27]

The Committee subsequently learned that the agency was in the process of denying Crossroads' application for exempt status and selecting them for audit. Judson informed staff the organization would be receiving a proposed denial letter.[28] An IRS representative separately told staff that Crossroads had also been selected for audit.[29] The evidence shows that without Lerner's intervention, neither adverse action would have been taken against Crossroads. Again, the Committee has found no record of Lerner pursuing similarly situated left-leaning groups, despite receiving similar public complaints.[30]

In fact, during the same time period Lerner was engineering a denial and audit of Crossroads, documents show Lerner had a favorable disposition toward left-leaning groups, including considering future employment with one. In response to a news story about the formation of Organizing For Action, a 501(c)(4), Lerner remarked to EO Senior Technical Advisor Sharon Light, "Oh—maybe I can get the DC office job!"[31] Light then forwarded Lerner's comment to Holly Paz wondering if Lerner was considering retirement to pursue a potential job opportunity at this left-leaning group.[32]

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[25] *See id.*
[26] *See id.*
[27] IRS0000063029, Exhibit 11.
[28] Exhibit 9.
[29] Telephone briefing by IRS staff to Oversight Subcommittee staff of September 3, 2013.
[30] *See* http://www.democracy21.org/wp-content/uploads/2013/05/Letters-to-IRS.pdf.
[31] *See* Email from Lois Lerner to Sharon Light of January 24, 2013, IRSC007157-60, Exhibit 12. *N.b.* Democracy 21 is highly critical of Organizing For Action. *See, e.g.,* " Statement by Fred Wertheimer" January 22, 2013 (stating with reference to the formation of Organizing For Action that, "In taking this step, the President has opted for 'the ends justify the means' approach that is fraught with danger. It opens the door to opportunities for government corruption.") Available at: http://www.democracy21.org/money-in-politics/press-releases-money-in-politics/statement-by-fred-wertheimer-president-obama-opts-for-the-ends-justify-the-means; *see also,* "Is Organizing For Action Too Close To The White House?" National Public Radio (March 19, 2014)(quoting Democracy 21's Fred Wertheimer, "The best thing the president of the United States could do is shut [Organizing for Action] down. This is a danger to the integrity and credibility of his presidency.") Available at: http://www.npr.org/2014/03/19/291312006/is-organizing-for-action-too-close-to-the-white-house.
[32] *See* Exhibit 12.

b. *Evidence Suggests Lerner Targeted Other Right-Leaning Groups*

Evidence discovered by the Committee also suggests that Lerner targeted other right-leaning groups. On January 2, 2013, ProPublica separately published an article titled, "Controversial Dark Money Group Among Five That Told IRS They Would Stay Out of Politics, Then Didn't" that was circulated within the IRS.[33] Forwarding the ProPublica article, Lerner asked Holly Paz, David Fish and Sharon Light to "meet on the status of these applications please. Can we talk Friday?"[34] The five groups named in the article are:

- Americans for Responsible Leadership
- Freedom Path
- Rightchange.com
- America is Not Stupid
- A Better America.[35]

Information later provided to the Committee regarding IRS EO examinations processes showed that four of the five groups were subject to extra-scrutiny; two of the groups were placed in the IRS' surveillance program, called a "Review of Operations," and two were selected to be put before the Political Activity Review Committee, which determines whether a group will be audited.[36] Ultimately three of the groups were selected for audit.[37]

c. *Lerner's Defiance of Internal Controls and Abuse of Authority*

The evidence demonstrates Lerner acted in defiance of IRS internal controls. Internal IRS policies and procedures, which would be well known to Lerner, deter any one person from deciding the disposition of a group based on political or personal animus. Joseph Grant, former Commissioner of the Tax Exempt and Government Entities Division, and former boss of Lerner, told the Committee in a transcribed interview that it would be "completely" inappropriate for a manager to target a specific organization for exam or adverse determination.[38] The IRS put in place these safeguards "in the 1990's to ensure

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[33] *See* http://www.propublica.org/article/controversial-dark-money-group-among-five-that-told-irs-they-would-stay-out.

[34] IRS0000122510, Exhibit 13.

[35] fn 33.

[36] Telephone briefing by IRS staff to Oversight Subcommittee staff of September 3, 2013.

[37] Telephone briefing by IRS staff to Oversight Subcommittee staff of March 27, 2014.

[38] *See* Subcommittee on Oversight, Committee on Ways and Means, U.S. House of Representatives, Interview of: Joseph H. Grant, Sept. 20, 2013, at 39, Exhibit 14. Under questioning:

> Q: Would it be appropriate for a manager at IRS to refer a specific taxpayer to Exams or to intervene on their own on -- I mean, their own volition to Determ[ination]s?
>
> A: I believe it would be completely -- it would not be appropriate to intervene on their own. So -- and I'm not aware of that occurring.

See also, Testimony IRS Commissioner Douglas Shulman before the U.S. House Committee on Appropriations Subcommittee on Financial Services and General Government Hearing on the FY 2013 Internal Revenue Service Budget, March 21, 2012. Per Shulman:

> [W]e have the safeguards built in to this process so that no one person can decide to examine an organization based on political activities. So you've got your peers watching. You can't just get a case, go off in the corner,

equity and transparency and that no *one individual* could select organizations within certain classes for examination."[39]

These safeguards are reflected in current EO Examinations Unit procedures adopted during Lerner's tenure that she nonetheless circumvented. From the FY2013 EO work plan:

> EO will have a PARC (Political Action Review Committee) operating at all times comprised of three experienced career civil servant employees.... PARC operations are overseen by the Managers of EPR and EOCA; *however, they shall not override or influence any case selection decision of the PARCs.*[40]

The PARC determines whether organizations about which referrals are made are to be subject to audit.[41] The PARC had twice refused to target Crossroads, yet Lerner stated to the head of EO Examinations that, "we are working on the denial for the [Crossroads] 1024, so I need to think about whether to open an exam. I think yes, but let me cogitate a bit on it," in defiance of IRS policy.[42] Lerner makes clear that she believes she is entitled to approve or disapprove an application or subject an organization to an audit based on her say so alone and irrespective of the PARC's decision.

d. *Lerner Seeks to Influence the IRS' Independent Appeals Process*

In addition to IRS safeguards against interfering in the determinations and exams functions, there are internal controls in place with regard to the IRS's Appeals Division that Lerner sought to circumvent. If EO Determinations reaches the conclusion that an application for exempt status does not satisfy the requirements under the Code, the IRS generally will issue a proposed adverse determination letter to the applicant and give notice of the opportunity to appeal.[43] The Appeals Division is independent of the EO Division and thus outside of the EO Director's chain of command.[44] Furthermore, as a matter of law and not just IRS policy, *ex parte* communications between appeals officers or settlement officers and other IRS employees, to the extent that those communications appear to compromise the independence of Appeals, are prohibited.[45]

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and run with your own agenda. Available at: http://appropriations.house.gov/uploadedfiles/hhrg-112-ap23-wstate-dhshulman-20120321.pdf.

[39] IRS, FINAL REPORT, PROJECT 302 Political Activities Compliance Initiative at 3 (emphasis added). Available at: http://www.irs.gov/pub/irs-tege/final_paci_report.pdf.

[40] IRS0000410461-62, Exhibit 15. "EPR" refers to Examinations Programs & Review and EOCA to Exempt Organizations Compliance Area. *See also,* IRS Exempt Organizations FY 2012 Annual Report & FY 2013 Work Plan at 2. Available at: http://www.irs.gov/pub/irs-tege/FY2012_EO_AnnualRpt_2013_Work_Plan.pdf .

[41] Exhibit 7.

[42] Exhibit 6.

[43] Internal Revenue Bulletin: 2013-2, Jan. 7, 2013, Rev. Proc. 2013-9, sec. 7.01.

[44] *See* Section 1001(a)(4) of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685, 26 USC 7801 note. The provision requires:

> The Commissioner of Internal Revenue shall...ensure an independent appeals function within the Internal Revenue Service, including the prohibition in the plan of ex parte communications between appeals officers and other Internal Revenue Service employees to the extent that such communications appear to compromise the independence of the appeals officers.

[45] *See id.*

An email from Lerner to the Chief of IRS Appeals, Chris Wagner, on January 31, 2013, shows she sought to influence the independent appeals process notwithstanding a prohibition against such contact. Lerner offers unsolicited advice about how to handle incoming c4 denials:

> I gave [your people] a heads up that, in the next few months we believe they will get a lot of business from our [taxpayers] regarding denials on 501(c)(4) applications. I explained the issue is whether they are primarily involved in social welfare activities and whether their political intervention activities…I explained the issue was very sensitive and visible and there is a lot of interest--Congress, press, political groups, you name it… I offered a general tutorial session (noncase-related) on the law and the complexities because--as I pointed out… I told them this is a place where we have worked very hard to be consistent and have all our cases worked by one group, and suggested they might want to do something similar. (PS we are under audit by TIGTA because of allegations of political bias on these cases)… If you think it would be useful to have a meeting on this –let me know.[46]

Ironically, Lerner's communication closes with, "Hope this doesn't [sound] like I'm trying to run your shop." The purpose of this email could not be clearer. Lerner explained that her team worked very hard both to get what Lerner characterized as a highly technical law right and also to apply it consistently to the circumstances of each applicant. She further characterized the cases as "sensitive and visible" and suggested that Wagner should consult her.[47] Notwithstanding agency safeguards, the message from Lerner to the Appeals chief was unequivocal: EO got these denials right and Appeals should affirm them.

II. Lerner Provided the Treasury Inspector General with Misleading Statements

The Committee has found documents that suggest Lerner's written statement to TIGTA, submitted during the course of TIGTA's audit, was knowingly misleading (Reference Number: 2013-10-053). The document titled, *EO Director's responses to 3 questions asked by Director Paterson*, which Lerner drafted and submitted to TIGTA on November 2, 2012, contained specific statements that are contradicted by the documentary evidence reviewed by the Committee.[48]

TIGTA asked:

> When did you become aware the IRS was targeting applications for tax exemption that mention: 1) the "Tea Party," "Patriots," or the "9/12 Project", 2) government spending, government debt or taxes, 3) education

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[46] IRS0000122863-122864, Exhibit 16.
[47] *See* Exhibit 16. The applicable Revenue Procedure allows Appeals to seek technical advice from EO, but that request for advice would come from Appeals in the first instance and would be documented, not behind the scenes.
[48] EO Director's responses to 3 questions asked by Director Paterson, produced to the Committee by the Treasury Inspector General for Tax Administration, Exhibit 17. *See also*, telephone briefing by TIGTA staff to Oversight Subcommittee staff of September 12, 2013.

> of the public by advocacy/lobbying to "make America a better place to live", or 4) criticizing how the country is being run?

Lerner began her response with the statement:

> In early 2010, EO Determinations witnessed an uptick in the number of applications for §501(c)(3) or 501(c)(4) status that contained indicators of potentially significant amounts of political campaign intervention ("advocacy organizations")."[49]

Lerner here seeks to establish that there was an increase in the number of applications received in Cincinnati that contained political campaign activity to minimize her responsibility for the targeting. However, the statement is the first of a compilation of misleading half-truths.

Just a few months before, on July 17, 2012, Lerner sent an email to Holly Paz and Nikole Flax offering comments on a talking point drafted for then-Deputy Commissioner for Services and Enforcement Steve Miller about a perceived uptick in political advocacy cases:

> Only one comment--I know we don't have published SOI stats for the uptick, but our Cincy folks saw it happening –can we get Nikole whatever "inside" info we have that led to that conclusion--she can then figure out how to use it.[50]

Holly Paz sought assistance from Nanlee Park,[51] who responded later that evening and included Lerner on the response:

> [A]s Holly pointed out in her comment, we do not have a reliable method for tracking data by issue such as political activity. This is consistent with our congressional responses where we had explained we would have to manually go through each application, etc.
>
> Because of the above points, the first bullet that presently reads as:
> Starting in 2010, EO observed an increase in the number of section 501(c)(3) and section 501(c)(4) determination applications from organizations that appeared to be potentially engaged in political advocacy activities.
>
> Recommend it be revised (i.e., along the lines of the following):
> For about the past five years [alternative verbiage: From FY 2008 through June 30th of FY 2012], EO has observed an increase in the number of section 501(c)(4) determination applications filed, as well as a general upward trend in section 501(c)(3) application filings.[52]

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[49] Exhibit 17.
[50] IRS0000179271, Exhibit 18.
[51] IRS0000179269-179270, Exhibit 19.
[52] IRS0000179389-179390, Exhibit 20.

Despite being told that "political advocacy activities" could not be substantiated in her proposed talking point, Lerner used almost the exact same words in her response to federal law enforcement. Lerner knew her answer could not be substantiated, and yet provided it in response to TIGTA's audit in an attempt to minimize her role in the agency's management failures.

Lerner then answered the question of when she first learned "the IRS was targeting applications…that mention…the 'Tea Party," by saying that she:

> First became aware that the BOLO referenced 'tea party' organizations and EO Determinations was using the above criteria to determine what organizations met that description when I was briefed on these cases on June 29, 2011.[53]

This half-truth appears calculated to obscure her knowledge that "Tea Party" cases were being treated differently, in part, at her direction, and far earlier than she acknowledged. A series of emails show that Lerner knew as early as April 2010 that tea party cases were being flagged and held in Cincinnati.

- On April 28, 2010 Lerner was told by email, "there are 13 tea party cases out in EO Determinations." The attached spreadsheet even identifies the issue involved "whether a tea party organization meets the requirements under 501(c)(3) and is not involved in political intervention" and notes that there is a grouping of tea party cases.[54]

- On May 13, 2010, Lerner responded to a detailed summary of the tea party cases and even inquires about the status of the cases. Upon review of the email, she asked follow-up questions regarding the tea party cases, "[Are the] tea party cases – applications for c3? What's their basis?" In response, she is explicitly told "[w]e have tea party cases here in EOT in Cincy. In EOT, there is a (c)(3) application. In Cincy there are 10 (c)(4)s and a couple of (c)(3)s."[55]

- In an email dated August 3, 2010, Lerner specifically asked her assistant to print out a Sensitive Case Report (SCR) on the handling of the tea party cases, for her review. The SCR noted that the cases were being held due to the likelihood of attracting media attention, contrary to Lerner's assertion that the targeting was prompted by the "uptick in applications" with these characteristics.[56]

- On January 1, 2011, Lerner received an SCR that flagged issues with "tea party organization[s]."[57] The next day, Lerner responded, "Tea Party Matter very dangerous…. Counsel and Judy Kindell need to be in on this. Cincy should

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[53] Exhibit 17.
[54] IRS0000141809-141811, Exhibit 21.
[55] IRS0000167872-167873, Exhibit 22. Pursuant to the Internal Revenue Manual (IRM) 7.29.3.2 (07-14-2008), Sensitive Case Reports are written for the benefit upper management.
[56] IRS0000163358-163359, Exhibit 23.
[57] IRS0000147507-147509, Exhibit 24.

probably NOT have these cases."[58] Less than hour later, Lerner appeared to be directing staff to find a way to deny both c3 and c4 applications--"[I]t would be great if we can get there without saying the only reason they don't get a 3 is political activity."[59]

These email exchanges memorialize Lerner's knowledge that, as early as April 2010, the IRS was targeting applications for tax-exemption involving the name "Tea Party" and holding these cases pending review from EO Technical in Washington, D.C.

III. Lerner Used Her Personal Email for Official Business, Including Confidential Return Information; Further Investigation Could Review Unauthorized Disclosure

In an email dated October 29, 2012, Lerner sent TIGTA's draft chronology containing confidential return information of taxpayers, protected by 26 U.S.C section 6103, to her personal email address:

From: Lerner Lois G
Sent: Monday, October 29, 2012 10:51 AM
To: 'tobomatic@msn.com'
Subject: Fw: Revised timeline
Attachments: Long Political Advocacy Timeline HOP comments.doc

Lois G. Lerner---------- Sent from my BlackBerry Wireless Handheld[60]

A review of the redacted chronology shows that nine of the 17 pages contain section 6103 material.[61]

The next evening, Lerner sent this material back to her official email address and to others in the IRS with her comments:

From: Toby Miles <tobomatic@msn.com>
Sent: Tuesday, October 30, 2012 9:16 PM
To: Paz Holly O; nancy.marks@irs.gov; Lerner Lois G
Subject: Long Timeline from LOIS
Attachments: Long Political Advocacy Timeline HOP comments.doc
Looks pretty good--a couple questions/comments[62]

More recently on May 4, 2013, EO Senior Technical Advisor Meghan Biss, apparently at Lerner's request, sent a summary of One Fund Boston's 501(c)(3) application, which consisted almost entirely of section 6103 material, to Lerner's personal email address.[63]

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[58] IRS0000147510-147513, Exhibit 25.
[59] Exhibit 25.
[60] IRS0000062811-28, Exhibit 26.
[61] Exhibit 26.
[62] IRS0000062829, Exhibit 27. "Miles" is Lerner's husband's, Michael R. Miles, last name. The source of the name "Toby" is not known.
[63] IRS0000322610, Exhibit 28. The application has since been approved and is available for public inspection.

Sending confidential taxpayer information to a personal email address is prohibited by IRS policy, but is not illegal.[64] However, it is a crime to disclose taxpayer return information.[65] If persons other than Lerner had access to her personal email account, tobomatic@msn.com, and accessed this protected section 6103 material, then Lerner may have violated a criminal statute for which the penalty is up to $5,000 fine and/or up to five years in prison.[66]

IV. Conclusion

Contrary to reports that IRS' Administrative Review Board found no political bias or willful misconduct by Lois Lerner, the Committee's investigation has uncovered such evidence.[67] After reviewing these same emails, Acting Commissioner Danny Werfel himself conceded that there was evidence that raised questions about wrongdoing at the agency. At a September 18, 2013 hearing, Oversight Subcommittee Chairman Charles Boustany asked Werfel whether Lerner acted in violation of internal agency controls:

> Chairman Boustany. Did Lois Lerner seek to intervene in the examinations process or audit process?
>
> Mr. Werfel. I am not sure that I can fully answer that question because all those documents in Lois' email file need to be further reviewed. I will say this, that there were emails that we turned over to you… that I thought raised questions, [which] I provided directly to TIGTA and I also provided them to the Accountability Review Board.[68]

Werfel's testimony is the first public admission by an IRS official that evidence may show intentional wrongdoing; this concession is wholly consistent with the Committee's investigation.

Notwithstanding the Werfel Report and other IRS statements, the foregoing sets forth evidence that tends to show intentional wrongdoing, including targeting specific taxpayers for adverse treatment, making misleading statements to law enforcement, and

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[64] *See* IRM 11.3.1.14.2 — Electronic Mail and Secure Messaging *[Last Revised: 03-07-2008]*
(1) a. Employees may not use E-mail to transmit SBU [(Sensitive but Unclassified)] data unless they use the IRS Secure Messaging (SM) system…Both the sender and recipient must have SM in order for the E-mail to be protected.
b. SBU information **includes taxpayer data**, Privacy Act protected information, some law enforcement information, and other information protected by statute or regulation…
d. SBU data may not be sent to parties outside of IRS, including other government agencies , taxpayers, or their representatives…**Employees cannot send E-mails containing SBU data outside the IRS network**, even if specifically authorized by the taxpayer. (emphasis added)

[65] *See* IRC § 7213. Unauthorized disclosure of information.

[66] *See id.*

[67] Stephen Ohlemacher, "IRS official at heart of tea party scandal retires," Associated Press, Sept. 23, 2013. Available at: http://bigstory.ap.org/article/irs-official-heart-tea-party-scandal-retires.

[68] U.S. House Committee on Ways and Means Oversight Subcommittee Hearing on the Internal Revenue Service's Exempt Organizations Division Post-TIGTA Audit, September 18, 2013.

the possible disclosure of confidential taxpayer information. The Committee requests that you act on the findings within this letter and the attached documentation to ensure the rights of law-abiding taxpayers are protected. Please contact Committee staff at (202) 225-3625 if you have any questions.

Sincerely,

DAVE CAMP
Chairman

cc: The Honorable J. Russell George, TIGTA
The Honorable John Koskinen, Commissioner, IRS

Lois Lerner Discusses Political Pressure on IRS in 2010

…And what happened last year was the Supreme Court, out of a block getting chipped away and chipped away in the federal election arena, the Supreme Court dealt it a huge blow overturning 100 year old precedent that said, basically, appropriations can give directly to political campaigns. And everyone is up in arms because they don't like it. Federal Election Commission can't do anything about it – they want the IRS to fix the problem. The IRS laws are not set up to fix the problem. (c)(4)s can do straight political activity. They can go out and pay for an ad that says 'vote for Joe Blow.' That's something they can do as long as long as their primary activity is their (c)(4) activity, which is social welfare. So everybody is screaming at us, 'fix it now before the election, can you see how much these people are spending?' I won't know until I look at their 990s next year whether they have done more than their primary activity as political or not, so I can't do anything right now.

Transcribed from a video of Lois Lerner speaking to a group of students at the Duke University Sanford School of Public Policy's Foundation Impact Research Group, October 19, 2010.

From: Lerner Lois G
Sent: Wednesday, December 19, 2012 10:39 AM
To: Fish David L; Megosh Andy
Subject: FW: Meeting with Democracy 21 and Campaign Legal Center

Can I get copies of all letters these orgs sent in asking for c4 guidance --Thanks

Lois G. Lerner
Director of Exempt Organizations

From: Kathryn Beard [mailto:[redacted]
Sent: Wednesday, December 19, 2012 11:30 AM
To: Lerner Lois G
Subject: RE: Meeting with Democracy 21 and Campaign Legal Center

Lois,

The five people attending the meeting will be Fred Wertheimer and Donald Simon from Democracy 21 and Paul Ryan, Tara Malloy and Gerald Hebert from the Campaign Legal Center.

Thanks and we look forward to receiving the invitation.

Kathryn Beard

Communications & Research Director
Democracy 21

2000 Massachusetts Ave NW
Washington, DC 20036
[redacted]

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Wednesday, December 19, 2012 10:48 AM
To: Kathryn Beard
Cc: Sandifer Theodora
Subject: RE: Meeting with Democracy 21 and Campaign Legal Center

My secretary, Theodora Sandifer, will send an invitation, and will provide you with information about how to get to us once you reach the building. Will any one other than you and Mr.. Wertheimer be attending?

Lois G. Lerner
Director of Exempt Organizations

From: Kathryn Beard [mailto:[redacted]]
Sent: Wednesday, December 19, 2012 10:21 AM
To: Lerner Lois G
Subject: RE: Meeting with Democracy 21 and Campaign Legal Center

Lois,

January 4th at 11am works for Mr. Wertheimer and the Campaign Legal Center.

Thanks,

Kathryn Beard

Communications & Research Director
Democracy 21

2000 Massachusetts Ave NW
Washington, DC 20036
[redacted]

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Tuesday, December 18, 2012 3:44 PM
To: Kathryn Beard
Cc: Sandifer Theodora; Marx Dawn R
Subject: RE: Meeting with Democracy 21 and Campaign Legal Center

I have spoken with my colleagues. We can meet Friday, January 4th at 11:00. let us know if that works and we will send out an invitation.

Lois G. Lerner
Director of Exempt Organizations

From: Kathryn Beard [mailto:[redacted]]
Sent: Monday, December 17, 2012 1:26 PM
To: Lerner Lois G
Subject: RE: Meeting with Democracy 21 and Campaign Legal Center

Great. Thank you very much.

Kathryn Beard

Communications & Research Director
Democracy 21

2000 Massachusetts Ave NW
Washington, DC 20036
[redacted]

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Monday, December 17, 2012 12:06 PM
To: Kathryn Beard
Cc: Sandifer Theodora
Subject: RE: Meeting with Democracy 21 and Campaign Legal Center

Let's see what we can put together. We'll get back to you once we've reached my colleagues.

Lois G. Lerner
Director of Exempt Organizations

From: Kathryn Beard [mailto:[redacted]]
Sent: Monday, December 17, 2012 11:46 AM
To: Lerner Lois G
Cc: Sandifer Theodora
Subject: RE: Meeting with Democracy 21 and Campaign Legal Center

Dear Ms. Lerner,

Thank you for getting back to me.

After speaking with Mr. Wertheimer and the Campaign Legal Center, they are all free all day on Friday, January 4, 2013. Whatever time works best for you is fine with them. If that day does not work, I can try to find another day that they will be free. Thank you,

Kathryn Beard

Communications & Research Director
Democracy 21

2000 Massachusetts Ave NW
Washington, DC 20036
[redacted]

From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Friday, December 14, 2012 2:16 PM
To: Kathryn Beard
Cc: Sandifer Theodora
Subject: RE: Meeting with Democracy 21 and Campaign Legal Center

Thank you for your interest in meeting with us. Because all EO related guidance is a joint effort by EO, IRS Chief Counsel and Treasury, it makes the most sense to have all three offices in attendance at the meeting. I have reached out to my counterparts and we can set something up for the first week in January, but schedules do not permit a meeting before then. Please provide some proposed dates/times and my secretary, Theodora Sandifer, will coordinate schedules.

Lois G. Lerner
Director of Exempt Organizations

From: Kathryn Beard [mailto:[redacted]]
Sent: Friday, December 14, 2012 12:25 PM
To: Lerner Lois G
Subject: Meeting with Democracy 21 and Campaign Legal Center

Dear Ms. Lerner,

I am writing on behalf of Fred Wertheimer, President of Democracy 21, to inquire about setting up a meeting for him and the Campaign Legal Center to meet with you to discuss the request for a petition for rulemaking on candidate election activities by Section 501(c)(4) groups.

If possible, Mr. Wertheimer would like to set up a meeting sometime next week.

Thank you very much and I look forward to speaking with you.

Kathryn Beard

Communications & Research Director
Democracy 21

2000 Massachusetts Ave NW
Washington, DC 20036
[redacted]

Congress of the United States
U.S. House of Representatives
COMMITTEE ON WAYS AND MEANS
1102 LONGWORTH HOUSE OFFICE BUILDING
(202) 225-3625
Washington, DC 20515-6348
http://waysandmeans.house.gov

September 20, 2013

Mr. Daniel Werfel
Acting Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Mr. Werfel,

In order to conduct oversight on matters within jurisdiction of the Committee on Ways and Means (Committee), including the administration of federal tax law, and pursuant to my authority under IRC §6103, I am writing to request certain returns and return information as to the following organizations. No later than October 4, please produce to the Committee all documents relating to the following organizations:

American Crossroads
Crossroads GPS
Priorities USA
Priorities USA Action
Americans for Prosperity
Organizing for Action

I am designating six members of the Committee staff as my agents to receive returns and return information insofar as it is disclosed pursuant to this request: [redacted]

This document is a record of the Committee and is entrusted to the Internal Revenue Service for your use only in handling this matter. Additionally, any documents created by the Internal Revenue Service in connection with a response to this Committee document, including (but not limited to) any replies to the Committee, are records of the Committee and shall be segregated from agency records and remain subject to the control of the Committee. Accordingly, the aforementioned documents are not "agency records" for the

purpose of the Freedom of Information Act. Absent explicit Committee authorization, access to this document and any responsive documents shall be limited to Internal Revenue Service personnel who need such access for the purpose of providing information or assistance to the Committee.

Thank you in advance for your assistance in this matter. If you have any questions, please contact Ways and Means Committee staff [redacted]

Sincerely,

DAVE CAMP
Chairman

From: Lerner Lois G
Sent: Wednesday, January 02, 2013 4:29 PM
To: Eldridge Michelle L; Flax Nikole C; Lemons Terry L
Cc: Sterner Christopher B; Vozne Jennifer L; Zarin Roberta B; Kirbabas Mark J; Williams Grant; Burke Anthony; Patterson Dean J
Subject: RE: ProPublica: 501c4 questions -- says deadline today

Just FYI for everyone's information --I received the incoming and will refer it to Exam as we do with any complaint. Ruth Madrigal, Vickie Judson and I are meeting with Democracy 21 and some others on Friday regarding their request for guidance on c4. This has been set up for some time. I plan to have David Fish there and begin the meeting by telling them we cannot discuss specific taxpayers, but are there to hear their general comments regarding potential guidance. We will be very cautious.

Lois G. Lerner
Director of Exempt Organizations

From: Eldridge Michelle L
Sent: Wednesday, January 02, 2013 4:16 PM
To: Flax Nikole C; Lerner Lois G; Lemons Terry L
Cc: Sterner Christopher B; Vozne Jennifer L; Zarin Roberta B; Kirbabas Mark J; Williams Grant; Burke Anthony; Patterson Dean J
Subject: FW: ProPublica: 501c4 questions -- says deadline today

FYI--Here is latest inbound from ProPublica. They are updating their story given a new letter sent to IRS by Democracy 21 and Campaign Legal Center. Below is the cut and past version of that letter.

I recommend that we just let this one sit and wait out the deadline. We can certainly decline comment on the letter sent to us --but gets more problematic on the issue of th e application based on previous correspondence. Please let me know if you have other thoughts. Thanks. -- Michelle

Watchdog Groups Again Call on IRS to Deny Tax -Exempt Status to Karl Rove's Crossroads GPS
Wednesday, January 02, 2013

Watchdog Groups Again Call on IRS to Deny Tax-Exempt Status to Karl Rove's Crossroads GPS, Cite $70 Million in 2012 Campaign Expenditures as *Prima Facie* Evidence Group is Campaign Operation, not "Social Welfare" Group

In a letter sent today to the IRS, Democracy 21, join ed by the Campaign Legal Center, again called on the agency to deny Karl Rove's Crossroads GPS tax-exempt status as a section 501(c)(4) social welfare organization.

According to the letter from the watchdog groups:

According to the Center for Responsive Po litics (CRP), Crossroads GPS spent $70 million on independent expenditures to elect Republican candidates or defeat Democratic candidates in the 2012 elections. This is an extraordinary amount of money to be spent on influencing elections by a group which claims it is a "social welfare" organization.

Indeed, Crossroads GPS and its affiliated Super PAC, American Crossroads, together spent a total of $175 million on independent expenditures and electioneering communications to influence the 2012 election s—far more than any other outside spender, according to CRP.

The letter from the watchdog groups continues:

[W]e submit that the $70 million spent by Crossroads GPS just on campaign ads reported to the FEC in 2012 is *prima facie* evidence that the organization does have a "primary purpose" to engage in campaign activities. The statement made by Crossroads GPS two years ago on its application for tax -exempt status that its campaign activities will be "limited in amount, and will not constitute the organ ization's primary purpose" are simply not credible, in light of the actual practices of the organization and the tens of millions of dollars Crossroads GPS spent on campaign ads since then.

As we have stated in previous letters, the misuse of "social wel fare" organizations as vehicles for campaign spending results in direct and serious harm to the American people because it hides from public scrutiny the identity of the donors funding the campaign spending.

According to Democracy 21 President Fred Werth eimer:

The apparent failure of the IRS to grant tax -exempt status to Crossroads GPS, more than two years after Crossroads applied for status as a 501(c)(4) "social welfare" organization, provides some hope that the agency will do the right thing and rejec t the Crossroads GPS application.

It appears clear that Crossroads GPS exists for the overriding purpose of influencing elections. Crossroads GPS founder Karl Rove is a political operative, not a "social welfare" activist. Crossroads GPS spent tens of mil lions of dollars on TV ads to elect and defeat candidates and is nothing more than a campaign operation posing as a "social welfare" organization.

The IRS must not allow Crossroads GPS to get away with its charade of claiming to be a "social welfare" org anization so it can hide the donors financing its campaign activities from the American people. Crossroads GPS must be held accountable for abusing the nation's tax laws to inject tens of millions of dollars in "dark money" into federal races.

According to the letter sent today:

ProPublica, a news organization, recently received and publicly disseminated the Form 1024, "Application for Recognition of Exemption under Section 501(a), filed by Crossroads GPS on September 3, 2010, seeking recognitio n as a "social welfare" organization under section 501(c)(4) of the Internal Revenue Code. So far as we are aware, the IRS has yet to grant the application.

In its application, Crossroads GPS states that 50 percent of its activities will be devoted to "p ublic education," 30 percent will be devoted to "influenc[ing] legislation and policymaking," and 20 percent will be devoted to "research." Application at 2. Thus, when asked to provide a "detailed narrative description of all the activities of the organ ization – past, present and planned," Crossroads GPS fails to mention any activities devoted to influencing federal elections, and instead describes 100 percent of its activities as involving efforts other than electioneering.

Inconsistently, in response to a different question on the application, Crossroads GPS states that it plans to spend funds "to distribute independent political communications," but such activity "will be limited in amount, and will not constitute the organization's primary purpose." *Id.* at 4.

We have written to you on a number of occasions in the past two years regarding the enormous sums of money spent by Crossroads GPS to influence the 2010 and 2012 federal elections. In those letters, we have challenged the organization's eligibility for section 501(c)(4) tax -exempt status.

January 04, 2013
Friday

January 2013

Su	Mo	Tu	We	Th	Fr	Sa
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13	14	15	16	17	18	19
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February 2013

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17	18	19	20	21	22	23
24	25	26	27	28		

4 Friday

From Dec 17, 12 — **Regeina Vacation** — 8:30am

From Dec 31, 12 — **Theo on Leave;** Sandifer Theodora — To Jan 7

7 am

8 00 **Block - no meetings unless absolutely necessary**

9 00 **Email, etc.**

10 00 **Office Details**
Room 341; Lerner Lois G

11 00 **Meeting with Democracy 21 & Campaign Legal Center**
999 N. Capitol St., 5th Floor
Lerner Lois G

12 pm **Block**

1 00 **Auto-revocation briefing for l**
Giuliano Matthew L

2 00 **DIscuss HMO**
1-866-606-4717 #[redacted]
Cook Janine

Meeting with Janine

ACA Update
Lerner Lois G

3 00 **Discuss Latest Articles**
Conf Rm 574; Lerner Lois G

4 00

5 00

6 00 **Dinner with Di**
Lerner Lois G

From: Lerner Lois G
Sent: Monday, January 07, 2013 4:56 PM
To: Downing Nanette M
Subject: RE: Referral organization

The reasons stated for not selecting earlier on that the org is for -profit is most disturbing. The other two reasoned that there was no 990 filed and it had a 1024 pending so let's send it to Cincy. That would make sense if this were a c3, but it doesn't if it is a c4. They don't have to come into Cincy. If we only open audits on orgs that file 990s, that's a big hole in the system. Then you have newspapers telling us what the orgs are doing, but we never look. If the org has been around log enough to owe us a 990 and they aren't filing to hide what they are alleged to have done, it should be our job to go out and get the 990 and then determine whether the allegations--that are very strong--are true.

As I said, we are working on the denial for the 1024, so I need to think about whether to open an exam. I think yes, but let me cogitate a bit on it.

Do I have information regarding the cases approved for exam previously and their priorities? I'd like to get some into the field, but can't until I'm comfortable with that. Thanks

Lois G. Lerner
Director of Exempt Organizations

From: Downing Nanette M
Sent: Monday, January 07, 2013 12:19 PM
To: Lerner Lois G
Subject: RE: Referral organization

I pulled up referral files on this organization. We have received numerous referrals on this organization over the last 3 years (25 in total). The system shows that the organization did not file a form 990 until April 2 012. The first eight referrals were limited news article. They were put into 2 referral files and sent to committee. There was no 990 filed and the committee notated that an application was pending. The file indicates that they submitted the referral inf ormation to determinations. The reason for the non selection was due to the limited information provided in the news article. These are the two referral non selection mentioned by Tom.

Future referrals had additional information. We were instructed in August 2011 to hold all political referrals until dual track was finalized. All future referrals were associated together and included in the dual track. The PARC reviewed in December 2012 and selected it for examination. I have pulled the files and see that they went back to the committee in December 2012 for final committee review.

From: Lerner Lois G
Sent: Friday, January 04, 2013 4:50 PM
To: Downing Nanette M
Subject: FW: Referral organization

I had a meeting today with an organization that was asking us to consider guidance on the c4 issue. To get ready for the meeting, I asked for every document that had sent in over the last

several years because I knew they had sent in several referrals. I reviewed the information last night and thought the allegations in the documents were really damning, so wondered why we hadn't done something with the org. The first complaint came in 2010 and there were additional ones in 2011 and 2012.

I asked Tom Miller whether he recalled seeing referral committee notes on the referrals when he and Judy went down to look at the referrals. He looked them up, and as you can see below, the referral committee unanimously non-selected the case twice. I don't know where we go with this--as I've told you before--I don't think your guys get it and the way they look at these cases is going to bite us some day. The organization at issue is Crossroads GPS, which is on the top of the list of c4 spenders in the last two elections. It is in the news regularly as an organization that is not really a c4, rather it is only doing political activity --taking in money from large contributors who wish to remain anonymous and funneling it into tight electoral races. Yet--twice we rejected the referrals for somewhat dubious reasons and never followed up once the 990s were filed.

I know the org is now in the ROO--based on allegations sent in this year, but this is an org that was a prime candidate for exam when the referrals and 990s first came i n. I worry that if the allegations in the present complaint only discuss this year, Exam will slot if for a future year because this year's 990 isn't in yet. My level of confidence that we are equipped to do this work continues to be shaken. I don't even know what to recommend to make this better. I'm guessing if it hadn't been for us implementing Dual Track, the org would never be examined. And, I am not confident they will be able to handle the exam without constant hand holding--the issues here are going to be whether the expenditures they call general advocacy are political intervention.

Please keep me apprised of the org's status in the ROO and the outcome of the referral committee. You should know that we are working on a denial of the applic ation, which may solve the problem because we probably will say it isn't exempt. Please make sure all moves regarding the org are coordinated up here before we do anything.

Lois G. Lerner
Director of Exempt Organizations

From: Miller Thomas J
Sent: Friday, January 04, 2013 1:55 PM
To: Lerner Lois G
Subject: Referral organization

I looked at the file on that organization, which is currently in the "ROO Inventory" category. The organization was created in June 2010. It has twice previously been considered by the RC, in 11/2010, and 6/2011. Both times it was not selected by unanimous vote, though some committee explanations are questionable. On the 11/2010 tracking sheet, two members not e that the organization had recently filed Form 1024, with one recommending forwarding the referral information to Determinations and the other transferring the case to the ROO. The third member wrote, however, that "the referral is on a for-profit entity…" which is in no way correct. Although it is understandable that recommending an examination could be considered premature at either point, especially as the organization did not file Forms 990 until late April 2012, when it filed one for the period 06/0 1/2010-05/31/2011, and another for the period 06/01/2011 -12/31/2011 (presumably to change its tax year).

The file contains the classifier recommendation that the case be referred for field examination, but I did not see an indication when it would go back to referral committee.

Tom Miller

Thomas J. Miller
Technical Advisor
Exempt Organizations Rulings & Agreements
Phone: [redacted]
Fax: [redacted]

This summary discusses at a high level IRS Exempt Organizations (EO) processes with respect to examinations and compliance checks of tax exempt organizations involved in political activity.

An enforcement review of a tax exempt organization falls into one of two broad categories: examinations and compliance checks.

The IRS conducts examinations, also known as audits, which are authorized under Section 7602 of the Internal Revenue Code. An examination is a review of a taxpayer's books and records to determine tax liability, and may involve the questioning of third parties. For exempt organizations, an examination also determines an organization's qualification for tax-exempt status. EO conducts two different types of examinations: correspondence and field examinations. A correspondence examination is conducted remotely solely through the issuance of information document requests to the taxpayer by the examiner. During a field examination the examiner conducts in-person interviews of the taxpayer's representatives in addition to issuing information document requests.

A compliance check is a review to determine whether an organization is adhering to recordkeeping and information reporting requirements and/or whether an organization's activities are consistent with its stated tax-exempt purpose. Although during a compliance check the examiner may contact the taxpayer, it is not an examination since it does not involve review of the taxpayer's books and records and does not directly relate to determining a tax liability for any particular period. See Publication 4386, *Compliance Checks*, for further details.

As a result of the Advisory Committee for Tax Exempt and Government Entities (ACT) recommendation, EO established the Review of Operations (ROO) in 2005. Its initial vision was to follow-up on exempt organizations within three to five years of recognition of exemption in order to assess whether the organizations are operating as stated in their applications for exemption. The ROO conducts compliance reviews on organizations. It is authorized to determine whether an organization's activities are consistent with its stated tax-exempt purpose and whether the organization is adhering to recordkeeping and reporting requirements. However, unlike a compliance check, the ROO does not make taxpayer contact. In addition, because the ROO does not conduct an examination, it is not authorized to examine an organization's books and records or ask questions regarding tax liabilities or the organization's activities.

EO Determinations makes referrals to EO Examinations when questionable activity is likely to occur, e.g., future operations may impact exempt status, generate Unrelated Business Income (UBI) or other tax liabilities, or necessitate a change in private foundation classification (IRM 7.20.1.5.2). EO Determinations started sending referrals to the ROO in approximately July 2006. At that time, specialists in EO Determinations were required to complete a Form 6038 and a Form 6038 Attachment. In March 2009, the Form 6038 was discontinued for cases closed through the screening program and replaced with a version of Form 14261, Memorandum to File. The procedures were also changed and required the specialist to complete a Form 6038 attachment only if the specialist made a referral to the ROO. In 2011, the Form 6038 and attachments

were discontinued and replaced with the Form 14261 and Form 14266 for the ROO referrals. See IRM 7.20.1.5.2 for additional information.

The initial vision for the ROO has been expanded to include the building of cases for EO Examinations for various compliance initiatives. The initial review conducted by the ROO allows for a more focused examination thus increasing the overall effectiveness of EO Examinations. In 2011, EO began building a Dual Track process to use data analytics and referrals to determine if exempt organizations have compliance issues related to political activities. Procedures were approved in October 2012. Cases identified in the Dual Track process, including those identified through data analytics and referrals, first are routed to the ROO for case development and research. These cases then are routed to a Committee for review and decision on whether an examination is warranted. Dual Track Data Analytics and Referral examination cases were first assigned to the field late October 2012. The Director, EO suspended examination case work November 16, 2012, pending the development of additional guidance. On February 4, 2013, the directive to resume examination work was given. The first Dual Track examination case was started in March 2013.

On June 3, 2013, the new TEGE leadership team made a decision to temporarily suspend all Dual Track examinations until a review of the procedures and process is completed. During the summer of 2013, a cross functional team was created to review the selection and data analytics criteria and made recommendations. TEGE leadership is still evaluating the team's recommendations. Although several Dual-Track cases were started in March 2013, taxpayer contacts remain suspended.

In response to a congressional request, the IRS reviewed the 493 cases that were on the advocacy case tracking spreadsheet as of May 9, 2013, to determine whether they were considered by the ROO or are currently under examination. EO Examinations has received a total of 53 referrals on 24 organizations identified on the list. None of these referrals were from EO Determinations. Referrals can come from various sources, including, external stakeholders, other areas of the Federal government, and taxpayers. Eleven referrals went through the Dual Track process, and 13 referrals were determined by career civil servant classifiers not to have political allegations and thus did not go through Dual Track. Five organizations were identified through data analytics of the Dual Track process. Out of 16 Dual Track cases (11 referrals and five data analytics), 14 have been reviewed by the ROO and two are currently in the ROO review process. (See the following summary).

EO Examinations separately identified 60 organizations that were referred to EO Examinations from EO Determinations during the period of 2012 through 2013. However, EO Examinations has not taken any actions on these referrals for two reasons. First, they were not acted on because they were referrals for future year follow-ups. Second, they have not been acted on because in reviewing the ROO, Dual Track and examination processes during the summer of 2013, new TEGE leadership decided to return these referrals to EO Determinations for further review to ensure the referrals were appropriate. Accordingly, no EO Determinations referrals of political advocacy cases have resulted in review by the ROO or processing through the Dual Track system.

A. Referrals:	
1) Eleven referrals went through Dual Track process:	
a. Selected for examination: (None assigned to field groups)	3
b. Not selected for examination:	1
c. Awaiting Committee Review:	5
d. Transferred to ROO for research and review:	2
2)Thirteen referrals were determined by career classifiers not to have political allegations, so did not go through the Dual Track process	
a. Selected for examination (None assigned to field groups)	2
b. Not selected for examination:	6
c. Awaiting classification	5
B. Dual-Track Data Analytics: - Selected for examination (None assigned to field groups)	5

RPTS BLAZEJEWSKI

DCMN HOFSTAD

COMMITTEE ON WAYS AND MEANS,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: NANETTE DOWNING

Friday, December 6, 2013

Washington, D.C.

The interview in the above matter was held in Room 1102, Longworth House Office Building, commencing at 10:13 a.m.

we finish a project, you know, folks are trained, if we get something on it, it won't be a formal project. So 501(c)(3)s and politicals was just normal -- process as any other referral. It still would go through just a normal committee, because it's very sensitive.

Then, 2010, Citizens United came out. We started getting referrals on 501(c)(4)s, political, we started getting congressional.

Q Uh-huh.

A You know, folks above me came and said, how are you going to deal with these? We know this is going to be very --

Q Who was that? Who would have come and asked you?

A Lois, up the chain, you know.

Kind of like for your work plan, what are you going to do, how are you going to do this? We had to take a step back. We said, this is a new area, we need processes, we need procedures, we need training.

Q Right.

A At that time, we said, stop (c)(3) referrals because we want to make sure we're being consistent with them all.

So, you know, this was the end of 2010. 2011, we developed -- you know, they tasked to me, what are you going to do, as the Director? I put a team together, a cross-functional team, said, how are we going to do this? And we wanted to use, you know, what we learned from the (c)(3) political stuff, you

know, and the past project we had, what worked best. TIGTA had come in and looked at it.

But we also had something new; we had the new 990. We had new data. You know, we were coming up with a strategy of the new 990. The Oversight Board was asking us, how are you going to use all this new data from the 990? We came up with a strategy of all these potential queries of how we could use the 990. And, you know, a piece of it was political, a piece is fraud, nonfiler stuff, different things, and we had some with political. So we said, this is new than when we did PACI. We know we've got referrals, we know we've got data analytics, and we came up with this dual-track approach.

So we came up with this concept in a picture, but then we still had -- we said, we cannot start exams until we have processes in place, procedures, and train our folks. We built processes. We built definitions. We had to build training from my classifiers, and we did -- and the ROO folks and my committee members. We knew how sensitive this would be, that we wanted very tight controls and we wanted some extra safeguards in place.

So, I mean, just a very high-level overview. If a referral comes in with a political allegation, it goes to the ROO to review, to do all that publicly available information, to see if they see any potential reasonable belief that, yes, there's political activities going on or maybe -- you know, a referral. Maybe they're just confused and it's lobbying stuff. The ROO will do

that review.

And then we set up committee members, that the committee members look at the ROO review. And that committee of three then makes that final decision whether or not there's reasonable belief that an exam should be done.

Q Let me ask about the PARC. Is that the term for the political committee?

A Uh-huh.

Q In the words of a report by the IRS, the purpose of the PARC is to ensure equity and transparency and that no one individual could select an organization within certain classifications for examination.

A Uh-huh.

Q Is that your understanding, that the true purpose is to prohibit one person from actually effecting these decisions?

A Right. You know, I've got several different committees, like a church committee.

Q Sure.

A And it's when it's very sensitive that we don't want it in any one person's hands to have to make that decision.

Q I understand. If an entity is looked at by the PARC, is that kind of a one-time thing? Or can a group be referred to the PARC several times?

A They could -- I mean, at the beginning, as we started, you know, we had this inventory, so when something went to the

ROO, if we had already received 10 referrals, the whole packet went. But I would assume in the future, if I get a new referral in, it will go through the process again.

And, in a way, that's like any of my referrals. You know, there are individuals who will send -- you know, I could get 50 referrals. Well, it goes through a process, and it might be that eventually they provide -- you know, it can't just be a referral saying, I don't like this person, I think they're doing something wrong. I mean, that's why we've got these safeguards in place, and that's why, you know -- there's got to be information for somebody to have a reasonable belief there's a potential area of noncompliance there.

So, yes, you can send more, and it will go through the review process.

Q You mentioned safeguards that are in place. What are those? What types of safeguards are in place?

A Well, part of the safeguard is the committee of three.

Q Right.

A Part of the safeguard is we built this referral system. And this is something, you know, that from back years ago we didn't have, that the system automatically calculates and that the individual actually puts their comments in the system, whereas before it was all paper.

We did -- so this is all dual-track. Before I briefed up, say, and I had all my processes in place, I'm ready to go, I've

got my first small bucket that we're ready to examine, we had some folks come in and just do a consistency check, quality check.

We built definitions. We built definitions of -- I'm trying to think of an example of some of the definitions. You know, what was the impact? You know, was it -- you know, if it's -- you know, what was the impact of the political nature? Was it a speech that went out on the Internet? You know, just to help -- or was it one sign one time? You know, again, just some definitions to try to help them to give them some clear guidance on making those final decisions so that we were consistent.

Q Does the PARC look at or consider whether or not a group has a ROO recommendation?

A Do they consider the ROO?

Q Is that known to the PARC as they look at a case?

A I can't be certain to answer that question.

Q Would the PARC have information that was obtained by a ROO?

A Yes, they will have the ROO file.

Q They have the ROO file.

A And if the PARC needs to do additional research, that is part of their --

Q They also have the ability to --

A The ability to do additional research.

EXAMINATION

BY MS. ACUNA:

Q So when they do additional research and when they have the ROO file, that all becomes part of the PARC file with respect to that referral?

A Yes. Yeah. It will all go in the file.

Q Okay. And that's electronically, as well, or just the hard copies?

A No, it will all be put in the electronic file.

Q So it will be loaded up into that system we were discussing?

A Uh-huh.

Q And can any one person override a PARC decision?

A No. No.

Q So once the PARC makes a decision one way or the other, no one can come in and say --

A No. And I would expect -- I don't think you were in here when I talked about this. I would expect if anybody tried to do that, they would turn that in to TIGTA. We are not allowed to do that.

Q Okay.

Mr. Armstrong. Well, right now, we're at an hour. Do you want to take a break?

Mr. Kaiser. Your call.

Mr. Armstrong. It's up to you.

Ms. Downing. I'm okay.

Mr. Armstrong. Okay. Great.

RPTS COCHRAN

DCMN HERZFELD

SUBCOMMITTEE ON OVERSIGHT,

COMMITTEE ON WAYS AND MEANS,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: VICTORIA ANN JUDSON

Wednesday, September 11, 2013

Washington, D.C.

The interview in the above matter was held at Room 1102, Longworth House Office Building, commencing at 10:05 a.m.

Q Okay.

A I don't know of any -- I don't know what, if any, work my team may have done with respect to specific cases.

Q Prior. Okay.

Mr. Carlo. Chris, may I?

Mr. Armstrong. Yes.

BY MR. CARLO:

Q I think you said that it was in the spring of 2012 that you discussed with Ms. Lerner a Crossroads GPS case and she gave you advance notice that that might be a denial. Is that correct?

A That's the best of my recollection. And I don't know if I would characterize it as discuss as opposed to she told me that --

Q That you had some --

A A heads-up about it.

Q And that you didn't recall having any discussions with her about any other Tea Party-type cases?

A The one thing I recall discussing with her was whether there were other cases as well and whether the cases that were coming reflected different sides of the political spectrum.

Q Okay. And what did she tell you?

A She told me they did.

Q They did. What was it about Crossroads that made that the subject of this conversation? If there were other cases, other Tea Party cases, other cases on the other side of the political

EP/EO Case Chronology Record

Employer's or Organization's Name	EIN	
Crossroads Grassroots Policy Strategies	27-2753378	
	Screener's Name: G Muthert	Total Time 0.4
Plan name and Plan Number	Specialist's Name: Liz Hofacre, Joseph Herr	0.5
	Reviewer's Name	

Date	Individual Contacted	Action Code	Time	Topics Discussed, Information/Amendments Requested or Other Action Taken	Follow-Up Date
1/30/12				Assigned case.	
2/2/12		1	6	OFAC review & check completed – no matches found; BOL O review & check completed – no matches found. This is a high profile case; the news media has been monitoring this organization. Conduct internet research on the organization. View advocacy communications by organization on You Tube. Review tax law related to organization RR 81-95, 2004-6. Draft Letter1312.	
2/3/12	Stephen Seok, EO Determinations	1, 4	6	Discuss case with Stephen Seok, coordinator for Advocacy Project. Search internet for mention of organization in news media. Finishing review tax law and drafting letter. Send draft to Stephen for review.	
2/16/12	Stephen Seok, Steve Bowling, Jon Waddell	4	2	Meeting with Advocacy Coordinator and Manager to review developmental letter. They suggested some changes to letter. Finish letter and mail to organization and POA.	3/08/12
2/22/12	Michael Bayes, POA [redacted]	3		POA left voicemail message requesting an extension. I returned the call and granted the extension.	3/22/12
2/23/12				Advocacy cases placed on hold	
3/16/12		2		Mail 60-day extension letter to organization and POA. (Copy of Letter 1312 included in mail; not included for case file copy)	5/15/12
3/19/12	Michael Bayes, POA [redacted]	3		POA left voicemail message. I return call; POA asked for more time. I explained a 60-day extension was sent on Friday.	
4/23/12				Advocacy cases requested to be turned in for review per program manager.	
5/04/12	Michael Bayes, POA [redacted]	3		POA left message.	
5/07/12	Michael Bayes, POA [redacted]	3	0.5	I left return message. POA returned my call. POA discussed the response. I said organization could send in the information they currently have available and that I would it to see if it sufficed. He also asked for some additional time (about a week). I said I would elevate the request for additional time.	

Action Codes
1. Review file, application, amendments/information
2. Correspondence
3. Telephone contacts
4. Examination or conference
   - A. Employer/Administrator/Trustee Office
   - B. Representative's Office
   - C. District Office

Remarks

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	Reviewer's Name	

5/09/12	Michael Bayes, POA [redacted]	3		Received approval for extension. I called POA to let him know.	5/22/12
5/22/12	Michael Bayes, POA [redacted]	3		POA left voicemail stating response was sent overnight	
5/23/12		2		Receive response	
6/07/12		1	5.5	Begin review of large response. Create spreadsheet to analysize cost of each television ad and track whether political or advocacy.	
6/08/12		1	2	Continue analysis of response.	
6/25/12				Send information to EOT to get their aid in analyzing cases.	
6/25/12 – 8/17/12				Note: Specialist was instructing seven separate sessions of CPE the weeks of June 25 through August 17.	
9/17/12 – 9/21/12				Specialist on leave	
9/27/12		1	2	As requested from EOT, draft a briefing on my thoughts on case and how case might be worked. Submit by email to Andy Megosh and request to schedule conference call.	
1/04/13		4	2	Conference call with EOT and acting area manager on how best to proceed with case.	
1/07/13		1	2	Based on conference begin reviewing case information, tax law, and draft/template advocacy denial letter, all to think about how best to compose the denial letter.	
1/09/13		1	7	Work on analyzing case and drafting denial letter	
1/10/13		1	7	Work on analyzing case and drafting denial letter	
1/11/13		1	7	Work on analyzing case and drafting denial letter	

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EP/EO Case Chronology Record

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	Reviewer's Name	

1/14/13		1	2	Write-up summary of idea on how I plan to make denial argument and share with Sharon Light for her opinion on whether the idea seems valid.	1/22/13
5/02/13		4	1	Call with Andy Megosh from EOT to discuss draft denial letter.	
5/08/13		1	9	Review case materials. Review draft denial letter of similar case. Prepare spreadsheet to help analyze ads. Begin draft of denial using the similar case as template.	
5/09/13		1	8	Continue spreadsheet to help analyze ads. Continue draft of denial using the similar case as template.	
5/10/13		1	4.5	Continue spreadsheet to help analyze ads. Continue draft of denial	
5/13/13		1	3	Continue working on draft of letter	
5/14/13		1	2	Continue working on draft of letter	
5/15/13		1	2	Continue working on draft of letter	
5/17/13		1	2	Continue working on draft of letter	
5/30/13		1	4	Complete first working draft of denial letter. Send draft along with spreadsheet analysis to Sharon Light for review by EOT.	

Action Codes
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Remarks

59	Crossroads Grassroots Policy Strategies	09/03/10	27-2753378	c-4	52	X	X	X	X	Yes	*Lobbying and general advocacy org; however, significant anti-Obama rhetoric and articles; appears to be an anti-Obama Administration website; however there are educational materials on site.	
60	Sidney Shelby County Liberty Group	09/13/10	36-4674344	c-4	52	X			X	Yes	Appears to be lobbying; have held a number of candidate forums; development should explore if political activities are primary activity etc. Also need more info on actual activities	
61	KSP True the Vote	09/20/10	27-2860095	c-3	52		X		X	Yes	c3; Educational advocacy org; voter registration/drive activities; However, may be direct/indirect campaign intervention (substantial language/information on website focuses on democratic attacks and republican/conservative response so development is needed and should examine this language/web section)	Possible denial, however development suggested
62	OKC PIA Association	09/21/10	27-0434401	c-4	52	X		X		Yes	General advocacy org & lobbying activities, however little to no educational activities/issue advocacy; highly inflammatory and disparaging commentary/articles. Appears to have no objectivity, no factual support for statements, etc.	
63	US Health Freedom Coalition, Inc.	09/24/10	87-0809179	c-4	52	X				•	Lobbying appears to be primary activity. Org is advocating a health care reform/freedom act.	Possible favorable
64	Just Liberty Incorporated	09/28/10	27-1101708	c-4	52	X				Yes	Appears to be substantial lobbying activities; need membership to log in so development may want materials distributed via email, materials distributed at rallies, meeting minutes, etc.	
65	CVFC	09/30/10	27-3210078	c-4	52					Yes	More development necessary, affiliated with Combat Veterans for Congress PAC; Form 1024 provides little to no information on activities and is vague and broad as to planned activities.	
66	Wetumpka Tea Party Inc.	10/13/10	27-1231032	c-4	52				X	Yes	Org specifically states activities involve candidate election advocacy; need to determine if primary activity.	
67	Bedford County Patriots	10/16/10	80-0589983	c-4	52				X	Yes	Political campaign activities; supporting candidates; website has little on educational activities, a lot of info on campaign activities and candidate forums. Need to determine if primary activity.	
68	North East Tarrant Tea Party, Inc.	10/18/10	27-2998683	c-4	52				X	Yes	Political campaign intervention appears to be a significant if not primary activity.	
69	American Patriots for Conservative Action, Inc.	10/25/10	27-3587326	c-4	52					Yes	Unclear; much more development needed; Form 1024 description of activities is bare and not detailed. No website	
70	Comeback America Initative, Inc.	10/25/10	27-3489428	c-3	52		X			Yes	c3; Appears educational in line with 501c3 purposes; no apparent political campaign activity; may want to look into whether compensation of CEO is reasonable and if absolutely no political intervention	

From: Light Sharon P
Sent: Thursday, January 24, 2013 10:48 AM
To: Paz Holly O
Subject: FW: EO Tax Journal 2013-15

Retirement talk?

From: Lerner Lois G
Sent: Thursday, January 24, 2013 11:46 AM
To: Light Sharon P
Subject: RE: EO Tax Journal 2013-15

Oh--maybe I can get the DC office job!

Lois G. Lerner
Director of Exempt Organizations

From: Light Sharon P
Sent: Thursday, January 24, 2013 11:35 AM
To: Lerner Lois G; Paz Holly O; Fish David L
Subject: RE: EO Tax Journal 2013-15

This is the most informative article I've read about it – http://www.theatlantic.com/politics/archive/2013/01/how-organizing-for-action-plans-to-keep-obamas-foot-soldiers-enlisted/267384/.

Right now, the Obama campaign site includes info about this new org, featuring a blog from the new executive director who is leaving the White House to run it from Chicago. They'll also have a DC office.

Since Priorities USA did not file a 1024, I woul d think they would follow the same self-declaring path here. But maybe not.

From: Lerner Lois G
Sent: Thursday, January 24, 2013 11:26 AM
To: Paz Holly O; Fish David L
Cc: Light Sharon P
Subject: RE: EO Tax Journal 2013-15

I know--this is the second article I've read about this. You may want to look for the earlier one--it may say whether they intend to apply

Lois G. Lerner
Director of Exempt Organizations

From: Paz Holly O
Sent: Thursday, January 24, 2013 10:05 AM

To: Lerner Lois G; Fish David L
Cc: Light Sharon P
Subject: RE: EO Tax Journal 2013-15

I am not aware that we have received this but will check. It is hard to have certainty without the org's EIN though.

From: Lerner Lois G
Sent: Thursday, January 24, 2013 8:27 AM
To: Paz Holly O; Fish David L
Subject: Fw: EO Tax Journal 2013-15

Has this org actuAlly come in? If so, do we have it in DC? We need to be careful to make sure we are comfortable. I am not going to ABA because I am not feeling great so will be in later today. Thanks
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

From: paul streckfus [mailt [redacted]]
Sent: Thursday, January 24, 2013 05:11 AM Eastern Standard Time
To: paul streckfus [redacted]>
Subject: EO Tax Journal 2013-15

From the Desk of Paul Streckfus,
Editor, EO Tax Journal

Email Update 2013-15 (Thursday, January 24, 2013)

1 - New (c)(4) to Supersede DNC?

2 - IRS Denies Organization for Benefitting Musicians a nd Music Companies

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1 - New (c)(4) to Supersede DNC?

Dem Officials Fret over New Obama Nonprofit
By James Hohmann, *Politico,* January 23, 2013

Some key Democrats worry that President Obama's new Organizing for Action group will marginalize the traditional party apparatus, cannibalizing dollars and volunteers while making it harder to elect down -ballot candidates.

State party leaders grumbled Tuesday at the Democratic National Committee's meeting in Washington about a lack of detail on how exactly the new tax -exempt advocacy organization will work. "It's still a big question mark right now," said Minnesota Democratic chairman Ken Martin. "We were told before the end of this campaign that all of that [the Obama campaign machi nery] would fold into state parties. Now we're being told something different, which is they're going to set up this 501(c)(4)."

Martin backs the idea of the new structure in theory but worries that the organizations responsible for actually electing Democrats will get left behind in the chase for donors and activists. "I'm not a dummy," he said. "I understand post-*Citizens United* the necessity to set up vehicles for different types of money to flow, but the

reality is you can't strip the party bare and ex pect in four years that we're going to be able to pick up the pieces and get a Democrat elected president if you've completely stopped building capacity within the party."

Obama's White House intends for OFA to serve as a perpetual grass -roots arm, energizing supporters in favor of the president's policies. Rather than focus on fundraising and candidates, leaders said last week that they will engage -- at least initially -- in harnessing Obama's network of supporters and volunteers. Nonprofit status allows Obama to raise unlimited money from both individuals and corporations, which the DNC and individual state parties cannot do. But it prevents OFA from directly participating in elections.

"People are very concerned. They don't know where it will lead," sa id North Carolina Democratic Party Chairman David Parker. "The concerns vary. Nothing in particular, and everything in general.… There's always a question of what does a successful reelection campaign do after the show is over. Is there another play to be involved with? Or what? And we're in the 'or what' stage?"

"I would love to know," he added. "It's like the three wise men come to [King] Herod, and Herod says, ' Well, this is really cool. After you find the baby Jesus, come back and tell me where he is so that I too may go worship,'" Parker added. "Now, was he acting in good faith or did he kill all the children in Bethlehem? I don't know how the story ends."

Other Democratic leaders huddling at the Omni Shoreham Hotel would not go so far on the record the day after the president's inauguration, but they view the post -election shuffle with just as much apprehension. "Essentially, it's an end run around the DNC and state parties," said a third state chairman. "For the long -term health of our party, I don't think it is the way to go. I don't think fighting for donors is the way to do it.... We've won five of the last six popular votes in the general elections, so som ething's working.

"The simple truth of the matter is that OFA 4.0, or whatever it is now, is not going to work to elect our local legislators," the chairman added. "It's not going to work to elect our local governors. It's going to work to push the president's agenda. I come from a state where the president's not very popular. My elected Democrats are not always going to line up with him, and getting the activists all juiced up over it doesn't help elect Democrats."

On Sunday, the new group welcomed thous ands of Obama supporters to another Washington hotel for a "Legacy Conference" to discuss ways they might support the president's legislative agenda. Indiana Democratic Chairman Dan Parker welcomes any outside help. He also notes that parties have unique f unctions that cannot be replicated, including direct coordination with party nominees. "In each state, it's going to be interesting to see how they work with the parties because I don't know if they can," he said.

DNC Chairwoman Debbie Wasserman Schultz, who was reelected unanimously at Tuesday afternoon's meeting, pronounced herself "thrilled" by the new arrangement and pledged to "work closely" with OFA. "Organizing for Action will enable us to keep our volunteers engaged through issue advocacy [and] to help pass the president's legislative agenda while training the next generation of grass -roots organizers and leaders," she said. "We will march forward with OFA to build the strongest progressive beachhead ever seen by electing leaders across the country whose values match our hearts and whose determination needs our commitment."

Behind the scenes, though, the new incarnation of OFA will undoubtedly diminish the DNC's relevance and overshadow Wasserman Schultz. Many insiders believe Obama's decision to al low her to stay on as chairman for another term suggests a lack of interest in the party as much as a vote of confidence in her leadership.

Separating OFA and the DNC allows the White House to avoid relying on the Florida congresswoman as a spokeswoman. A poll conducted for the Obama campaign last year ranked Wasserman Schultz dead last as an effective surrogate. The new model allows those who are actually in Obama's inner circle to speak for him,

including Jim Messina (Obama's former campaign manager who will chair the group), Jon Carson and David Plouffe. An OFA spokeswoman did not respond to a request for comment.

Many rank-and-file committee members, especially those who do not chair state parties, were much more positive about the new endeavor. Gus Bickford, a Massachusetts national committeeman, noted that OFA and his state party worked together well during the 2012 election. That was true, he said, even though the Obama campaign was focused on winning neighboring New Hampshire while the state party's priority was electing Elizabeth Warren to the Senate. "We didn't fight against each other," he said.

He does not expect infighting for limited resources. "I'm not naïve as to how political fundraising works," said Bickford. "From what I do know … I don't think so … I'm not a person to say it's a bad thing."

Oregon national committeewoman Laura Calvo said local Democrats already have lots of experience partnering with outside advocacy organizations like labor or abortion rights groups. "So far, it's so brand new that the word really hasn't trickled down to something that's concrete, that you can sit down and read. Personally, I think it's pretty exciting," she said. "Sometimes the structure and the logistics and the priorities don't quite match up.… So that causes what I would call hiccups, but there's never been a major problem as far as I can see."

She said her state party, because Oregon's not a swing state, has a stable structure that could win without national help in 2012. "We were pretty much left to our own devices, and the party really pulled through," said Calvo. "The more progressive voices there are out there, the better off we are."

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2 - IRS Denies Organization for Benefitting Musicians and Music Companies

I recognize that, because of the section 7428 declaratory judgment provisions, the IRS feels compelled to make all possible arguments in denial letters to (c)(3) applicants, hoping that on judicial review a judge will find an argument for denial he or she agrees with.

In denial letter 201303018, reprinted below, the IRS's National Office cites 13 revenue rulings (all from the sixties and seventies -- the golden age of EO revenue rulings) and four court cases, but did the IRS make its case? (Aside: why many organizations don't protest remains a mystery.)

To me the underlying issue, based on the facts set forth, is whether the applicant is engaged in some sort of commercial endeavor or something else. Also, I'd like to know more about its funding, which is described thusly: "Your primary source of income is from gifts, grants, and contributions. You also receive some income from membership, consulting, and other fees." That doesn't sound like your typical commercial endeavor, unless the focus is on consulting income. An important factor here may be the statement that "Although Y software is free, you will charge a flat fee for your hosting services." Are the hosting services a significant source of revenue?

In its rationale for denying the applicant, the IRS states: "You do not conduct any public discussion groups, forums, panels, lectures or similar programs; all of your educational instruction occurs online on your website and blog." While this may be true, is the IRS saying more traditional educational programs are favored over websites and blogs? Surely not. I suppose this sentence needs to be read in context with the next sentence, which states: "These activities are best described as providing product information and are analogous to a product manual, which does not rise to the level of educational as required under I.R.C § 501(c)(3)." But this raises another question: is the IRS saying providing product information is not educational? Are product manuals not educational and presumably commercial endeavors? If these two sentences are not head-scratching enough, the next sentence states: "Furthermore, you are not described in I.R.C. § 501(c)(3) as a charitable

From: Lerner Lois G
Sent: Wednesday, January 02, 2013 11:42 AM
To: Paz Holly O; Fish David L; Light Sharon P
Cc: Marx Dawn R
Subject: FW: latest article

I'd like to meet on status of these applications please. Can we talk Friday?

Lois G. Lerner
Director of Exempt Organizations

From: Flax Nikole C
Sent: Wednesday, January 02, 2013 12:32 PM
To: Lerner Lois G; Marks Nancy J; Fish David L
Subject: latest article

http://www.propublica.org/article/controversial-dark-money-group-among-five-that-told-irs-they-would-stay-out

RPTS HUMISTON

DCMN SECKMAN

SUBCOMMITTEE ON OVERSIGHT,

COMMITTEE ON WAYS AND MEANS,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: JOSEPH H. GRANT

Friday, September 20, 2013

Washington, D.C.

The interview in the above matter was held at Room 1102, Longworth House Office Building, commencing at 10:04 a.m.

Q Okay.

A You know, hypothetically, if, you know, somebody had come to me with --

Mr. Pollack. I wouldn't even give a hypothetical. The answer is you don't recall it ever happening.

Mr. Lyons. Let's let him answer.

Mr. Grant. I never did it.

Mr. Lyons. Counsel.

Mr. Grant. That's fine. I just never had occasion to do that.

BY MR. ARMSTRONG:

Q Sure. That's fair?

A I suppose some set of circumstances could be put together where, you know, I might have felt a need to do that, but I never did.

Q Are you aware of an instance where -- where an executive at the IRS did that?

A No.

Q Would it be appropriate for a manager at IRS to refer a specific taxpayer to Exams or to intervene on their own on -- I mean, their own volition to Derms?

A I believe it would be completely -- it would not be appropriate to intervene on their own. So -- and I'm not aware of that occurring.

Q Rather than passing along.

- If it appears that a return has not been filed because the organization has not been operating more than a year, the case is returned to the Classification Referrals manager to set up as a future-year referral. The case will be resent to the ROO unit when the return is filed or becomes delinquent. (Note: The Referrals Manager runs a monthly Future-Year Referrals Report and processes the required returns).

Step 3(c) Other 501(c) organizations that have filed a return

These referrals are sent to ROO.

Step 4

The referrals are researched by Classification-Referrals to determine whether the entity was examined previously under the Political Activity Compliance Initiative (PACI), and the result of that examination. If it has been examined, the prior case file is retrieved and forwarded to the ROO for consideration along with the current allegation.

Step 5

The ROO secures the filed Form 990 along with any other relevant returns, such as Form 990-T and Form 1120-POL.

Step 6

The ROO tests the organization's Form 990 against the risk models using a check sheet to see whether the risk models would have identified the alleged violation. (If no return has been filed, this step is skipped). ROO also completes a lead sheet on the case.

Step 7

The case file (including the referral) is returned to Classification-Referrals for updating the referral database and is forwarded for review by a Political Activities Referral Committee (PARC).

Step 8

The PARC reviews the case file and determines whether the case should be one of the following:

- Future Year Referral
- Not selected for Examination
- Selected for Compliance Check
- Selected for Examination (OCEP)
- Selected for Examination (field)
- Selected for Examination (not political)
- Transfer to ROO (for additional research)

EO will have at least one PARC operating at all times comprised of three experienced career civil servant employees. PARC positions generally are filled on a rotational basis for a minimum period of one year. The **EPR Manager will solicit and assign volunteers for the PARCs.** PARC operations are overseen by the Managers of EPR and EOCA; however, they shall not override or influence any case selection decision of the PARCs.

Step 9

If the case is Selected for Examination, the PARC determines whether the case is a "high priority", which results in the case being forwarded to Case Selection and Delivery (CS&D) for immediate assignment to a group (See Step 10), or "other," which results in the case being retained in Classification pending receipt of a case order.

If the IRS concluded in a prior examination that a 501(c)(3) organization had intervened in a political campaign, the case will automatically be classified as "high priority."

Otherwise the PARC considers the following factors to determine whether it should be categorized as a "high priority":

- The amount of money expended (measured either in absolute terms or in relation to the organization's other activities).
- The size of the audience exposed to the alleged intervention. For instance, whether the audience consisted of thousands of people versus 100 or fewer.
- The significance of the political campaign. For instance, whether the election was for a national office in a closely contested race.
- The frequency of the alleged intervention. For instance, whether the intervention occurred five or more times, versus a one-time event.
- The degree of specificity used to identify the candidate or the support/opposition. For instance, whether it was very clear whom the exempt organization was supporting or opposing.
- The degree of candidate participation in the alleged intervention. For instance, whether the candidate was an officer or director of the exempt organization and used the organization's resources to promote his or her candidacy.
- The degree to which the organization is soliciting contributions to support its political campaign intervention. For instance, whether the organization constructed a mechanism to solicit political contributions, versus a one-time donation by the organization.
- Any other relevant factors.

From: Lerner Lois G
Sent: Thursday, January 31, 2013 1:07 PM
To: Wagner Christopher (Chief Appeals)
Subject: A Couple Items

I just got off our quarterly meeting with Appeals and wanted to raise a couple issues to make sure we are all on the same page. I'm raising with you because I am not familiar enough with your organization to know where I should be going, and at least with the second item, I think you do need to be aware.

1. Apparently Appeals is going through a Lean Six Sigma process. One thing they brought to our attention is that Appeals believes the time between when a TP first requests to go to Appeals and the time the case gets to Appeals is too long. They have provided us with data, but also told us they think it isn't very good --so we're not sure of their basis for the claim that things are taking too long. They have spoken to some of our managers about the process, but without data that we can look at and an explanation about how they are going about this, it is hard to understand where the starting point is and where the pain points may be. They have not met with either Holly and Nan, who are the Directors of the programs they are looking at, and who I believe could save them a lot of time. Thought you might want a briefing on this from them--you may be perfectly OK with their approach, but we are baffled.

2. During the meeting I gave them a heads up that, in the next few months we believe they will get a lot of business from our TPs regarding denials on 501 (c)(4) applications. I explained the issue is whether they are primarily involved in social welfare activities a nd whether their political intervention activities, along with other non -social welfare activities mean they don't meet the c4 requirements. I explained the issue was very sensitive and visible and there is a lot of interest--Congress, press, political groups, you name it. I personally have been up to the Hill at least 8 times this past year to explain the complexities of the rules --they are not black and white and they are not always intuitive. I offered a general tutorial session (non-case-related)on the law and the complexities because --as I pointed out--this is a new issue driven by a recent Supreme Court case expanding spending in elections to corporations, and a desire of some to make the expenditures without having their names show up on Federal Election Reports. The fact that these orgs can do some of this activity and still be a c4 further complicates the issue. I told them this is a place where we have worked very hard to be consistent and have all our cases worked by one group, and suggested th ey might want to do something similar. (PS we are under audit by TIGTA because of allegations of political bias on these cases) If I were you, this is definitely something I'd want to be aware of and have a high level person overseeing and reporting regula rly to me. You were in TEGE long enough to understand how dangerous what we do can be.

From the call, I could tell you have a lot of acting folks who will be coming and going over the next year--I feel that pain. But, from my perspective, that only makes high level involvement more imperative. If you think it would be useful to have a meeting on this --let me know.

Hope this doesn't should like I'm trying to run your shop --have enough trouble with my own. (-:

Lois G. Lerner
Director of Exempt Organizations

Document: EO Director's responses to 3 questions asked by Director Paterson.
Purpose: To document the responses of the EO Director regarding the criteria for identifying advocacy cases.
Source: Lois Lerner, EO Director

1. To the best of your knowledge, did any individual or organization outside the IRS influence the creation of criteria targeting applications for tax exemption that mention: 1) the "Tea Party," "Patriots," or the "9/12 Project", 2) government spending, government debt or taxes, 3) education of the public by advocacy/lobbying to "make America a better place to live", or 4) criticizing how the country is being run?

No. To the best of my knowledge, no individual or organization outside the IRS influenced the creation of these criteria.

2. To the best of your knowledge, did IRS or Tax Exempt and Government Entities Division management sanction the use of criteria targeting applications for tax exemption that mention: 1) the "Tea Party," "Patriots," or the "9/12 Project", 2) government spending, government debt or taxes, 3) education of the public by advocacy/lobbying to "make America a better place to live", or 4) criticizing how the country is being run?

3. When did you become aware the IRS was targeting applications for tax exemption that mention: 1) the "Tea Party," "Patriots," or the "9/12 Project", 2) government spending, government debt or taxes, 3) education of the public by advocacy/lobbying to "make America a better place to live", or 4) criticizing how the country is being run?

In early 2010, EO Determinations witnessed an uptick in the number of applications for § 501(c)(3) or 501(c)(4) status that contained indicators of potentially significant amounts of political campaign intervention ("advocacy organizations"). EO Determinations first became of aware of this uptick in February 2010, when an EO Determinations screener identified a § 501(c)(4) applicant that planned to spend a significant amount of its budget on influencing elections, which he believed was like organizations that had been receiving media attention for purportedly seeking classification as § 501(c)(4) social welfare organizations but operating like § 527 political organizations. He alerted his manager of the potential "emerging issue."

To ensure consistent treatment of applications, EO Determinations had long been alerting its specialists to emerging issues by sending emails describing particular issues or factual situations warranting additional review or coordinated processing. Because it was difficult to keep track of all of these separate email

alerts, EO Determinations staff requested a consolidated list of all such alerts. EO Determinations was developing the Be On the Lookout (BOLO) list in early 2010. The BOLO, which is an Excel spreadsheet, provides a centralized source of regularly updated information to EO Determinations specialists about potentially abusive organizations or fraud issues, issues and cases requiring coordinated processing, emerging issues and issues for which to watch. The BOLO currently includes four tabs: (1) Potential Abusive, (2) Emerging Issues, (3) Coordinated Processing, and (4) Watch List.

The first BOLO list contained the following entry on the Emerging Issues tab: "These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4) [sic]." That description was added to the BOLO to help specialists identify cases involving potentially significant political campaign intervention for assignment to a particular Determinations group so that they could be consistently processed in accordance with advice provided by EO Technical. The language used on the BOLO was selected by Determinations specialists with the involvement of a front-line manager in EO Determinations. At this time, the language was not reviewed or approved by executive management.

As the number of advocacy cases grew, the Acting Director, EO Rulings & Agreements wanted to ensure that EO Determinations was not being over-inclusive in identifying such cases (including organizations that were solely engaged in lobbying or policy education with no apparent political campaign intervention). In addition, in light of the diversity of applications selected under this "tea party" label (e.g., some had "tea party" in their name but others did not, some stated that they were affiliated with the "tea party" movement while others stated they were affiliated with the Democratic or Republican party, etc.), the Acting Director, EO Rulings & Agreements sought clarification as to the criteria being used to identify these cases. In preparation for briefing me, the Acting Director, EO Rulings & Agreements asked the EO Determinations Program Manager what criteria Determinations was using to determine whether a case was a "tea party" case. Because the BOLO only contained a brief reference to "Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) and 501(c)(4)" in June 2011, the EO Determinations Program Manager asked the manager of the screening group what criteria were being used to label "tea party" cases ("Do the applications specify/state ' tea party'? If not, how do we know applicant is involved with the tea party movement?"). The manager of the screening group responded that, "The following are issues that could indicate a case to be considered a potential 'tea party' case and sent to Group 7822 for secondary screening. 1. 'Tea Party', 'Patriots' or '9/12 Project' is referenced in the case file. 2. Issues include government spending, government

debt and taxes. 3. Educate the public through advocacy/legislative activities to make America a better place to live. 4. Statements in the case file that are critical of the how the country is being run."

As TIGTA's interviews with EO Determinations employees revealed, the BOLO description and the above-referenced list of criteria used by EO Determinations to determine which cases fell under the BOLO description were their shorthand way of referring to the group of advocacy cases rather than targeting any particular group. Applications that did not contain these terms, but that contained indicators of potentially significant political campaign intervention, were also referred to the group assigned to work such cases.

I first became aware that the BOLO referenced "tea party" organizations and EO Determinations was using the above criteria to determine what organizations met that description when I was briefed on these cases on June 29, 2011. I immediately directed that the BOLO be revised to eliminate the reference to "tea party" organizations and refer instead more generally to advocacy organizations. The BOLO was revised on July 11, 2011; the "issue name" was changed from "Tea Party" to "Advocacy Orgs", and the "Issue Description" was changed to "Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4)."

Unbeknownst to me, EO Determinations further revised the BOLO issue description on January 25, 2012 to "political action type organizations involved in limiting/expanding government, educating on the Constitution and Bill of Rights, social economic reform/movement." When I learned of this change, I directed that the BOLO description be revised. EO Determinations management explained that the group working the advocacy cases had made the change because they were receiving a substantial number of 501(c)(4) applications that only involved lobbying activity, which is a permissible activity, and no indication of political campaign activity. They were trying to edit the description to avoid capturing these organizations. Per my direction, the BOLO was updated on May 17, 2012. The separate entries for Occupy groups and ACORN successors were deleted and the advocacy organization description was revised to read, "501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit). Note: advocacy action type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet this criteria."

At the same time that I directed the BOLO be revised, I also directed the Acting Director of EO Rulings & Agreements to implement procedures for updating the

BOLO that included executive-level approval. On May 17, 2012, the Acting Director of EO Rulings & Agreements issued a memorandum that set forth such procedures, which require that all additions and changes to the BOLO be approved by the manager of the emerging issues coordinator, the EO Determinations Program Manager, and the Director, Rulings & Agreements.

From: Lerner Lois G
Sent: Tuesday, July 17, 2012 9:51 AM
To: Paz Holly O; Flax Nikole C
Subject: RE: Emailing: c4 talking points 7-16-12.doc

Importance: High

Only one comment--I know we don't have published SOI stats for the uptick, but our Cincy folks saw it happening --can we get Nikole whatever "inside"
info we have that led to that conclusion --she can then figure out how to use it.

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Paz Holly O
Sent: Tuesday, July 17, 2012 7:23 AM
To: Flax Nikole C; Lerner Lois G
Subject: Emailing: c4 talking points 7-16-12.doc

I have added some edits and comments to Lois'. I am c hecking on numbers and will get back to you ASAP.

From: Lerner Lois G
Sent: Tuesday, July 17, 2012 9:46 AM
To: Paz Holly O
Subject: RE: Emailing: c4 talking points 7-16-12.doc

good

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Paz Holly O
Sent: Tuesday, July 17, 2012 10:44 AM
To: Lerner Lois G
Subject: RE: Emailing: c4 talking points 7-16-12.doc

That is who I am checking with.

-----Original Message-----
From: Lerner Lois G
Sent: Tuesday, July 17, 2012 10:42 AM
To: Paz Holly O; Flax Nikole C
Subject: RE: Emailing: c4 talking points 7-16-12.doc

Contact Nalee--she knows all about the response.

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Paz Holly O
Sent: Tuesday, July 17, 2012 10:08 AM
To: Flax Nikole C; Lerner Lois G
Subject: RE: Emailing: c4 talking points 7-16-12.doc

The SOI numbers I was looking at were closures (that's all SOI has that is relevant to this question). I think the numbers in Boustany response must
be receipts. I am checking and will get back to you.

-----Original Message-----
From: Flax Nikole C
Sent: Tuesday, July 17, 2012 9:21 AM
To: Paz Holly O; Lerner Lois G
Subject: RE: Emailing: c4 talking points 7-16-12.doc

On the point whether there was an increase in c4 applications - in the Boustany response we show that applications did increase. Looks like the figures are different from what you pulled from SOI so we need to track this down as I think it is an important point.

From Boustany- c4 applications

2008 - 1410
2009 - 1571
2010 - 1591
2011 - 2242
2012 - 1715 (through April 1, 2012 -- if this pace stands all year would be a significant increase)

-----Original Message-----
From: Paz Holly O
Sent: Tuesday, July 17, 2012 7:23 AM
To: Flax Nikole C; Lerner Lois G
Subject: Emailing: c4 talking points 7-16-12.doc

I have added some edits and comments to Lois'. I am checking on numbers and will get back to you ASAP.

From: Lerner Lois G
Sent: Wednesday, July 18, 2012 8:55 AM
To: Flax Nikole C; Park Nalee; Lowe Justin; Urban Joseph J
Cc: Mistr Christine R
Subject: Re: Emailing: c4 talking points 7-16-12.doc

I'll ask exam
Lois G. Lerner---------- Sent from my BlackBerry Wireless Handheld

------Original Message------
From: Nikole Flax
To: Nalee Park
To: Lois Call in Number
To: Justin Lowe
To: Joseph Urban
Cc: Mistr Christine R
Subject: FW: Emailing: c4 talking points 7-16-12.doc
Sent: Jul 18, 2012 9:52 AM

The chart is very helpful, thanks.

Can Steve get a chart like this first one with exam numbers - c3s, c4s, and totals or each of the years listed? Thanks

---

From: Park Nalee
Sent: Tuesday, July 17, 2012 7:53 PM
To: Flax Nikole C
Cc: Lerner Lois G; Paz Holly O
Subject: RE: Emailing: c4 talking points 7-16-12.doc

Per Lois, I took a look on the talking points based on what we've told Boustany about c4 application numbers.

First, under Legal Requirements, I added a few suggested (tracked) changes, including a couple bullets. Feel free to ignore or accept.

Regarding the reference to c4 application numbers in the first bullet under Background, see comment [NLP4]. Comment is referring to the second attachment here, which is a summary on the numbers of applications received for c3s and c4s, total app closures (including specifically c4 apps), and application approvals for c3s and c4s - starting from FY 2008. All these numbers were provided in Boustany responses, except for FY 2012 data through June 30th (which were collected as part of hearing preparations - i.e., Descriptions for Updated Stats 7/3/2012) and unless otherwise noted (i. e., in Issa). You/STM should already have all this data in the hearing prep

binders, but I just consolidated them into this one -sheeter for an easier trend/comparison read.

Also, as Holly pointed out in her comment, we do not have a reliable method for tracking data by issue such as political activity. This is consistent with our congressional responses where we had explained we would have to manually go through each application, etc.

Because of the above points, the first bullet that presently reads as :

Starting in 2010, EO observed an increase in the number of section 501(c)(3) and section 501(c)(4) determination applications from organizations that appeared to be potentially engaged in political advocacy activities.

Recommend it be revised (i.e., along the lines of the following):

For about the past five years [alternative verbiage: From FY 2008 through June 30th of FY 2012], EO has observed an increase in the number of section 501(c)(4) determination applications filed, as well as a general upward trend in section 501(c)(3) application filings.

NaLee
[redacted]

From: Grodnitzky Steven
Sent: Wednesday, April 28, 2010 5:23 PM
To: Lerner Lois G; Choi Robert S
Cc: Letourneau Diane L; Grodnitzky Steven
Subject: SCR Chart
Attachments: SCR report Table 2010 Final.doc

Please find attached a copy of the SCR chart for cases in EO Technical for the period ending April 28, 2010.

Of note, we added one new SCR concerning 2 Tea Party cases that are being worked here in DC. Currently, there are 13 Tea Party cases out in EO Determinations and we are coordinating with them to provide direction as to how to develop those cases based on our development of the ones in DC. We also closed one significant case last month -- American Pakistan Foundation -- providing relief to displaced persons in Pakistan.

Steven Grodnitzky
Acting Manager, EO Technical
Rulings and Agreements, TEGE
Internal Revenue Service
phone [redacted]
fax [redacted]

EO Technical
Significant Case Report
(April 28, 2010)

Name of Org/Group	Group #/Manager	EIN	Received	Issue	Tax Law Specialist	Estimated Completion Date	Status/Next action
Prescott Tea Party, LLC and Albuquerque Tea Party, Inc.	2/Ron Shoemaker	27-0484865 and 90-0513502	4/2/2010	Whether a tea party organization meets the requirements under 501(c)(3) and is not involved in political intervention.	Chip Hull	9/30/2010	One development letter sent, and working on sending development letter for the second case. Also, will coordinate with Cincy as to helping to develop their cases.
American Pakistan Foundation	2/Ron Shoemaker	27-0726675	Cincinnati 10/7/09 EOT 10/22/09	Whether US org formed to provide relief to displaced persons in Pakistan qualifies for C3	Jackie Manasterli	**CLOSED**	TLS is recommending a favorable exemption. Will coordinate with other foreign -grant making organizations in the office to ensure consistency. Case Closed April 2010.
Bluegrass Family Health	1/Ellen Berick	61-1241101	6/08	Whether HMO operator recognized as exempt under C4 qualifies for C4 status	Justin Lowe	6/30/2010	Briefing for TEGE Commissioner re -scheduled for May 14th.
The Calhoun Academy	2/Ron Shoemaker	57-0523954	Cincinnati 8/28/07 EOT 1/8/08	Whether private school that previously applied for and was denied C3 status due to racial discrimination now qualifies .	Meghan Wrathall	5/30/2010	Guidance completed review of proposed denial and then sent back to EOT to make changes and Guidance will take a final look before issuance.
Delta Dental of Delaware	1/ Ellen Berick	51-0228088	Cincinnati 9/22/06 EOT 11/9/06	Whether HMO operator recognized as exempt under C4 qualifies for C4 status	Justin Lowe	6/30/2010	Coordinate DDD and Bluegrass cases to then brief TEGE Commissioner on May 14, 2010.
Emerge Maine, Emerge Nevada, Emerge Massachusetts, Oregon	1/ Ellen Berick	41-8018017	Cincinnati 1/11/08 EOT 10/9/08	Whether orgs that recruit women belonging to Democratic party to schools that teach campaign-related skills qualify for C4 statu s	Siri Buller	6/30/2010	Reviewed by Judy Kindell, send to TEGE Counsel to ensure consistency as to litigation strategy.
EPM Civil Rights Funds	2/Ron Shoemaker	26-4582939	Cincinnati 7/16/09 EOT 12/1/09	Whether org that pays travel and interpreter expenses incurred by attorneys providing pro bono legal services to Guantanamo detainees qualifies for C3 status	Andy Strelka	6/30/2010	The TLS reviewed case from Cincy and issued in April 2010 an additional development letter to ensure that expenses by attorneys a re not used for private benefit purposes.
Jewish Giving Online, Inc.	3/Ted Lieber	26-3398630	Cincinnati 11/28/08 EOT 7/29/09	Whether TP seeking C3 status for internet solicitation for foreign orgs is a conduit and/or provides impermissible private benefit	Peter Holiat	6/30/2010	Submit proposed adverse determination letter to Guidance after being reviewed by EOT group reviewer.
Lehman Health Care	3/Ted Lieber	26-6552611	Cincinnati	Whether applicant for VEBA status	Obi	Unknown	Need to determine whether bankruptcy litigation

Trust			4/15/09 EOT 8/26/09	established and funded by subsidiary of org shortly before org's bankruptcy qualifies – whether we cannot rule because bankruptcy proceedings are pending litigation	Chukwuanu		issue would have an impact on processing application.
Muslim Alliance in North America	3/Ted Lieber	71-0997466	Cincinnati 5/21/07 EOT 3/4/09	Applicant for C3 status endorsed Obama on its website; its president was unindicted co - conspirator in 93 World Trade Center plot .	Matt Parrish	6/30/2010	Briefed EO Director on 4/19/10. Continue researching other board members and officers and coordinate with Joe Urban to help draft and send additional development letter.
Methodist International	1/ Ellen Berick	30-0347273	Cincinnati 4/07 EOT 2/08	Whether org providing consulting and training to foreign entities operating health care facilities qualifies for C3	Siri Buller	6/30/2010	Received comments from EO Guidance and now making changes as a result. Then send to TEGE Counsel.
National Railroad Retirement Investment Trust	1/ Ellen Berick	01-6186277	8/4/08	Whether income earned from investment is not subject to UBIT	Justin Lowe	6/30/2010	After conference of right, TP submitted additional information as to whether NRRIT's assets are not subject to UBIT as assets of the Federal government. Meeting with TEGE Counsel and EP week of 3/29 to review and strategize as to next steps. Counsel reached out to PassThroughs Counsel to explore grantor -trust issue and waiting for reply. Brief EO executives when information is in from Counsel.
Tennessee Pooled Assets	1/ Ellen Berick	62-1833034	Cincinnati 3/27/03 EOT 7/25/03	Whether trustee of pooled trust established for disabled persons under Medicaid program qualifies for C3 status	Susan Cundiff	6/30/2010	Hold conference of right with related case (Family Trust of Mass.) , then send to Counsel for concurrence for final adverse.
United Order of Texas	2/Ron Shoemaker	26-4728535	2/16/2010	Whether organization with ties to polygamist ranch qualifies for exemption as apostolic or religious order under §501(d)	Leonard Orcino	8/30/2010	Sent development letter on 4/6/10 and sent development letter to related org. on 4/15/10.
World Wildlife Fund	2/Ron Shoemaker	52-1693387	11/6/09	Whether WWF's sale of carbon credits is substantially related to WWF's exempt purposes and thus not subject to UBIT	Meghan Wrathall	8/30/10	WWF must modify its request to limit it to the substantially related issue . Then send tech. assistance to IT&A.
Bernice Bishop DBA Kamehameha Schools	3/Ted Lieber	99-0073480	3/21010 PLR received in EO Tech.	Whether a series of land transactions that are taking place over a ten year period is subject to UBIT. We are expecting to get more requests.	Peter Holiat	6/30/2010	TLS reviewing case and preparing draft r uling and then will submit to Guidance and CC for review.
Miss America Foundation	2/Ron Shoemaker	27-0390958	3/1/2010 assigned in EO Tech.	Whether an organization that provides non - forfeitable scholarships to Miss America participants qualifies under § 501(c)(3) as an affiliate of the National Miss America pageant.	Len Henzke	9/30/2010	Reviewing response to development letter and more development may be needed.

From: Grodnitzky Steven
Sent: Sunday, May 16, 2010 6:01 PM
To: Lerner Lois G; Choi Robert S
Cc: Letourneau Diane L; Neuhart Paige; Douglas Akaisha
Subject: RE: EO Tech. highlights and stats

Ok, just let me know when you would like to chat about the case.

-----Original Message-----
From: Lerner Lois G
Sent: Saturday, May 15, 2010 11:17 AM
To: Grodnitzky Steven; Choi Robert S
Cc: Letourneau Diane L; Neuhart Paige
Subject: Re: EO Tech. highlights and stats

Thanks. Let's talk about co-conspirator. We need Joe there Lois G.
Lerner---------- Sent from my BlackBerry Wireless Handheld

------Original Message------
From: Steven Grodnitzky
To: Lois Call in Number
To: Rob Choi
Cc: Diane Letourneau
Cc: Paige Harrell
Cc: Akaisha Douglas
Subject: RE: EO Tech. highlights and stats
Sent: May 13, 2010 7:54 PM

We have tea party cases here in EOT and in Cincy. In EOT, there is a (c)(3) application and a (c)(4) ap plication. In Cincy, there are 10 (c)(4)s and a couple of (c)(3)s. The organizations are arguing education, but the big issue for us is whether they are engaged in political campaign activity. We are in the development process at this point here in DC, and I have asked the TLS and front line manager to coordinate with Cincy as to how to develop their cases, but not resolve anything until we get clearance from you and Rob.

The tea party cases, like the others on the list, are the subject of an SCR, and I customarily give Rob a heads up, but of course can let you know as well before anything happens.

As to MANA, I had spoken with Ted about the case, and he did mention that Joe had a different view as to whether to request information about the unindicte d coconspirator.

I called the FTC and spoke with them about the possibility of an MOU and that we were interested in starting discussions. Leah Frasier, the FTC point of contact, said that she would speak with her bosses and get back to me.

From: Lerner Lois G
Sent: Thursday, May 13, 2010 7:04 PM

To: Grodnitzky Steven; Choi Robert S
Cc: Letourneau Diane L; Neuhart Paige; Douglas Akaisha
Subject: RE: EO Tech. highlights and stats

I like this format. David will kill you as I'd lik e to see if he can do a monthly 1 pager also.Tea Party cases --applications for c3? What's their basis? MANA--Judy and I have talked and I may be in a different place than Joe and Tom re: next steps. All cases on your list should not go out without a hea ds up to me please. Have we reached out to FTC to raise the possibility of an MOU? Akaisha--please start a notebook for me and update each month with new report. I'd like to be able to look back easily to see progress. Steve --remember to cc Akaisha on these. Thanks

Lois G. Lerner
Director, Exempt Organizations

From: Grodnitzky Steven
Sent: Thursday, May 13, 2010 6:10 PM
To: Lerner Lois G; Choi Robert S
Cc: Letourneau Diane L; Neuhart Paige; Grodnitzky Steven
Subject: EO Tech. highl ights and stats

Please find below the April highlights for EO Technical, including case statistics. If you are looking for other types of information in the future, please let me know and I will provide for next month's highlights.

April in EO Technical

Statistics

Cases Received

------Original Message Truncated------

From: Lerner Lois G
Sent: Tuesday, August 03, 2010 5:52 PM
To: Douglas Akaisha; Choi Robert S; Lieber Theodore R; Neuhart Paige
Cc: Letourneau Diane L
Subject: FW: SCRs for the Month of July
Attachments: July Bishop.doc; July Lehman Bros.doc; July Ballot Initiative.doc; July Bluegrass Family Health.doc; July Calhoun Academy.doc; July Credit Counseling.doc; July DDD.doc; July Emerge.doc; July EPM Civil Rights.doc; July Group Reclassification.doc; July Imagine Schools Non-Profit.doc; July Jewish Giving Online.doc; July MANA.DOC; July Methodist International.doc; July Miss America Foundation.doc; July Mortgage Foreclosure.doc; July NRRIT.DOC; July TAG-18.doc; July TeaParty.doc; July United Order Texas.doc; July WWF.doc; JulyTennessee.doc; July Medical Marijuana.DOC

Follow Up Flag: Follow up
Flag Status: Flagged

Akaisha--please print so I can review. Everyone else--have we always sent to Mike Daly with no review time for me first? I realize I don't usually get to them in time, but I think I could with a few days notice. I'm a bit uncomfortable sending without r eading--thoughts?

Lois G. Lerner
Director, Exempt Organizations

From: Lieber Theodore R
Sent: Friday, July 30, 2010 7:58 AM
To: Daly Richard M
Cc: Choi Robert S; Neuhart Paige; Douglas Akaisha; Lerner Lois G
Subject: FW: SCRs for the Month of July

Attached are the R&A SCRs for J uly. The list of SCRs are below.

Thanks,

Theodore R. Lieber
Manager
EO Technical Group 3
(202) 283-8999

From: Grodnitzky Steven
Sent: Tuesday, July 27, 2010 4:06 PM

To: Lieber Theodore R
Cc: Grodnitzky Steven
Subject: SCRs for the Month of July

Please find attached the SCRs for EO Technical and EO Determinations for the month of July:

(1) Kamehameha Schools
(2) Lehman Health Care Trust
(3) Ballott Initiative Group of Missouri
(4) Bluegrass Family Health
(5) The Calhoun Academy
(6) Credit Counseling Compliance Project
(7) Delta Dental of Delaware
(8) Emerge Maine
(9) EPM Civil Rights
(10) Group Rulings
(11) Imagine Schools
(12) Jewish Giving Online
(13) Muslim Alliance of North America
(14) Methodist International
(15) Miss America Foundation
(16) Mortgage Foreclosure
(17) NRRIT
(18) TAG-18
(19) Tea Party
(20) United Order of Texas
(21) World Wildlife Fund Inc.
(22) Tennessee Pooled Assets
(23) Compassionate Cannabis Information Center (medical mariju ana)

Any questions, please let me know.

Thanks.

Steve

Steven Grodnitzky
Acting Manager, EO Technical
Rulings and Agreements, TEGE
Internal Revenue Service
phone: [redacted]
fax: [redacted]

EO Technical
Significant Case Report
(January 31, 2011)

Name of Org/Group	Group #/Manager	EIN	Received	Issue	Tax Law Specialist	Estimated Completion Date	Status/Next action	Elevated to Commissi
American Junto and Albuquerque Tea Party, Inc.	2/Ron Shoemaker	27-0484865 and 90-0513502	4/2/2010	Whether a tea party organization meets the requirements under 501(c)(3) and is not involved in political intervention.	Chip Hull	3/31/2011	Developing both a (c)(3) and (c)(4) case. Proposed favorable being drafted on (c)(4). Proposed denial being drafted on (c)(3).Coordinating with Cincy as to helping to develop their cases.	No
Compassionate Cannabis Information Center	1/Steven Grodnitzky	90-0421314	1/4/2010	Where a dispensary of medica l marijuana meets the requirements under § 501(c)(3).	Kristen Burns	3/31/2011	A proposed denial was prepared and is in review with the group reviewer. Director, EO R&A recommended consulting with TEGE Counsel before issuing a proposed denial. There are 5 cases in EOT and 5 in EOD.	No
Bluegrass Family Health	1/Steven Grodnitzky	61-1241101	6/08	Whether HMO qualifies under § 501(c)(4) of the Code.	Justin Lowe	6/30/2011	TEGE Commissioner and TEGE Counsel met on August 24, 2010 to discuss options on this ca se and Delta Dental of Delaware, a case presenting a similar issue as it relates to HMOs. Preparing to meet with IRS Chief Counsel to discuss strategy. Also, exploring settlement options with Bluegrass.	Yes
Delta Dental of Delaware	1/ Steven Grodnitzky	51-0228088	Cincinnati 9/22/06 EOT 11/9/06	Whether HMO qualifies under § 501(c)(4) of the Code.	Justin Lowe	6/30/2011	TEGE Commissioner and TEGE Counsel met on August 24, 2010 to discuss options on this case, and Bluegrass, a case presenting a similar issu e as it relates to HMOs. Planning to meet with the IRS Chief Counsel to discuss strategy.	Yes
Emerge Maine , Emerge Nevada, Emerge Massachusetts, Oregon	1/ Steven Grodnitzky	41-8018017	Cincinnati 1/11/08 EOT 10/9/08	Whether orgs that recruit women belong ing to Democratic party to schools that teach campaign-related skills qualify for § 501(c)(4) status	Siri Buller	02/28/2011	Proposed denial sent to TEGE Counsel in late April to ensure consistency as to litigation strategy. Reviewing Counsel comm ents.	No
EPM Civil Rights Funds	2/Ron Shoemaker	26-4582939	Cincinnati 7/16/09 EOT 12/1/09	Part of activities includes paying travel and interpreter expenses incurred by attorneys providing pro bono legal services to Guantanamo detainees, and does it quali fy under § 501(C)(3) status. Bulk of activities	Jonathan Carter	1/31/2011	Proposed denial being finalized.	No

				are educational , and some private benefit in the past re: funding the payment of medical expenses of an individual.				
Lehman Health Care Trust	3/Ted Lieber	26-6552611	Cincinnati 4/15/09 EOT 8/26/09	Whether applicant for VEBA status established and funded by subsidiary of org shortly before org's bankruptcy qualifies under § 501(c)(9). Whether we can rule because bankruptcy proceedings are pending litigation	Obi Chukwuanu	4/30/2011	Taxpayer's response to development letter due 1/7/11.	No
Methodist International	1/ Steven Grodnitzky	30-0347273	Cincinnati 4/07 EOT 2/08	Whether org providing consulting and training to foreign entities operating health care facilities qualifies for C3	Siri Buller	02/28/2011	Received Counsel's comments on proposed denial. Incorporating comments. Brief EO Director.	No
National Railroad Retirement Investment Trust	1/ Steven Grodnitzky	01-6186277	8/4/08	Whether income earned from investment is subject to UBIT.	Justin Lowe	3/31/2011	Adverse ruling has been reviewed by Counsel and is currently under review by EP . NRRIT recently met with Treasury to discuss revising memorandum of understanding (MOU) currently in effect between Treasury, OMB, and NRRIT. Director, EO reached out to Treasury to coordinate actions .	Yes
Tennessee Pooled Assets	1/ Steven Grodnitzky	62-1833034	Cincinnati 3/27/03 EOT 7/25/03	Whether trustee of pooled trust established for disabled persons under Medicaid program qualifies for C3 status	Susan Cundiff	03/31/2011	Held conference of right with similar case (Family Trust of Mass.). Final adverse letter submitted to Counsel on 11/23/10.	No
United Order of Texas	2/Ron Shoemaker	26-4728535	2/16/2010	Whether organization with ties to polygamist ranch qualifies as apostolic or religious order under §501(d).	Leonard Orcino	3/31/2011	Proposed denial with group reviewer.	No
World Wildlife Fund	2/Ron Shoemaker	52-1693387	11/6/09	Whether WWF's sale of carbon credits is substantially related to WWF's exempt purposes and thus not subject to UBIT	Meghan Wrathall	6/30/2011	Similar case involving mitigation credits sent to Counsel for review on 10/13/10.	No
Miss America Foundation	2/Ron Shoemaker	27-0390958	3/1/2010 assigned in EO Tech.	Whether an organization that provides non - forfeitable scholarships to Miss America participants qualifies under § 501(c)(3) as an affiliate of the National Miss America pageant.	Jackie Manasterli	3/31/11	Proposed denial issued. Awaiting taxpayer protest.	No
Imagine Schools Non-Profit	2/Ron Shoemaker	20-3590526	10/19/2006 assigned in EOT	Whether a charter school should be granted exemption under § 501(c)(3).	Meghan Wrathall	03//31/2011	Issued proposed denial to taxpayer on August 2nd ,TP protested and conference of right held 10/27/10. Applicant submitted some additional materials on 11/17/10. Currently awaiting a new appraisal from the taxpayer, which will be sent to the IRS engineer.	No
Mortgage Foreclosure Cases	1 and 2/ Ron Shoemaker		On going cases.	Whether organizations involved in mortgage foreclosure activities meet the requirements under § 501(c)(3)	Elizabeth Kastenberg	Ongoing.	Continue to review cases from Cincy and develop, and deny, or approve cases in DC. EOT drafting a failure to establish adverse ruling on one of the cases.	No

Z Street	EO Determination	27-1354388	December 29, 2009	Whether an organization that ad vocates for legislation to support Israel qualifies for exemption under section 501(c)(3).	Jon Waddell	Litigation ongoing	Applicant filed declaratory judgment action on August 25, 2010, alleging the IRS routinely delays and may deny applications if the applicants oppose U.S. policies in the Middle East. EO Determinations is coordinating with regard to the litigation with Chief Counsel through Senior manager EO Guidance	No
Harvard Medical Collaborative, Inc.	3/Ted Lieber	04-3476764	June 23, 2009	Whether operation of a power plant to supply power, steam and chilled waster, at cost, to Harvard Medical School and its affiliated hospitals will jeopardize HMC's exempt status under section 501(c)(3) of the Code or be treated as an unrelated trade or business under section 513(a).	Donna E. Moore	05/31/2011	Taxpayer conference to discuss IRS' adverse position held on 11/4/10. EOT and Counsel attended. Additional information provided by HMC under review.	No

From: Seto Michael C
Sent: Wednesday, February 02, 2011 12:40 PM
To: Fish David L
Subject: FW: SCR Table for Jan. 2011 & SCR items
Attachments: SCR table Jan 2011.doc; SCR Jan 2011 Park 51 MD.doc; SCR Jan 2011 Bluegrass MD.doc; SCR Jan 2011 DDD MD.doc; SCR Jan 2011 Emerge.doc; SCR Jan 2011 Methodist MD.doc; SCR Jan 2011 Newspaper Cases Update MD.DOC; SCR Jan 2011 NRRIT MD.DOC; SCR Jan 2011 Medical Marijuana.doc; SCR Jan 2011 Mortgage Foreclosure.doc; SCR Jan 2011 Foreign Lobby Cases.doc; SCR Jan 2011 Iowa Student.doc; SCR Jan 2011 Harvard Medical.doc

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From: Seto Michael C
Sent: Wednesday, February 02, 2011 1:39 PM
To: Lieber Theodore R; Salins Mary J; Seto Michael C; Shoemaker Ronald J; Smith Danny D
Subject: FW: SCR Table for Jan. 2011 & SCR items

Below is Lois' and Holly's directions on certain technical areas, such as newspapers, health care case, etc. Please do not allow any cases to go out before we have brief Lois and Holly.

Attached is the SCR table and the SCRs. The SCRs that went to Mike Daly ends with "MD." I will forward the other SCRs that didn't went Mike as fyi.

These reports are for your eyes only . . . not to be distributed.

Thanks,

Mike

From: Lerner Lois G
Sent: Wednesday, February 02, 2011 11:17 AM
To: Paz Holly O; Seto Michael C
Cc: Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E; Light Sharon P
Subject: RE: SCR Table for Jan. 2011

Thanks--even if we go with a 4 on the Tea Party cases, they may want to argue they should be 3s, so it would be great if we can get there without saying the only reason they don't get a 3 is political activity.

I'll get with Nan Marks on the delta Dental piece.

I'm just antsy on the churchy stuff--Judy--thoughts on whether we should go to Counsel early on this--seems to me we may want to answer all questions they may have earlier rather than later, but I may be being too touchy. I'll defer to you and Judy.

Z Street--I thought the elevated to TEGE Commish related to wheth er we ever had--that's why I asked. Perhaps the block is wrong--maybe what we need is some notation that the issue is one we would elevate?

I hear you about you and Mike keeping track, but I would like a running history. that's the only way I can speak to what we're doing and progress in a larger way. Plus we've learned from Exam--if they know I'm looking, they don't want to have to explain --so they move things along. the 'clean" sheet doesn't give me any sense unless I go back to previous SCRs.

I've added Sharon so she can see what kinds of things I'm interested in.

Lois G. Lerner
Director, Exempt Organizations

From: Paz Holly O
Sent: Wednesday, February 02, 2011 11:02 AM
To: Lerner Lois G; Seto Michael C
Cc: Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E
Subject: RE: SCR Table for Jan. 2011

Tea Party - Cases in Determs are being supervised by Chip Hull at each step - he reviews info from TPs, correspondence to TPs, etc. No decisions are going out of Cincy until we go all the way through the process with the c3 and c4 cases here. I believe the c4 will be ready to go over to Judy soon.

HMO case (Delta Dental) - When you say to push for the next Counsel meeting, with whom in Counsel are you referring? The plan had been for Sarah to meet with Wilkins and Nan on this. We think this has not happened but have not heard directly (unless Sarah has responded to your recent email on this case). I don't know that we at this level can drive that meeting.

NRRIT-I will reach out to Phil to see if Nan has seen it. She was involved in the past but I d on't know about recently.

On United Order (religious order), proposed denials typically do not go to Counsel. Proposed denial goes out, we have conference, then final adverse goes to Counsel before that goes out. We can alter that in this case and brie f you after we have Counsel's thoughts.

Z Street was not elevated at Mike Daly's direction. He had us elevate it twice after the litigation commenced but said not to continue after that unless we are changing course on the application front and going fo rward with processing it.

Ground Zero mosque (Park 51) - Our general criteria as to whether or not to elevate an SCR to Sarah/Joseph and on up is to only elevate when there has been action. Park 51 was elevated this month because it was just received. We will now begin to review the 1023 but won't have anything to report for sometime. We will elevate again once we have staked out a position and are seeking executive concurrence.

We (Mike and I) keep track of whether estimated completion dates are bei ng moved by means of a track changes version of the spread sheet. When next steps are not reflected as met by the estimated time, we follow up with the appropriate managers or Counsel to determine the cause for the delay and agree on a due date.

From: Lerner Lois G
Sent: Tuesday, February 01, 2011 6:28 PM
To: Seto Michael C
Cc: Paz Holly O; Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E
Subject: RE: SCR Table for Jan. 2011

Thanks--a couple comments

1. Tea Party Matter very dangerous. This could be the vehicle to go to court on the issue of whether Citizen's United overturning the ban on corporate spending applies to tax exempt rules. Counsel and Judy Kindell need to be in on this one pl ease needs to be in this. Cincy should probably NOT have these cases --Holly please see what exactly they have please.

2. We need to push for the next Counsel meeting re: the HMO case Justin has. Reach out and see if we can set it up.

3. NRRIT--has that gone to Nan Marks? It says Counsel, but we'll need her on board. In all cases where it says Counsel, I need to know at what level please.

4. I assume the proposed denial of the religious or will go to Counsel before it goes out and I will be briefed?

5. I think no should be yes on the elevated to TEGE Commissioner slot for the Jon Waddel case that's in litigation --she is well aware.

6. Case involving healthcare reconciliation Act needs to be briefed up to my level please.
7. SAME WITH THE NEWSPAPER CASES--NO GOING OUT WITHOUT BRIEFING UP PLEASE.

8. The 3 cases involving settlements in Israel should be briefed up also.

9. ground zero case--why "yes-for this month only" in TEGE Commissioner block?

Also, please make sure estimated due dates and next step dates are after the date you send these. On a couple of these I can't tell whether stuff happened recently or not.

Question--if you have an estimated due date and the person doesn't make it, how is that reflected? My concern is that when Exam first did these, they just changed the date so we always looked current, rather than providing a history of what occurred. perhaps it would help to sit down with me and Sue Lehman--she helped develop the report they now use.

From: Seto Michael C
Sent: Tuesday, February 01, 2011 5:33 PM
To: Lerner Lois G
Cc: Paz Holly O; Trilli Darla J; Douglas Akaisha; Letourneau Diane L
Subject: SCR Table for Jan. 2011

Here is the Jan. SCR summary.

From: Lerner Lois G
Sent: Monday, October 29, 2012 10:51 AM
To: 'tobomatic@msn.com'
Subject: Fw: Revised timeline
Attachments: Long Political Advocacy Timeline HOP comments.doc

Lois G. Lerner---------- Sent from my BlackBerry Wireless Handheld

----- Original Message -----
From: Paz Holly O
Sent: Sunday, October 28, 2012 02:31 PM
To: Lerner Lois G; tobomatic@msn.com <tobomatic@msn.com>; Marks Nancy J; Light Sharon P
Subject: Revised timeline

Attached is a revised version of the timeline that incorporates our discussion of last week and the revisions to the answers to the questions. Please note:

1. In the meeting, we ran out of time and did not discuss anything after Jan. 2012 so please review that portion closely.

2. In the Oct. 19, 2010 entry, I added a comment about how many of the orgs did not have TP in their name but I wanted you to be aware that some of those orgs included in my count of non -TP names had "patriot" or "912" in their names.

3. Should we include EOD's rationale (albeit flawed) as to why it asked the donor question? EOD did explain to TIGTA that they were concerned that 527 donors would be a red flag for a c4 that engages in political activity.

Consistency in Identifying and Reviewing Applications for Tax -Exempt Status Involving Political Advocacy Issues
Audit # 201210022

Objective: To interview Exempt Organizations (EO) function management involved in developing the advocacy emerging issue to id entify steps taken and develop a timeline of events .

Background: We interviewed EO function officials to understand how applications are processed for organizations seeking tax-exempt status. We learned that there was an increase in the number of organizations applying for Section (§) 501(c)(3) or 501(c)(4) whose applications contained indicators of potentially significant amounts of political campaign interven tion. In February 2010, an EO Determinations screener identified a § 501(c)(4) case that he believed was similar to organizations that had recently been the subject of much media attention for purportedly seeking classification as § 501(c)(4) social welfare organizations but operating like § 527 political organizations. The screener noted that this applicant indicated that it intended to spend a significant amount of its budget on influencing elections. The screener elevated his concerns about this case through the management chain. The EO Determinations Program Manager raised the issue with the Acting Manager of EO Technical who requested that this case be transferred to EO Technical. It is EO Rulings & Agreements' standard practice with emerging issues (including credit counseling and mortgage foreclosure) as well as these advocacy organizations to work some of the applications in EO Technical in order to get a better sense of the issues. EO Technical is then better able to advise EO Determinations o n the processing of such cases and determine the most appropriate form of advice, which may range from verbal or written advice on a particular application or applications to template development letters, template denial letters, guide sheets, etc. In addition to seeking advice from and coordinating with EO Technical, t he unusual number of applications with potential political campaign intervention by organization seeking § 501(c)(3) or 501(c)(4) exempt status also prompted the EO function to isolate these types of cases as an emerging issue warranting scrutiny by a particular Determinations group to ensure consistent processing.

In order to help specialists identify cases involving potentially significant pol itical campaign intervention for assignment to a particular Determinations group so that they could be consistently processed in accordance with advice provided by EO Technical , a description was included on the Be On the Lookout (BOLO) list. To ensure consistent treatment of applications, EO Determinations had long been alerting its specialists to emerging issues by sending emails describing particular issues or factual situations warranting additional review or coordinat ed processing. Because it was difficult to keep track of all of these separate email alerts, EO Determinations staff requested a consolidated list of all such alerts. EO Determinations was developing the Be On the Lookout (BOLO) list in early 2010. The BOLO, which is an Excel spreadsheet, provides a centralized source of regularly updated information to EO Determinations specialists about potentially abusive organizations or fraud issues, issues and cases requiring coordinated processing, emerging issues and issues for which to watch. The BOLO currently includes four tabs: (1) Potential Abusive, (2) Emerging Issues, (3) Coordinated Processing, and (4) Watch List.

The first BOLO list contained the following entry on the Emerging Issues tab: "These case i nvolve various local organizations in the Tea Party [1] movement are applying for exemption under 501(c)(3) or 501(c)(4) [sic]." The language used on the BOLO was selected by Determinations specialists with the involvement of a front-line manager in EO Determinations. At this time, the language was not reviewed or approved by executive management.

As the number of advocacy cases grew, the Acting Director, EO Rulings & Agreements wanted to ensure that EO Determinations was not being over-inclusive in identifying such cases (including organizations that were solely engaged in lobbying or policy education with no apparent political campaign intervention). In addition, in light of the diversity of applications selected under this "tea party" label (e.g., some had "tea party" in their name but others did not, some stated that they were affiliated with the "tea party" movement while others stated they were affiliated with the Democratic or Republican party, etc.), the Acting Director, EO Rulings & Agreements soug ht clarification as to the criteria being used to identify these cases. In preparation for briefing me, the Acting Director, EO Rulings & Agreements asked the EO Determinations Program Manager what criteria Determinations was using to determine whether a case was a "tea party" case. Because the BOLO only contained a brief reference to "Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) and 501(c)(4)" in June 2011, the EO Determinations Program Manager asked the manag er of the screening group what criteria were being used to label "tea party" cases ("Do the applications specify/state ' tea party'? If not, how do we know applicant is involved with the tea party movement?"). The manager of the screening group responded that, "The following are issues that could indicate a case to be considered a potential 'tea party' case and sent to Group 7822 for secondary screening. 1. 'Tea Party', 'Patriots' or '9/12 Project' is referenced in the case file. 2. Issues include govern ment spending, government debt and taxes. 3. Educate the public through advocacy/legislative activities to make America a better place to live. 4. Statements in the case file that are critical of the how the country is being run."

As interviews with EO Determinations employees revealed, the BOLO description and the above - referenced list of criteria used by EO Determinations to determine which cases fell under the BOLO description were their shorthand way of referring to the group of advocacy cases rather than targeting any particular group. Applications that did not contain these terms, but that contained indicators of potentially significant political campaign intervention, were also referred to the group assigned to work such cases.

Additional information was gathered during fieldwork to develop a timeline of events that chronologically details the evolution of the advocacy emerging issue, including the officials who participated or were informed about key events. This information is summarized in the R esults section table below.

Criteria: We reviewed applicable EO Internal Revenue Manuals (IRMs) and supplemental guidance to determine if there are procedures to ensure approval by appropriate management officials when the criteria is revised for emerging issues associated with applications for tax-exempt status. We did not identify any guidelines. Discussions with the EO Director , Rulings and Agreements, confirmed that no procedures existed prior to May 17, 2012, but controls were subsequently instituted to ensure that any

[1] EO Determinations indicates that it used the description "tea party" as a shorthand way of referring to the group of advocacy cases rather than to target any particular group. As a result, cases that did not have "tea party" in their name or application were included in the group of advocacy cases. In this document, "tea party" is used generically to refer to this entire grou p of advocacy cases except where noted to refer to a specific organization.

criterion that is established or edited is reviewed and approved at a higher level in the EO function . Moreover, we were informed that E O Determinations began revising IRM 7.20.4 (Emerging Issues) in October 2011, and we were provided with a draft of that IRM section, which contains procedures regarding the BOLO. All affected stakeholders have provided comments on the draft IRM, which are currently being incorporated, and the exhibits to the IRM are under review by the IRS Office of Ta xpayer Correspondence.

Results: The initial case that started the emerging issue development was identified in February 2010. The EO Determinations office requested assistance from the EO Technical office on how to process the cases. The Acting Manager EO Technical requested that this § 501(c)(4) case be transferred to EO Technical. In May 2010, EO Determinations specialists were told to coordinate "tea party" cases with a particular Determinations group. From April 2010 to October 2010, an EO Technical Tax Law Specialist, worked with a Determinations specialist to develop the cases not transferred from Determinations to EO Technical. In October 2010, while waiting for guidance from the EO Technical office, the Specialist assigned the emerging issue cases stopped processing them. In June 2011, the EO Director was briefed on the issue, and she raised concerns about the criteria being used to identify the cases and immediately directed that they be revised. The criteria were revised in July 2011. In November 2011, the EO Technical office provided draft guidance for processing the cases to the EO Determinations office. In January 2012, additional information request letters were issued to many of the organizations. This resulted in media and Congressional attention due to the amount and types of information being requested. In May 2012, training was given to the Specialists processing the cases. A review of all the cases identified to date was also completed to determine if any could be closed.

Conclusion: The initial criteria developed by the EO Determinations office referred to Tea Party organizations. In addition, the EO Technical office more than 20 months (March 2010 – November 2011) to provide written guidance on processing these cases to the EO Determinations office.

Timeline of Events for the Political Advocacy Emerging Issue

Date	Event	Additional Details
February 25, 2010	Determinations screener identified one § 501(c)(4) case that seemed similar to organizations receiving recent media attention for purportedly seeking classification as § 501(c)(4) social welfare organizations but operating like § 527 political organizations indicating a "high profile" case. Screener noted that the applicant indicated that it intended to spend a significant amount of its budget influencing elections. The screener's manager forwarded the issue up through management to the Acting Manager, EO Technical in Washington, D.C., who requested the case be forwarded to her.	
March 1, 2010	Screener Manager asked one of his Specialists to search TEDS to identify other Tea Party cases or similar organizations in order to determine the scope of the issue in the determination letter program. Specialist continued to complete searches for additional cases until the precursor to the "BOLO" was issued in May 2010.	Specialist used Tea Party, Patriot, and 9/12 as part of the criteria for these searches.
March 16-17, 2010	Ten total cases were identified. Acting Manager, EO Technical, requests two more cases be transferred to Washington, D.C. The Screener Group Manager transferred one § 501(c)(3) and one § 501(c)(4) case.	Not all of the ten cases had "tea party" in their name.
April 1-2, 2010	New Acting Manager, EO Technical, suggests the need for a Sensitive Case Report on the Tea Party cases. EO Determinations Manager agrees.	
April 5, 2010	Two Tea Party cases assigned to EO Technical Specialist.	
April 5, 2010	EO Determinations Screener developed list of 18 identified "Tea Party cases" during search of the TEDS. Three had already been approved as tax-exempt.	While the heading of the document listing these 18 cases referred to "Tea Party" cases, not all of the organizations listed had "tea party" in their name.

Date	Event	Additional Details
April 19, 2010	First Sensitive Case Report prepared by EO Technical.	Sensitive Case Reports are shared to the Director, EO Rulings & Agreements and a chart summarizing all Sensitive Case Reports is provided to the EO Director
April 25-26, 2010	Determinations Program Manager requests EO Technical contact for Specialist assigned to work other Tea Party cases. Received contacts. EO Technical Specialist sent development letters to one § 501(c)(4) and § 501(c)(3) Tea Party case.	
May 6, 2010	Prior to the BOLO development, an instruction to coordinate with a particular group all "Tea Party" applications was sent via email.	
May 17, 2010	Determinations Specialist will send development letters to EO Technical Specialist for review prior to issuance as part of EO Technical's attempt to provide guidance to assist EO Determinations.	
May 26, 2010	EO Technical Specialist closed § 501(c)(3) case as Failure to Establish and requested another § 501(c)(3) case.	
May 27, 2010	EO Technical Specialist began reviewing development letters of EO Determinations Specialist.	
June 14, 2010	EO Technical Specialist received first response from § 501(c)(4) case.	
June 30, 2010	Replacement § 501(c)(3) case assigned to EO Technical Specialist.	Organization did not have "tea party" in its name.
July 2, 2010	A Determinations Specialist identifies a case tha t appears to have direct links to Tea Parties with possibly 30 state chapters.	
July 27, 2010	Prior to the BOLO development, an e mail was sent updating the description of advocacy applications and providing a coordinator contact for the advocacy cases. Description now reads, "These case involve	

Date	Event	Additional Details
	various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4)."	
August 12, 2010	The Be On the Lookout (BOLO) listing was develop ed by a Determinations Specialist tasked to create it in order to replace the existing practice of sending separate emails to all Determinations employees as to cases to watch for, potentially abusive cases, cases requiring coordinated processing and emerging issues . The political advocacy emerging issue was included on the BOLO. The same description used in the July 2010 email for the advocacy emerging issue was used for this initial BOLO listing.	The language used on the BOLO was selected by Determinations specialists with the involvement of a front-line manager in EO Determinations. This language was not reviewed or approved by executive management.
August 2010	The responsibility for the advocacy emerging issue was moved to a different Determinations group as part of a global group realignment within EO Determinations.	
October 2010	The advocacy cases were transferred to another Determinations Specialist. He did not work on the cases while waiting for guidance from EO Technical. He received an advocacy tracking sheet from the previous Determinations Specialist responsible for the cases.	Determinations Specialist not sure who told him not to continue working on the cases while waiting for guidance. Per Director, Rulings and Agreements, there was a miscommunication about not working the cases while waiting for guidance. She does not know who told the Specialist not to work the cases.
October 19, 2010	An EO Technical group manager forwarded a memo to the Acting Manager, EO Technical, describing the work completed on the T ea Party cases by EO Technical. Included is a listing of the cases the EO Technical Specialist assisted the Determinations Specialist with.	The listing includes 40 cases – 18 of which do not have "tea party" in their names.

Date	Event	Additional Details
October 26, 2010	EO Determinations Program Manager raises concern to the Manager, EO Technical, with the approach being used to develop the Tea Party cases. Why does the EO Technical Specialist need to review every development letter when a template letter could be approved and used on all the cases?	
November 16, 2010	New coordinator contact for advocacy cases announced.	
November 16-17, 2010	A Determinations group manager raises concern to Determinations Area Manager that they are still waiting for a development letter template from EO Technical for the Tea Party cases. The coordinator has received calls from taxpayers checking on the status of their applications.	
November 17, 2010	EO Determinations Program Manager discussed Tea Party cases with Manager, EO Technical. Review of the cases by the EO Technical Specialist found that not all the cases have the same issues, so a template letter has not been developed.	
December 13, 2010	EO Determinations Program Manager asks Manager, EO Technical, for a status on the tea party cases. The Manager EO Technical, responds that they are going to discuss the cases with the Senior Technical Advisor to the EO Director shortly.	
January 28, 2011	EO Determinations Program Manager requests an update on the Tea Party cases from the Acting Manager, EO Technical.	
January 2011	A new person took over the Acting Manager, EO Technical role.	
February 3, 2011	Acting Manager, EO Technical, provides an update to the EO Determinations Program Manager on the cases being worked by the EO Technical Specialist; letters are being developed and will be reviewed shortly.	
March 2, 2011	A Determinations group manager reminds EO Determinations Program Manager to follow up with EO Technical on the status of the Tea Party cases.	
March 30, 2011	EO Determinations receives Operational Assistance Requests from the Taxpayer Advocate Service office	

Date	Event	Additional Details
	on two cases.	
March 31, 2011	EO Determinations Program Manager states that while waiting for guidance from EO Technical, Determinations Office still needs to work Tea Party cases to the extent possible.	This contradicts the Specialist's statement about not working the cases until guidance received from EO Technical and supports the statement of the Director EO Rulings & Agreements that there was a miscommunication about not working the cases while awaiting guidance.
April 13, 2011	EO Technical met with the EO Director's Senior Technical Advisor to discuss two cases. She made recommendations for case development.	
June 1-2, 2011	Acting Director, Rulings and Agreements, requested criteria used to identify "Tea Party" cases from EO Determinations Manager. EO Determinations Manager requested criteria from Screener Manager.	
June 1-6, 2011	As the number of advocacy cases grew, t he Acting Director, EO Rulings & Agreements wanted to make sure that EO Determinations was not being over - inclusive in identifying such cases (including organizations that were solely engaged in lobbying or policy education with no apparent political campa ign intervention). In addition, in light of the diversity of applications selected under this "Tea Party case" label (e.g., some had "tea party" in their name but others did not, some stated in their activities that they were affiliated with the "tea part y" movement while others stated they were affiliated with the Democratic or Republican party, etc.), the Acting Director, EO Rulings & Agreements sought clarification as to the criteria being used to identify these cases. In preparation for the briefing w ith the EO Director, the Acting Director, EO Rulings & Agreements asked the EO Determinations Program Manager what criteria Determinations was using to determine if a case was a "Tea Party case." Because the BOLO only contained a brief reference to "Organ izations involved with the	

Date	Event	Additional Details
	Tea Party movement applying for exemption under 501(c)(3) and 501(c)(4)", the EO Determinations Program Manager asked Screener Manager what criteria were being used to label these cases ("Do the applications specify/state ' tea p arty'? If not, how do we know applicant is involved with the tea party movement?"). Screener Manager provided criteria for identifying potential "tea party" cases to EO Determinations Program Manager ("The following are issues that could indicate a case to be considered a potential 'tea party' case"). Information forwarded to Acting Director, Rulings and Agreements .	
June 6, 2011	EO Determinations Manager refers to the EO Director's inquiry of May 26th regarding a particular case after the Commi ssioner, Services and Enforcement, questioned her about it.	
June 6, 2011	Determinations Program Manager mentions that her office needs guidance from EO Technical to ensure consistency.	
June 29, 2011	A briefing was held with the EO Director. The briefing paper noted that EO Determinations was sending cases meeting any of the criteria below to a designated group to be worked : • "Tea Party," "Patriots" or "9/12 Project" is referenced in the case file. • Issues include government spending, government debt, or taxes. • Education of the public via advocacy / lobbying to "make America a better place to live." • Statements in the case file criticize how the country is being run. There were over 100 advocacy cases identified by this time. It was decided to develop a guide sheet for processing advocacy cases.	The briefing paper for the EO Director was prepared by Tax Law Specialists in EO Technical and EO Guidance, and was reviewed by the Acting Manager, EO Technical. The EO Guidance Specialist was the primary author of the briefing paper. During the briefing, the EO Director raised concerns over the language of the BOLO criteria for advocacy cases. The EO Director directed that the criteria immediately be changed.

Date	Event	Additional Details
July 5, 2011	Conference call held with EO Technical, EO Director, and EO Determinations Program Manager. They developed new criteria for identifying the cases at issue. Determinations Program Manager made changes to the BOLO. The "issue name" on the BOLO was changed to "advocacy orgs". The "issue description" was changed to "organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4)."	
July 5, 2011	Washington, D.C. Office will be putting a document together with recommended actions for advocacy cases.	
July 23, 2011	EO Technical assigned new person to coordinate with EO Determinations Office.	
July 24, 2011	Work commences on the guide sheet when the Acting Manager, EO Technical, asks Tax Law Specialists to draft list of things for EO Determinations Specialists to look for when working advocacy cases.	
August 4, 2011	EO Rulings and Agreements holds meeting with Chief Counsel so everyone has the latest information on the advocacy issue.	
August 4, 2011	EO Guidance Specialist asks if Counsel will review the check sheet for the advocacy organizations pri or to issuance to EO Determinations. Acting Director, Rulings and Agreements, responds that Counsel will review prior to issuance.	
August 10, 2011	EO Technical met with Chief Counsel to discuss two sample cases EO Technical requested from EO Determinations in April and May 2010.	
September 15, 2011	EO Determinations Program Manager sends a listing of all identified advocacy cases to Acting Director, Rulings and Agreements, so EO Technical can complete a "triage" of the cases on the TEDS. The utility of this triage was limited because the review was conducted through TEDS so the EO Technical specialist did not necessarily have the full application file. An EO Technical Specialist reviews the listing to determine if any could be closed on merit or closed with an adverse determination letter. This "triage" was considered a third screening.	

Date	Event	Additional Details
September 21, 2011	Draft guide sheet sent for review and comment to various EO employees in Washington, D.C.	
October 2011	New person took over as Acting Director, Rulings and Agreements.	
October 24, 2011	An EO Technical frontline manager forwarded initial "triage" results of advocacy cases to EO Determinations Office.	
October 25, 2011	EO Determinations Program Manager is unclear, based on the categories and terminology used in the spreadsheet, what Determinations should do with the triage results – close cases, develop further, etc. Also requests status of guidance from EO Technical.	
October 26, 2011	EO Technical Specialist provided further explanation of the triage results in an email to EO Determinations Program Manager.	
October 30, 2011	EO Determinations Program Manager contacts the Acting Manager, EO Technical, asking additional questions regarding the triage results and requesting a status update on the EO Technical guidance for the advocacy cases. The Determinations Program Manager received a call from someone working with one of the organizations. The person stated they would contact their Congressional Office on this organization and others.	
November 3, 2011	An updated draft version of the guide sheet is sent to EO employees for comment.	
November 6, 2011	Acting Manager, EO Technical, will have EO Technical Specialist provide more details on triage results. He also informed the EO Determinations Program Manager that the guidance is being reviewed prior to issuance.	
November 6, 2011	Acting Director, Rulings and Agreements, informs Acting Manager, EO Technical, and EO Determinations Program Manager that, based on the feedback he has received, the guidance developed will not work in its present form because it was written in technical terms that may not help Revenue Agents . Need EO Determinations Office input.	
November 15, 2011	EO Determinations Program Manager forwards EO Technical Specialist's triage results to the	

Date	Event	Additional Details
	EO Director's Senior Technical Advisor per the EO Director's request.	
November 22, 2011	Acting Manager, EO Technical, forwards the clarified triage results to the EO Determinations Program Manager.	
November 23-30, 2011	A new EO Determinations coordinator is assigned oversight of the advocacy cases by the group manager. The draft EO Technical guidance is provided to the coordinator (*Advocacy Organizations Guide Sheet).* The coordinator began working advocacy cases after receiving the draft EO Technical guidance in anticipation of a team being assembled to work the cases.	
December 7-9, 2011	An advocacy team of Determinations Specialists was set up to review all the identified advocacy cases; one Grade 13 from each Determinations group. An employee from Quality Assurance was also part of the team. EO Technical provided contacts for them.	
December 16, 2011	The first advocacy team meeting was held.	
January 2012	The first batch of letters requesting additional information for applications containing incomplete or missing information were issued by Determinations Specialists based, in part, on their reading of the draft *Advocacy Organizations Guide Sheet* issued by EO Technical.	
January 2012	Determinations Specialist tasked with performing a secondary screening of identified "advocacy" cases to ensure they were political advocacy, and not just general or lobbying advocacy.	
January 25, 2012	The BOLO criteria was again updated to focus specifically on political advocacy. The criterion was revised as "political action type organizations involved in limiting/expanding government, educating on the Constitution and Bill of Rights, social economic reform/movement." Coordinator contact changed as well.	
February 27, 2012	Advocacy team member asks when he can start issuing development letters on advocacy cases to applicants	

Date	Event	Additional Details
	again.	
February 27, 2012	EO Determinations Program Manager questions why advocacy team members are not issuing development letters. Advocacy team group manager had told team coordinator to stop developing template questions, not development letters. Miscommunication corrected on February 29, 2012.	
February 29, 2012	EO Director requests the Acting Director, Rulings and Agreements, develop a letter to clearly inform advocacy applicants what is going to happen if they don't respond to the development letters, and giving them more time for their responses.	
February 29, 2012	EO Director stops any more development letters from being issued on advocacy cases until new guidance is provided to EO Determinations. Acting Director, Rulings and Agreements, discussed with EO Determinations Program Manager, having specialists print out web site information and asking the organizations to verify the information instead of asking for applicants to print out the web sites.	
February-March 2012	Numerous news articles begin to be published with complaints from Tea Party organizations about the IRS's unfair treatment. Congress also begins to show interest in the IRS's treatment of Tea Party organizations.	
March 2012	A new person becomes Acting Group Manager of the advocacy team.	
March 1, 2012	Draft list of template questions prepared by members of advocacy team forwarded to EO Guidance.	Questions include asking for donor information.
March 5, 2012	Acting Manager, EO Technical, established procedures for reviewing first favorable determination letter for an advocacy case drafted by EO Determinations.	
March 6, 2012	EO Determinations forwarded an advocacy case it thought could be approved to EO Technical for review.	
March 8, 2012	Commissioner, Services and Enforcement, requests that if a taxpayer calls about having to provide donor	

Date	Event	Additional Details
	information, that EO Determinations will allow them not to send donor names, but inform them that we may need it later.	
March 8, 2012	Acting Director, Rulings and Agreements, sends a draft letter on giving advocacy applicants additional time to respond to the additional information letters to EO Determinations Program Manager for comment. The EO Determinations Program Manager raises a concern of giving organizations that are not compliant with standard response timelines special treatment.	
March 15, 2012	EO Determinations received guidance on how to handle different scenarios, based upon the status of their advocacy cases. Those § 501(c)(4) organizations that have not responded to a development lette r were issued another letter giving them an additional 60 days to respond. These letters were to be issued by March 16, 2012. This additional time letter was a one -time occurrence.	
March 23, 2012 and March 27, 2012	Technical Advisor to the TE/GE Commissioner and the Deputy Commissioner, Services and Enforcement, discussed concerns with the media attention the Tea Party applications were receiving. The Commissioner asked Technical Advisor to look into what was going on in EO Determinations and make recommendations.	
April 2012	Acting Director, Rulings and Agreements, learned that the BOLO criteria for the advocacy cases had been changed on January 25, 2012 and informed the EO Director.	
April 4, 2012	EO Determinations received the extension letter for issuance to § 501(c)(3) organizations that had not responded to a previous development letter.	
April 17, 2012	Employees of the EO Director and the TE/GE Commissioner received the EO Technical triage results and the EO Technical Guide Sheet provided to EO Determinations. Template questions developed by the advocacy team were also provided.	

Date	Event	Additional Details
April 23, 2012	Technical Advisor to the TE/GE Commissioner visited Determinations office in Cincinnati, OH with a group of EO employees, and reviewed around half of the identified advocacy cases.	
April 24, 2012	Acting Director, Rulings and Agreements, requests that the EO Director's Senior Technical Advisor review all the development letters issued for the advocacy cases and identify troubling questions, which organizations received them, and which Specialists asked them.	
April 25, 2012	Senior Technical Advisor to the EO Director provided results of development letter review, including list of troubling questions.	Results included names of donors as a troubling question.
April 25, 2012	Chief Counsel's Office provides additional comments on draft advocacy guide sheet to EO.	
May 8, 2012	Determinations Program Manager informed that EO employees from Washington, D.C., plan to visit Cincinnati, OH to provide training on the advocacy cases and perform a review of the cases to determine the appropriate action.	
May 9, 2012	Director, Rulings and Agreements, asks about the process for updating the BOLO.	
May 14, 2012	Director, Rulings and Agreements, requests feedback on whether statements she considers "propaganda" affect the approval of tax-exempt status.	Concluded, in light of case law on what is educational, that "propaganda" activities should be considered part of an organization's social welfare activities in analyzing whether it is primarily engaged in promoting social welfare.
May 14-15, 2012	Training held in Cincinnati, OH on how to process the advocacy cases. An EO Director's Technical Advisor took over from EO Determinations coordination of the advocacy team.	
May 16, 2012	Review of all advocacy cases begins in Cincinnati, OH. Cases divided into four groups: favorable determination, favorable with limited development, significant development, and probable adverse. This	

Date	Event	Additional Details
	took around three weeks to complete. A worksheet is used to document the reviews.	
May 17, 2012	The Director, Rulings and Agreements, issues memorandum outlining new procedures for updating the BOLO listing. The BOLO criteria was updated again. New criteria reads: "501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit). Note: advocacy action type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet this criteria."	Suggested additions and changes must be approved by the Group Manager of the emerging issues coordinator, the EO Determinations Program Manager, and the Director, Rulings and Agreements.
May 21, 2012	Counsel determines that requested donor information can be destroyed or returned to the applicant if not used to make the final determination of tax -exempt status. It does not need to be kept in the administrative record. A letter will be issued to the organizations informing them that the donor information was destroyed.	
May 24, ,2012	A phone call script was developed to inform some organizations that have not responded to additional information requests that it is not necessary to send the requested information and that their applications have been approved. Also, an additional paragraph was developed for the determination letter.	
May 2012	After the review of the advocacy cases was completed, each Determinations Specialist working advocacy cases was assigned an EO Technical employee to work with on the cases. The EO Technical employee is reviewing all development letters prior to issuance. Quality Assurance begins reviewing 100 percent of the cases in each bucket prior to closure. Quality Assurance review shifts from 100% review to sample review once a comfort level with the results of the quality review of each bucket is achieved.	
May 2012	A decision was made to refer cases to the Review of Operations Unit for follow-up if there are indications of political activity, but not enough to prevent approval of tax-exempt status.	

Date	Event	Additional Details
June 4, 2012	Draft letter developed to send to organizations that provided donor information. Letter will inform the organizations that the information was destroyed.	
June 7, 2012	The Director, Rulings and Agreements, provides guidance on how to process the advocacy cases now that they have been reviewed and divided into categories. Any new cases received will go through the same review process prior to assignment.	
July 15, 2012	A new Acting Group Manager is overseeing the advocacy team.	

From: Toby Miles <tobomatic@msn.com>
Sent: Tuesday, October 30, 2012 9:16 PM
To: Paz Holly O; nancy.marks[redacted]; Lerner Lois G
Subject: Long Timeline from LOIS
Attachments: Long Political Advocacy Timeline HOP comments.doc

Looks pretty good--a couple questions/comments

From: Biss Meghan R
Sent: Saturday, May 04, 2013 10:08 AM
To: Lerner Lois G; tobomatic@msn.com
Subject: Summary of Application
Attachments: One Fund Boston.docx

Lois:

Attached is a summary of the entire application from One Fund Boston. It includes the information from their initial 1023, our development letter, and their May 3 response. In it, I also point out situations where the revenue rulings they cite aren't exactly on point. Additionally, where they reference other victim compensation funds, I included the information we have on those funds from internet research.

As a note, the Aurora compensation fund may be an issue for the community foundation that made the payments. The CF is large enough (171 million on 2011 Form 990) that a 5 million payment to victims shouldn't jeopardize their exemption. But we won't know anything for sure until their 2012 Form 990 is filed.

Also, this article re funds distributing money to victims is interesting:
http://www.motherjones.com/politics/2013/04/where -does-money-donated-victims-mass-shootings-go

After you have had a chance to look over this document, we can have a discussion about it and any questions prior to your meeting with Steve.

Thanks,

Meghan