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**From:** Lerner Lois G  
**Sent:** Friday, February 01, 2013 5:09 PM  
**To:** Paterson Troy D TIGTA  
**Cc:** Paz Holly O  
**Subject:** RE: Follow-Up

**Thanks Troy--safe travels**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Paterson Troy D TIGTA [<mailto:Troy.Paterson@tigta.treas.gov>]  
**Sent:** Friday, February 01, 2013 7:35 AM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O  
**Subject:** Re: Follow-Up

Lois,

I was able to catch up with the team late last night and get a recap of the meeting and the concerns discussed. I'm at the airport now and hope to be heading back to Atlanta this morning (if the weather holds up). The team is heading back to Boston and will be re-reviewing some of the cases you all discussed. I'll get together with the team on Monday and we'll go through the concerns in more detail and we'll figure out how to proceed from there.

Have a great weekend.

Troy

Troy Paterson  
404-338-7476  
[Troy.paterson@tigta.treas.gov](mailto:Troy.paterson@tigta.treas.gov)

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Sent from my BlackBerry Wireless Handheld

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**From:** Lerner Lois G [<mailto:Lois.G.Lerner@irs.gov>]  
**Sent:** Thursday, January 31, 2013 02:33 PM  
**To:** Paterson Troy D TIGTA  
**Cc:** Paz Holly O  
**Subject:** Follow-Up

**We were disappointed that you couldn't attend the meeting today. I think it would be useful for you, your group, and mine to have another conversation about approach. We feel your folks are being too narrow in their view and have decided that because of the language on the earlier BOLO list regarding Tea Party, everything that followed was tainted. They seem to believe that if a case was initially sent to the advocacy group, but ultimately determined to be an approval, that our action in putting it into the advocacy group in the first place is incorrect,**

and illustrates "targeting." I think they remain confused about the purpose of screening vs.. bucketing--and we have tried to explain several time. They also don't seem to be taking a big picture look at what we have done. That is, we've already owned up to the fact that we recognized in mid-process that Cincinnati was struggling with the issues. That is why we sent our experts in this area to Cincinnati for 3 weeks to work hand in hand with the Determ folks to train them and then walk through their post training assessments to ensure they understood and we were getting the right treatment for the cases. When we describe that process, they acknowledge that that approach sounds reasonable, but seem to be saying that reasonableness is overshadowed by the fact that the criteria look bad to folks on the outside, so there is no way we could cure the initial bad impression.

We understand why the criteria might raise questions. In fact we refined it to more accurately reflect what we are doing. I met with the group today and asked your folks what they thought the TIGTA audit was all about. The response was that they were here because there were allegations that the IRS was "targeting." When asked, they didn't seem able to provide me with a clear definition of what they meant by targeting, and they confused me when they said it wasn't necessarily political. I told them my understanding is that the audit was to determine whether the IRS was acting in a politically motivated manner--not whether the earlier articulation of the criteria looked bad. However, that doesn't seem to be the focus. They have said they aren't looking at whether the organizations are conservative or liberal because that is too difficult to figure out. They have also acknowledged that there are both conservative and liberal organizations on the list of advocacy cases.

So, I'm not sure how they are looking at whether we were politically motivated, or what they are looking for with regard to targeting. They didn't seem to understand the difference between IRS acting in a politically motivated manner and front line staff people using less than stellar judgment. I am willing to take the blame for not having provided sufficient direction initially, which may have resulted in front line staff doing things that appeared to be politically motivated, but I am not on board that anything that occurred here shows that the IRS was politically motivated in the actions taken.

So, I suggested to the group that we all get together after they have had a chance to talk to you. I asked both sides to think about the main points they wanted to make or better understand, so the meeting can be most fruitful. This is the toughest one you and I have worked on together. But, I'm hoping the meeting will get us all to an improved understanding so that your report can better reflect what occurred and why.

*Leis J. Lerner*

Director of Exempt Organizations



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**From:** Lerner Lois G  
**Sent:** Tuesday, February 05, 2013 9:32 AM  
**To:** Grant Joseph H; Marks Nancy J  
**Cc:** Flax Nikole C; Paz Holly O  
**Subject:** FW: Follow-Up

**We have met with TIGTA on this several times. From our perspective, they are taking a very narrow view of the program and how we ran it. They also seem to be focused on the initial articulation of the BOLO list as a "bad" thing without looking at the entire program. I think we have a basic difference in our view of their audit. We thought it was to determine whether IRS had a biased program, which would include looking at every aspect. they seem to think the question is narrower--did we "target based on the articulation of the BOLO?" We will continue to keep you apprised as we see their written document.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Tuesday, February 05, 2013 10:27 AM  
**To:** Paterson Troy D TIGTA  
**Cc:** Paz Holly O  
**Subject:** RE: Follow-Up

**Thanks Troy--It probably makes sense to see what you put together and react to it rather than continuing the discussion in the abstract. We will begin to put together a reply. As I'm sure you would guess, if you don't include the whole picture, we will include a detailed version in our response. Keep us apprised of progress on the report.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov]  
**Sent:** Tuesday, February 05, 2013 7:54 AM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O  
**Subject:** RE: Follow-Up

Lois,

After the discussion last week, the team went over some cases on Friday afternoon and Monday morning. We then met yesterday afternoon to discuss the cases and our thoughts on moving forward.

**As far as the cases go, the team has reconsidered some cases based on input from Holly, Hillary, and Judy last week. In addition, I think we have one case that is still up in the air awaiting some additional documentation. After that, I believe we will have approximately 90 cases that we could not resolve. For these cases, I'm not sure there is much more we can**

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If you would like to meet to discuss your concerns, I am available. If you would rather wait until I have a clearer view of what are considering for the report, we can do that also. How would you like to proceed?

Troy  
404-338-7476

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**From:** Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]  
**Sent:** Thursday, January 31, 2013 2:34 PM  
**To:** Paterson Troy D TIGTA  
**Cc:** Paz Holly O  
**Subject:** Follow-Up

We were disappointed that you couldn't attend the meeting today. I think it would be useful for you, your group, and mine to have another conversation about approach. We feel your folks are being too narrow in their view and have decided that because of the language on the earlier BOLO list regarding Tea Party, everything that followed was tainted. They seem to believe that if a case was initially sent to the advocacy group, but ultimately determined to be an approval, that our action in putting it into the advocacy group in the first place is incorrect, and illustrates "targeting." I think they remain confused about the purpose of screening vs.. bucketing--and we have tried to explain several time. They also don't seem to be taking a big picture look at what we have done. That is, we've already owned up to the fact that we recognized in mid-process that Cincinnati was struggling with the issues. That is why we sent our experts in this area to Cincinnati for 3 weeks to work hand in hand with the Determ folks to train them and then walk through their post training assessments to ensure they understood and we were getting the right treatment for the cases. When we describe that process, they acknowledge that that approach sounds reasonable, but seem to be saying that reasonableness is overshadowed by the fact that the criteria look bad to folks on the outside, so there is no way we could cure the initial bad impression.

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*Leis J. Lerner*

Director of Exempt Organizations



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**From:** Lerner Lois G  
**Sent:** Friday, February 08, 2013 8:36 AM  
**To:** Flax Nikole C  
**Subject:** FW: Follow-Up

Not sure I sent this to you--but thought you'd want to know that is looking like it won't go as smoothly as we'd hoped. As you can see at the bottom, I had some serious conversations about the purpose of the audit. Rather than taking the broad view of whether IRS program shows bias, they appear to be taking a narrow view as to whether the BOLO list and cases selected show targeting. They are unwilling to consider anything, but what is on the applications--that is, we told them that we send these to an experienced group so we can be consistent and because those folks have broad experience with the applications so they know that certain descriptions that may not use political turn out to be political activity. With that background, we believe it is appropriate to put the case in advocacy bucket and ask the question to make sure we have a clear record of what we are approving. Apparently--they disagree. So, I'm guessing our response will be lengthy.

*Lois G. Lerner*  
Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Tuesday, February 05, 2013 3:10 PM  
**To:** Paterson Troy D TIGTA  
**Cc:** Paz Holly O  
**Subject:** RE: Follow-Up

Thanks

*Lois G. Lerner*  
Director of Exempt Organizations

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**From:** Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov]  
**Sent:** Tuesday, February 05, 2013 1:28 PM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O  
**Subject:** RE: Follow-Up

Lois,

As requested, here is a listing of 93 application cases. There is one case that we are working on with Holly (case #142). This one may or may not stay on the list.

Troy  
404-338-7476

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**From:** Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]  
**Sent:** Tuesday, February 05, 2013 11:01 AM  
**To:** Paterson Troy D TIGTA  
**Cc:** Paz Holly O  
**Subject:** RE: Follow-Up

**Thank you**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov]  
**Sent:** Tuesday, February 05, 2013 10:50 AM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O  
**Subject:** RE: Follow-Up

Lois,

That is no problem. I'll ask the team to put together a listing and I'll send it to you and Holly this afternoon.

Troy  
404-338-7476

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**From:** Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]  
**Sent:** Tuesday, February 05, 2013 10:33 AM  
**To:** Lerner Lois G; Paterson Troy D TIGTA  
**Cc:** Paz Holly O  
**Subject:** RE: Follow-Up

**One more thing--can we get the names of the 90 cases please?**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Tuesday, February 05, 2013 10:27 AM  
**To:** Paterson Troy D TIGTA  
**Cc:** Paz Holly O  
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**Thanks Troy--It probably makes sense to see what you put together and react to it rather than continuing the discussion in the abstract. We will begin to put together a reply. As I'm sure you would guess, if you don't include the whole picture, we will include a detailed version in our response. Keep us apprised of progress on the report.**

*Lois G. Lerner*

Director of Exempt Organizations

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**Sent:** Tuesday, February 05, 2013 7:54 AM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O  
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Lois,

After the discussion last week, the team went over some cases on Friday afternoon and Monday morning. We then met yesterday afternoon to discuss the cases and our thoughts on moving forward.

As far as the cases go, the team has reconsidered some cases based on input from Holly, Hillary, and Judy last week. In addition, I think we have one case that is still up in the air awaiting some additional documentation. After that, I believe we will have approximately 90 cases that we could not resolve. For these cases, I'm not sure there is much more we can discuss because most involve our literal view of the application package versus the EO function's interpretation of the application package based on experience. For example, in our literal view, we may not pick up on code words or know based on past experience that certain activities or sets of activities could actually be significant political campaign intervention, whereas the EO function may. On our side, we'll have to determine how we present both sides in the report.

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---

**From:** Lerner Lois G [<mailto:Lois.G.Lerner@irs.gov>]  
**Sent:** Thursday, January 31, 2013 2:34 PM  
**To:** Paterson Troy D TIGTA  
**Cc:** Paz Holly O  
**Subject:** Follow-Up

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understood and we were getting the right treatment for the cases. When we describe that process, they acknowledge that that approach sounds reasonable, but seem to be saying that reasonableness is overshadowed by the fact that the criteria look bad to folks on the outside, so there is no way we could cure the initial bad impression.

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*Lois J. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Friday, February 08, 2013 12:20 PM  
**To:** Paterson Troy D TIGTA  
**Cc:** Paz Holly O  
**Subject:** RE: Follow-Up

**Thanks Troy**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov]  
**Sent:** Friday, February 08, 2013 1:16 PM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O  
**Subject:** RE: Follow-Up

Lois,

Good afternoon. I am attaching an updated listing of applications cases that we were not able to resolve. This listing includes 91 cases, instead of the 93 cases provided earlier this week. One case was removed from the previous listing based on documentation provided by Holly and another case was removed because it was included in the previous listing by mistake.

I'll provide an update on the status of the report next week. Have a good weekend.

Troy

(b)(6); (b)(7)(C)

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**From:** Paterson Troy D TIGTA  
**Sent:** Tuesday, February 05, 2013 1:28 PM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O  
**Subject:** RE: Follow-Up

Lois,

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**Sent:** Tuesday, February 05, 2013 11:01 AM  
**To:** Paterson Troy D TIGTA

**Cc:** Paz Holly O  
**Subject:** RE: Follow-Up

**Thank you**

*Lois G. Lerner*

Director of Exempt Organizations

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**Sent:** Tuesday, February 05, 2013 10:50 AM  
**To:** Lerner Lois G  
**Cc:** Paz Holly O  
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**Sent:** Tuesday, February 05, 2013 10:33 AM  
**To:** Lerner Lois G; Paterson Troy D TIGTA  
**Cc:** Paz Holly O  
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*Lois G. Lerner*

Director of Exempt Organizations

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**Sent:** Tuesday, February 05, 2013 10:27 AM  
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**Cc:** Paz Holly O  
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**Sent:** Thursday, January 31, 2013 2:34 PM  
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**Cc:** Paz Holly O  
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*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Paz Holly O  
**Sent:** Friday, February 15, 2013 11:17 AM  
**To:** Lerner Lois G; Marks Nancy J  
**Subject:** comments on TIGTA's analysis of appropriateness of advocacy case development questions

**Importance:** High

Lois and Nan,

Before I send this on to TIGTA, wanted to give you a chance to review the comment I will pass along about their analysis of the appropriateness of the development questions. I tried to capture what I think we discussed yesterday but welcome suggested edits. Thanks!

While the appropriateness of the development questions varies depending upon the facts of the particular cases, in general, the IRS considers the repeated use of these questions as overbroad and nonprobative, and the IRS does not disagree with TIGTA concerns about these questions.



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**From:** Marks Nancy J  
**Sent:** Tuesday, February 19, 2013 6:08 PM  
**To:** Lerner Lois G; Flax Nikole C; Barre Catherine M; Paz Holly O  
**Cc:** Grant Joseph H  
**Subject:** RE: Potential topics

Not sure there is much to add to what we talked about earlier and that is **general informative discussions of what we are seeing in these areas, the challenges, the strategies** . . . They want to understand better what we are seeing and from our perspective **it is an opportunity to give them more of a full picture than is sometimes possible when the discussions are ad hoc as things explode. The hope would be that it better positions them to put what they are hearing and/or thinking about in context which would be helpful to them and I would hope to us as well.** Cathy if you have some insight on specific areas of focus or concern that would be great. Lois Joseph and I were talking tonight and thought it would be helpful if you, Holly, Joseph and I met for a while tomorrow to work through what we think would be helpful in terms of a good presentation. Nikole once we have that a bit fleshed out I think it would be helpful to check in with you to be sure we are not getting ahead of the agency on any issues.

-----Original Message-----

**From:** Lerner Lois G  
**Sent:** Tuesday, February 19, 2013 6:46 PM  
**To:** Flax Nikole C; Barre Catherine M; Marks Nancy J; Paz Holly O  
**Subject:** RE: Potential topics

Sorry, my previous email used c3 as an example where I might need some input as to how far you'd like me to go, but I see the topics we agreed on for the first meeting are c4,5, and 6--**same issue--how far do you want me to go in talking about the poor tools we have to resolve these issues? And as to C & U--we have a lot of stuff to talk about UBIT-wise, but the final report isn't out so I'm guessing you wouldn't want me to tell them about it--correct? The interim does go to comp issues, so I can talk about the challenges of determining whether comp is reasonable--**

Can someone tell me the purpose of these meetings and what we hope to achieve--that might help. Thanks

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

**From:** Flax Nikole C  
**Sent:** Sunday, February 17, 2013 5:19 PM  
**To:** Lerner Lois G; Barre Catherine M; Marks Nancy J; Paz Holly O  
**Subject:** RE: Potential topics

No way could cover in an hour. Would it work to set up 90 minutes and then stick to a hard stop and cover as much as possible in that time?

-----Original Message-----

**From:** Lerner Lois G  
**Sent:** Wednesday, February 13, 2013 6:36 PM  
**To:** Barre Catherine M; Marks Nancy J; Flax Nikole C; Paz Holly O  
**Subject:** RE: Potential topics

Depends on what we say and what they ask--as to the political stuff, I need a sense from the people above me about where they want me to go and what I can say. I get the sense they don't want the rules--they want the challenges and I would need some guidance from Nikole et al

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Barre Catherine M  
Sent: Wednesday, February 13, 2013 6:21 PM  
To: Marks Nancy J; Flax Nikole C; Lerner Lois G; Paz Holly O  
Subject: RE: Potential topics

I talked to Jen Acuna. She and I agreed that we would schedule one meeting and then discuss what else made sense rather than lining up more than one meeting at the outset.

They would like to move forward with a briefing on items 2 & 3. Can we cover both topics in the course of one meeting?

Thanks

-----Original Message-----

From: Marks Nancy J  
Sent: Monday, February 11, 2013 10:56 AM  
To: Flax Nikole C  
Cc: Lerner Lois G; Paz Holly O; Barre Catherine M  
Subject: RE: Potential topics

Cathy as part of that, particularly if we are going to two meetings, we'd be grateful for your help in getting this in place while not having this all pile on too swiftly. Folks are stretched pretty thin and there will be some work involved both in prep and in making sure we are on message in the sensitive areas. Thanks

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From: Flax Nikole C  
Sent: Sunday, February 10, 2013 10:14 PM  
To: Marks Nancy J  
Cc: Lerner Lois G; Paz Holly O; Barre Catherine M  
Subject: Re: Potential topics

Topics look good, but preference that we limit to no more than two meetings. Cathy, do you think we should offer these up and see what they want.

----- Original Message -----

From: Marks Nancy J  
Sent: Thursday, February 07, 2013 05:59 PM Eastern Standard Time  
To: Flax Nikole C  
Cc: Lerner Lois G; Paz Holly O  
Subject: RE: Potential topics

Lois, Holly and I have talked about the strategies Cathy Barry and Steve have been thinking about in building relationship and background with the oversight committees (if we do W&M don't we want to offer Senate Finance the same opportunity?)

We basically agreed with the possible topics--Our suggestion would be to group the topics in three clusters and we have two adds (although the first is essentially foundational). We think breaking it out allows the time for the conversations to be thoughtful with plenty of room for questions and also allows the work of preparing and presenting to be spread out which would be invaluable in light of the other priorities being juggled. We also anticipate that while Lois and either Joseph, Moises or I would probably always be present (and generally Holly) there would be other attendee/presenters (for example Chris Giosa on 512 and possibly Sharon Light on hospitals and universities) so having the right crew in the room without creating a cast of thousands would work more easily with the break out.

We'd suggest

1) A meeting covering our general enforcement strategies and the evolution in those strategies as the community and the tools change. Then go into Governance and Executive Compensation which offer some good examples of the challenges and the strategies being used.

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We would not anticipate putting written presentations together but (1) on at least several of these there are some useful materials we can cannibalize that may be helpful and (2) given the general sensitivity of all the topics we anticipate that we'd put together a bullet point summary of what we expected to cover which we'd want to run by you (and possibly/your judgement would be best on this/Steve--e.g. the recent back and forth on governance and whether we are stepping back a little in what we are saying in that area).



---

**From:** Lerner Lois G  
**Sent:** Tuesday, February 19, 2013 6:11 PM  
**To:** Flax Nikole C; Barre Catherine M; Marks Nancy J; Paz Holly O  
**Subject:** RE: Potential topics

I agree--that would help me a lot. I can do anytime other than 12-1 or 3-4 tomorrow. Thurs is open

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Tuesday, February 19, 2013 7:08 PM  
To: Lerner Lois G; Barre Catherine M; Marks Nancy J; Paz Holly O  
Subject: RE: Potential topics

Probably easiest to discuss. Can we have a quick chat tomorrow or the next day? Thanks

-----Original Message-----

From: Lerner Lois G  
Sent: Tuesday, February 19, 2013 6:46 PM  
To: Flax Nikole C; Barre Catherine M; Marks Nancy J; Paz Holly O  
Subject: RE: Potential topics

Sorry, my previous email used c3 as an example where I might need some input as to how far you'd like me to go, but I see the topics we agreed on for the first meeting are c4,5,and 6--same issue--how far do you want me to go in talking about the poor tools we have to resolve these issues? And as to C & U--we have a lot of stuff to talk about UBIT-wise, but the final report isn't out so I'm guessing you wouldn't want me to tell them about it--correct? The interim does go to comp issues, so I can talk about the challenges of determining whether comp is reasonable--

Can someone tell me the purpose of these meetings and what we hope to achieve--that might help. Thanks

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Sunday, February 17, 2013 5:19 PM  
To: Lerner Lois G; Barre Catherine M; Marks Nancy J; Paz Holly O  
Subject: RE: Potential topics

No way could cover in an hour. Would it work to set up 90 minutes and then stick to a hard stop and cover as much as possible in that time?

-----Original Message-----

From: Lerner Lois G

Sent: Wednesday, February 13, 2013 6:36 PM  
To: Barre Catherine M; Marks Nancy J; Flax Nikole C; Paz Holly O  
Subject: RE: Potential topics

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---

**From:** Lerner Lois G  
**Sent:** Wednesday, February 20, 2013 1:55 PM  
**To:** Marks Nancy J  
**Subject:** RE: Potential topics

Thank you

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Marks Nancy J  
Sent: Wednesday, February 20, 2013 2:50 PM  
To: Lerner Lois G  
Subject: RE: Potential topics

Joseph is going to try to set time with you, he wants to be involved

-----Original Message-----

From: Lerner Lois G  
Sent: Wednesday, February 20, 2013 2:43 PM  
To: Flax Nikole C; Barre Catherine M; Marks Nancy J; Paz Holly O  
Subject: RE: Potential topics

Is someone setting this up\_\_I haven't gotten an invite?

Lois G. Lerner  
Director of Exempt Organizations

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(and possibly/your judgement would be best on this/Steve--e.g. the recent back and forth on governance and whether we are stepping back a little in what we are saying in that area).

---

**From:** Lerner Lois G  
**Sent:** Friday, February 22, 2013 6:33 PM  
**To:** Thomas Cindy M  
**Cc:** Downing Nanette M; Paz Holly O  
**Subject:** Re: I'd like your Legal Take on Something

(b)(5) AC

b(3)\6103

b(3)\6103

(b)(5) AC



(b)(5) AC

(b)(5) AC

b(3)\6103

*b(3)\6103*

*b(3)\6103*



*b(3)\6103*

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From: Lerner Lois G  
Sent: Tuesday, February 19, 2013 5:46 PM  
To: Cook Janine  
Cc: Judson Victoria A; Brown Susan D; Paz Holly O; Marks Nancy J  
Subject: RE: I'd like your Legal Take on Something

*(b)(5) AC*

(b)(5) AC

---

From: Cook Janine [mailto:Janine.Cook@irscounsel.treas.gov]  
Sent: Thursday, February 14, 2013 6:33 PM  
To: Lerner Lois G  
Cc: Judson Victoria A; Brown Susan D; Paz Holly O; Marks Nancy J  
Subject: FW: I'd like your Legal Take on Something

(b)(5) AC

(b)(5) AC

---

**From:** Paz Holly O  
**Sent:** Friday, March 08, 2013 4:49 AM  
**To:** Lerner Lois G  
**Cc:** Marks Nancy J; Light Sharon P  
**Subject:** FW: 501(c)(4) Draft Denial  
**Attachments:** 501(c)(4) Draft Denial.doc  
  
**Importance:** High

Lois,

Attached for your review and transmission to Counsel is the first draft advocacy case denial. As the text of all of the ads at issue is included in the attachment to the letter and this case is not a close call, I would recommend that we ask Counsel to limit its review to the letter and not plunge into its own review of this sizeable file. As we discussed a few weeks ago, we have roughly 70 cases in bucket 4 (many of which date back to 2010) so we really do need to move this letter that we think will serve as somewhat of a template for other denials. I realize Counsel has many other things on its plate so I'm not asking for them to turn this around in a few weeks but I think we can help speed their review by limiting what we are asking them to review.

Holly



---

**From:** Marks Nancy J  
**Sent:** Friday, March 22, 2013 3:04 PM  
**To:** Paz Holly O; Lerner Lois G  
**Cc:** Marx Dawn R  
**Subject:** RE: TIGTA - corrections

Sounds good

-----Original Message-----

From: Paz Holly O  
Sent: Friday, March 22, 2013 3:37 PM  
To: Marks Nancy J; Lerner Lois G  
Cc: Marx Dawn R  
Subject: RE: TIGTA - corrections

I met with Mike to go through his changes - I made two additional changes based on that discussion (p. 9 **eliminated reference to code words**, p.11 **replaced reference to guidance to assistance**). I also added the bit **about the extension letters saying TP's could request more time.**

-----Original Message-----

From: Marks Nancy J  
Sent: Friday, March 22, 2013 12:31 PM  
To: Paz Holly O; Lerner Lois G  
Cc: Marx Dawn R  
Subject: RE: TIGTA - corrections

I think you did a good, fair and balanced job. Only thing that struck me is that we may want to note that **the 60 day extension letter also indicated longer extensions could be requested but that is a pretty small point.**

-----Original Message-----

From: Paz Holly O  
Sent: Friday, March 22, 2013 12:18 PM  
To: Lerner Lois G; Marks Nancy J  
Cc: Marx Dawn R  
Subject: TIGTA - corrections  
Importance: High

Attached is a version of the TIGTA report that includes the comments re: factual inaccuracies we discussed yesterday. I have not received Mike's comments so they are not reflected on the attached.

Please let me know if you would like me to modify the phrasing of any comment or if I have forgotten anything. I'm happy to make any changes.

Thanks,

Holly

---

**From:** Lerner Lois G  
**Sent:** Monday, March 25, 2013 11:42 AM  
**To:** Paz Holly O  
**Cc:** Marx Dawn R; Biss Meghan R  
**Subject:** RE: TIGTA

**Not a problem--Meghan was very helpful. I think Troy's boss was receptive. I also understand where they may have been coming from on some of their stuff where it seemed slanted, but wasn't intended that way. Have a safe trip.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Monday, March 25, 2013 11:04 AM  
**To:** Lerner Lois G  
**Cc:** Marx Dawn R  
**Subject:** Re: TIGTA

Still at security. Sequester apparently means much longer lines. Very sorry.

-----  
Sent from my BlackBerry Wireless Device

---

**From:** Paz Holly O  
**Sent:** Monday, March 25, 2013 10:51 AM Eastern Standard Time  
**To:** Lerner Lois G  
**Cc:** Marx Dawn R  
**Subject:** Re: TIGTA

I will be a little late calling in. Drive to Dulles was scary. Very bad roads out here and bad visibility so it took forever. Now stuck in a long security line.

-----  
Sent from my BlackBerry Wireless Device

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**From:** Lerner Lois G  
**Sent:** Monday, March 25, 2013 10:13 AM Eastern Standard Time  
**To:** Paz Holly O  
**Cc:** Marx Dawn R  
**Subject:** RE: TIGTA

**Thanks--I have been thinking about this and may get a little "testier" than we discussed--nice, but get into the slanted a bit more--especially with the referrals. No one here but me**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Monday, March 25, 2013 8:20 AM  
**To:** Lerner Lois G  
**Cc:** Marx Dawn R  
**Subject:** TIGTA

I am planning to leave for the airport around 9:30. That way, I hope to be through security and able to join the 11 by phone until I have to board. You asked me to shoot you an email reminding you of the two major points you wanted to make with TIGTA:

1. The report lacks any reference to or information regarding the broader context (such as how difficult it is to determine what constitutes political activity and whether political activity is a c4's primary activity). Without this broader context, the report could appear slanted in one direction.
2. The report contains several instances of speculation lacking any support (i.e. speculation that the wait for a determination adversely impacted org's fundraising, speculation that orgs did not file required 990s while awaiting a determination because they had not engaged in any activity).

Holly

---

**From:** Lerner Lois G  
**Sent:** Monday, March 25, 2013 11:49 AM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H; Marks Nancy J; Paz Holly O  
**Subject:** TIGTA

Had a meeting today about the preliminary report on c4s. At our meeting with you and Steve back when the issue first surfaced, we understood that the Commissioner Services and Enforcement was referring the issue to TIGTA. **So, we added a comment to their draft suggesting they include that information--along with the sentence saying Congress had referred it to them.** TIGTA couldn't find any information on the referral. Did we forget to refer it?

*Lois G. Lerner*

Director of Exempt Organizations



---

**From:** Lerner Lois G  
**Sent:** Monday, March 25, 2013 1:18 PM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H; Marks Nancy J; Paz Holly O  
**Subject:** RE: TIGTA

Thanks They were willing to put it in the report--they just didn't know about it. They asked where in TIGTA it was sent and how was the issue couched? Did it go to the investigative side instead of the business side?  
Do we know when?

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Monday, March 25, 2013 2:16 PM  
To: Lerner Lois G  
Cc: Grant Joseph H; Marks Nancy J; Paz Holly O  
Subject: Re: TIGTA

It happened. If they won't put in report, which sometimes they won't, we can just add to the response.

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
Cc: Grant Joseph H  
Cc: Marks Nancy J  
Cc: Paz Holly O  
Subject: TIGTA  
Sent: Mar 25, 2013 12:48 PM

Had a meeting today about the preliminary report on c4s. At our meeting with you and Steve back when the issue first surfaced, we understood that the Commissioner Services and Enforcement was referring the issue to TIGTA.

So, we added a comment to their draft suggesting they include that information--along with the sentence saying Congress had referred it to them. TIGTA couldn't find any information on the referral. Did we forget to refer it?

Lois G. Lerner  
Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Tuesday, March 26, 2013 11:07 AM  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H  
**Subject:** RE: TIGTA

That is what we said, but they find it hard to believe--I'll send the draft--don't freak out because we had a good talk and I believe there will be another draft to comment on--we had a higher up guy this time. I told him that there were several areas where the way they had provided information made the report look political. He said it isn't political. I said, I didn't think it was, but they may want to take another look because it was coming across that way. We talked a bit about the larger context of what was going on in the world--I think he got it, but we'll have to see.

As to information we can't provide--I'd rather they do the IT route--the investigatory route means they'd go out and question staff, who are already freaked. Anymore info on our referral to TIGTA that I can provide?

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Monday, March 25, 2013 4:31 PM  
To: Lerner Lois G  
Cc: Grant Joseph H  
Subject: RE: TIGTA

Can you send the draft? Are you saying that no one in Cincinnati has the email? That seems more efficient than the IT route.

-----Original Message-----

From: Lerner Lois G  
Sent: Monday, March 25, 2013 4:18 PM  
To: Flax Nikole C  
Cc: Grant Joseph H  
Subject: RE: TIGTA

Yes we have a copy of the draft--but it isn't the "real" draft. It is a preliminary draft so we could start talking. That was the reason for today's conversation. Based on today, they will be revising before they send the real draft. If the email exists, we could still have IT folks check and give it to TIGTA. Holly is back Wed. She has the details. I'll get them and then perhaps you can intercede with the folks who do this work?

I had no clue until getting the draft report that no one had responded back to them. Am on my way out of here for b(6)personal i... back tomorrow.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Monday, March 25, 2013 3:03 PM  
To: Lerner Lois G  
Cc: Grant Joseph H  
Subject: RE: TIGTA

Can we get the email now? Do we have a copy of the draft report?

-----Original Message-----

From: Lerner Lois G  
Sent: Monday, March 25, 2013 2:57 PM  
To: Flax Nikole C  
Cc: Grant Joseph H  
Subject: RE: TIGTA

In our response, based on what we were able to find out from staff, we told them that in 2010, someone in Determs sent out an informal email to all Determs folks asking them to forward all "Tea Party" applications to another specialist. TIGTA asked for a copy of the email. We asked everyone in Determs to check their email to find it--no one could find a copy. So we told TIGTA that. Then Troy asked me if IRS could check records of emails to see if they could find it. I knew we could do some checking because it had been done in response to the Congressional re: gift tax. So, I checked around to find out what office would be responsible for that type review and referred him there. I didn't think it was my job to say no as I don't have responsibility for that office. In any event, apparently, no one responded to Troy's request. That translated into the TIGTA report saying TIGTA asked--IRS did not respond--so we are referring IRS to TIGTA Office of Investigation--pretty tough stuff, which might have been avoided if we had checked to see if the email exists anywhere.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Monday, March 25, 2013 2:47 PM  
To: Lerner Lois G  
Cc: Grant Joseph H  
Subject: Re: TIGTA

I am confused - what email?

-----Original Message-----

From: Lerner Lois G  
To: Flax Nikole C  
Cc: Grant Joseph H  
Subject: TIGTA  
Sent: Mar 25, 2013 2:38 PM

Another issue. I asked them to include that we had looked for the email they asked for and had provided them with a contact in IT to assist them with trying to get the emails from IT archives. He said they contacted the person, but no one ever responded. I will get the contact we gave him from Holly. I personally reached out to them to tell them TIGTA was coming and asked for the right person to help. Once I get the name, perhaps someone can ask them to respond to TIGTA? We shoot ourselves in our own foot!

Lois G. Lerner  
Director of Exempt Organizations





**Remarks of Lois Lerner**  
**Director, Exempt Organizations**  
**April 25, 2012**

Good morning, and thank you for that kind introduction. It is always a pleasure to be here. [I have been coming to this conference as an IRS speaker for about 10 years. I believe Celia Roady has been active in setting the program for most, if not all that time. So, I would be remiss if I didn't thank Celia for her continued efforts to make this conference a success. It's hard work. I know there are lots of other folks, including many of my staff, who work with Celia on the program, so let's take a minute to give all of them a hand.] **Language from last year, if we want to keep it**

In preparing for this speech, I got a lot of requests to talk about the budget sequestration and sequestration. That's something on everyone's mind and obviously has a large impact on our operations. I have been with the government for over 30 years. I have seen the ups and downs. I have seen the good and bad times. I've seen continuing resolutions. But this is the first time we have seen a sequester. What that means is we don't have any track record to tell you exactly how this is going to play out, other than that it will have a significant impact on our operations. I'll go through the outlook for our future operations in a moment.

But before I get into that, I wanted to provide my yearly Public Service Announcement. Last year it was about not including social security numbers on 990 filings, because they aren't required or requested and we don't have the discretion to redact them. This of course, is related to identity theft, and this year's PSA continues in that theme: What to do if you believe you may be a victim of identity theft.

Identity theft is one of the biggest challenges facing the IRS today. The IRS has taken numerous steps to combat identity theft and protect taxpayers and we are continually looking at ways to increase data security and protect taxpayers' identities. Part of that is making sure you know what to do if you think you may be a victim, so that you, and the IRS, can react quickly.

This hits close to home for me, because it happened to my daughter, it happened to an ACT member, and I'm guessing it has happened to some of you as well. If you believe you may be

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Lois Lerner, Director EO

the victim of identity theft, contact the IRS right away so that we can take further steps to secure your account. We have an Identity Protection Specialized Unit dedicated to dealing with these issues, and that number is 1-800-908-4490. You will also need to fill out the IRS Identity Theft Affidavit, which is Form 14039, and is available on our website. **[The paragraphs above are taken mostly from: <http://www.irs.gov/uac/Indications-your-identity-may-have-been-stolen-and-how-to-report-it-to-us>]**

Having provided my public service announcement, let me turn back to one of our other big challenges.

As I said before, we have operated under tight budget conditions in the past, but this is the first time there has been a sequester and we don't know exactly how all of this will play out. These reductions cannot help but cut into the amount of work we can do, and that is going to necessitate us focusing first on our core mission, what we are statutorily required to do.

We have some past experience with tight budgets to inform our decisions and the TEGE Advisory Committee(the ACT) took on as its project this year looking for ways for the IRS to leverage resources in tighter budgetary times.

Beyond that, there may be things we have been doing but can't anymore, or have to at a reduced level. I am telling all you this because it may impact conferences. We are already being very, very tight not only on the travel piece, but also on the number of IRS folks we are having participate in conferences. I think that probably is going to become more of the norm down the road because we are trying to conserve our resources. That may mean that some of the services we have been providing or things we have been doing won't be able to go on at the same level that have been done in the past.

We are looking at creative solutions to mitigate any reduction in the amount of outreach we can do. For example, if we are asked to present on multiple topics at an event, we normally like to send subject matter experts to give each talk. However, we're now looking at sending one person, or to a small gathering, a recorded presentation, and then making our subject matter expert available by phone for questions at the end.

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In the context of the Examinations program, I feel relatively fortunate because we have built processes over the last few years that enable us to have a continual reach with the community. Using projects and questionnaires, rather than exclusively through resource-intensive traditional examinations, allows us to focus on particular areas of noncompliance and to share the results and thinking with the community. This approach is called our vision of compliance, and while many of you may be familiar with it, I want to provide an overview for those who are not.

We begin with strategic planning, which highlights areas of concern. Those may be raised through press reports, Congressional inquiries, or other public sources. I sometimes refer collectively to these other sources as **NOISE**. While the concerns may be based on several egregious instances, it is not clear to what extent they reflect the broader sector. We also review the data reported on the charities' annual information return, Form 990. Once we have sifted through this and identified a particular area of concern, we often use non-invasive compliance check questionnaires to gather information from a large number of organizations. We make these questionnaires **public via our website**. Once we receive responses, we **publicly report the general results**. We also may conduct examinations. While we can't discuss the results of any particular audit, we do **report in general what we found in the audits**. If the questionnaires or audits indicate a need for guidance, we incorporate that into our plan. Finally, we have an office—the Review of Operations—that can follow-up on organizations that have been audited and made changes to ensure they are continuing down the correct path. **And—we report publicly on every aspect of these operations.**

This approach provides us with the ability to efficiently focus on areas of potential noncompliance, and be transparent about our thinking so that the community understands what we are doing and can educate us and themselves.

This evolving enforcement approach doesn't just conserve resources for the IRS, it does so for the EO community as well. We recognize that resources are scarce everywhere, and our compliance check questionnaire process has developed to reflect that. When we first started, we would send out a paper questionnaire that organizations had to manually fill out and sent back. Then we were able to put the questionnaire on a CD, so that responses could be entered electronically and mailed back. Now, we've entered the internet age and have the capability to post the questionnaire in a secure web-based format, so that you can enter your information electronically and don't have to mail anything back. The platform, called C-vent, allows us to



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ask a broader array of questions, but organizations will only be asked to answer those that apply to them. It's user friendly and, like tax preparation software, takes you where you need to go and skips questions that are not applicable. Of course, we always post the full list of questions on our website.

We've taken that approach with two of our most recent projects, Group Rulings and Self-Declarers. I'll take a minute to update you on where we stand with those projects.

### *Group Rulings*

We know that there are about 4,000 non-church group ruling holders, and about 220 of those have been automatically revoked since 2010[?]. In 2011, the ACT looked at the issue of group rulings and put together an excellent report. We build on that work and designed a questionnaire to learn more about the relationship between central organizations of group exemption rulings and their subordinates, particularly how they exercise general supervision or control and how they ensure that 990 filing obligations are being met. We sent this questionnaire to over 2,000 central organizations and plan to report on our preliminary findings later this year or early next. One puzzling aspect of this project is the low response rate. Approximately 500 organizations have not responded, which is very different from our normal response rate of around 90%. We've sent follow-up letter to the non-responders to encourage completion, and will see what we get. **[Add mention of exams?]**

### *Self-Declarers*

Another project we're working on is a study of 501(c)(4), (c)(5), and (c)(6) organizations that have not applied to the IRS for recognition of tax exemption. We're looking to better understand why they have not applied and how they satisfy their exemption requirements. We will be sending out over 1300 questionnaires in a series of waves[, which have already begun.]

More info on each of these, including the questions, can be found on our website.

### *Determinations*

Managing our resources on the determination side is a bit more of a challenge. We don't have as much control because we never know how many applications are going to come in. We don't know what those applications will look like, how difficult they will be or what type of development

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they may require. Many of you have seen a lengthening of time on processing times on full development and I think that is going to continue: It will get worse before it gets better. This is due, in part, to organizations that were automatically revoked re-applying for recognition of exemption. Although we expected that many small organizations would take advantage of the transition relief and seek retroactive reinstatement, we have been surprised at the number of large organizations that have applied based on reasonable cause for not filing for three years. These cases take time, but we are working through them the best we can.

We are looking at how we might be able to do our business differently and I think we have some good ideas. But whenever you rollout new ideas business takes a while to catch up. Over the last several years we have had a bunch of really good initiative ideas that have worked. We have gone from full development of all of our applications to screening and full development. Within screening we have other slices that enable people to get their applications more quickly than if we assign the case to full development. But if your application does require full development, there is a wait, a pretty long wait. We are trying to figure out how to ameliorate that wait.

One thing I can tell you about is that I think might be very useful is our Interactive 1023. Last year the ACT looked at the 1023 and suggested, among other things, that we make the 1023 electronic. While we think that is a great idea, this type of total redesign would require resources from many parts of the IRS and because the IRS must balance a number of competing needs, we can't predict when a full redesign would take place. Because of that, I went back and asked them if they could suggest some interim steps that would be useful before we could make those kinds of expenditures.

They came up with a very good suggestion, which was taking the information we had developed from our previous attempt to build the Cyber Assistant 1023 and put that information on our website. That was a great approach, reusing some of the work that had already been done on Cyber Assistant, even if the final product remains in the future. We took this idea and went a step further: An interactive Form 1023

The good thing about IT is that it moves very quickly and if you fast forward a few years, certain things you couldn't accomplish in the past, or would very expensive, become less expensive and easy to do. We have identified a vendor and are working with them on this project. We



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provided the vendor with all the information we developed for Cyber Assistant and we are putting together the interactive components. The ACT has looked at the initial version and made comments. With the advances in IT since we started down this road, we don't see the problems we had previously and we are hoping to make this available by the end of this fiscal year.

So what is an interactive 1023? It is a tool you will be able to get from the IRS.gov website. It will include preliminary steps that assist applicants in acquiring an EIN and ensure their organizing documents are acceptable. The Form 1023 itself will look just as it had, but as you are filling it out there will be active sections that you can click on. These will provide pop-up definitions of unfamiliar terms and offer clickable links to related pages on IRS.gov and StayExempt.irs.gov. For example, when the form requests your EIN and the novice looks at "EIN" and doesn't know what that means, they can click on that and the program will tell them what it means and take them to the site where they can fill out a form to request an EIN and get it right away.

We hope this will provide us with more complete applications and therefore faster turn-around. I'm very excited about the interactive 1023 because it serves as a sort of model for how we need to do business in this environment. At this point we aren't able to get to a cyber assistant and a fully redesigned 1023. But, we've worked with our partners/the ACT and kept monitoring IT progress, so that now we've been able to come up with a practical solution that gets at those overall goals, but does so within the resource constraints we have.

Connected with this effort, we are also working on publicizing template development letters used for certain categories of organizations. These would be put up on the web and linked to the interactive 1023, so that organizations of those types will know what to include with their application. If that information is included with the initial application, it will cut down on some of the back and forth development needed and speed up the application process.

We're taking these steps, and other internal process ones, to improve the Determinations process, but like I said before, it can take a while for those results to show. What we do know is it is going to get harder and harder for us as high volumes of applications continue to come in and we have fewer resources to devote to handling them. The lines are probably going to get longer before they get shorter, and that's not something either of us want, but I want to let you know the reality.

**[We can cover CE&O if there is more to say here, or fold it into the first part of the speech, where the intro ties smaller budgets to smaller appearances at conferences, such as Georgetown. ]**So what other kinds of things are going

on...Customer Education and Outreach, we talked a little bit about that. We won't be able to send as many people out as we have in the past. Our CE&O folks are already getting ready because we get a lot of requests on the same topics for small organizations. For example, Automatic Revocation: they developed a virtual presentation where we can provide a person on the phone at the end of presentation to answer any questions or the organization can send any questions to us and we will email them back the answers they can circulate to their participants. That is another way we are going to try to reach the organizations without having to spend a lot on travel.

To sum up: We have some challenging times ahead, and smaller budgets may mean a smaller presence at conferences and in other areas, but we will focus on our core statutory requirements and use the tools and techniques we've developed over the last few years to do so in the most efficient way possible.

#### *Conclusion*

Thank you again, Celia, for the invitation to appear here today. And thanks to all of you attending this conference.

## **Recent section 501(c)(4) activity**

### **Draft 3-26-13**

#### **Legal requirements:**

- The law allows section 501(c)(4) organizations to hold themselves out as tax-exempt or to apply for IRS recognition as tax-exempt.
- All section 501(c)(4) organizations must file Form 990 annual information returns.
- To qualify under section 501(c)(4), organizations must be primarily engaged in the promotion of social welfare, not organized or operated for profit, and the net earnings of which do not inure to the benefit of any private shareholder or individual.
- The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.
- The regulations do not impose a complete ban on political activity by section 501(c)(4) organizations. A section 501(c)(4) social welfare organization can engage in some political activities as long as it is primarily engaged in activities that promote social welfare. Whether an organization meets the requirements of section 501(c)(4) depends upon all of the facts and circumstances of the particular applicant, and no one factor is determinative.

#### **Background:**

- 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

#### **Increase in section 501(c)(4) applications**

2008 - 1410

2009 - 1571

2010 - 1591

2011 - 2242

2012 - 1715 (through April 1, 2012)

2013 - ??

- EO took steps to coordinate the handling of the cases to ensure consistency. As sometimes happens, however, coordination efforts resulted in some cases being in inventory for a longer time than expected.
- In early 2012, after development letters were sent to some applicant organizations, issues with respect to these cases were brought to the attention of EO management, who requested a status of the inventory.

- After receiving the inventory status, EO management determined that a more refined approach was warranted to ensure more timely and consistent handling of the cases. EO management put together a team of highly experienced technical experts to work with the revenue agents in Cincinnati handling the cases.
- EO now has a process where each revenue agent assigned these cases works in coordination with a specific technical expert assigned to assist the agent. On section 501(c)(3) and section 501(c)(4) cases where there appears to be potential political intervention, the EO staff member processing the application consults with his or her assigned technical expert on a real-time basis as to whether the facts raise issues of significant potential political intervention, and as to what information is needed to fully develop those issues.
- We have made significant progress on these cases to date.
  - **Approximately 200 (c)(4) advocacy cases – more than 50 approvals to date.**
    - 320 total advocacy cases
      - 97 (c)(3) cases
      - 223 (c)(4) cases
    - Approvals to date
      - 7 (c)(3)s
      - 51 (c)(4)s
    - 15 withdrawals
  - There have been no denials at this time.
  - For many cases, updated information requests have been sent to focus on the specific legal issues in question. We are in process of an active back and forth with organizations in those cases where there are questions as to whether the legal requirements for tax exemption are satisfied.

**Disclosure of donor names:**

- There are instances in which donor names are relevant in the course of the determination process. There is no legal basis for redacting such names from the application file if the information is used in making the determination on the application.
- We informed organizations that if they could provide information requested in an alternative manner, they should contact their agent and we would work with them.
- EO Determinations staff did ask for donor names from some applicants for c4



status. In cases in which the donor names were not used in making the determination, the donor information was expunged from the file.

**Self-Declarer Project (from EO Workplan)**

- 501(c)(4), (5) and (6) self-declarers questionnaire – distributed March 2013 to all organizations that file 990s, but have not received recognition by the IRS as being tax-exempt.



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**Draft 3-26-13**

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- We have made significant progress on these cases to date.
  - **Nearly 300 (c)(4) advocacy cases – more than 120 approvals to date.**
    - 453 total advocacy cases
      - 154 (c)(3) cases
      - 295 (c)(4) cases
      - 3 (c)(6) cases
      - 1 (c)(10) case
    - 159 Approvals to date
      - 34 (c)(3)s
      - 124 (c)(4)s
      - 1 (c)(6)s
    - 37 withdrawals
  - There have been no denials at this time.
  - For many cases, updated information requests have been sent to focus on the specific legal issues in question. We are in process of an active back and forth with organizations in those cases where there are questions as to whether the legal requirements for tax exemption are satisfied.

**Disclosure of donor names:**

- There are instances in which donor names are relevant in the course of the determination process. There is no legal basis for redacting such names from the application file if the information is used in making the determination on the application.

- We informed organizations that if they could provide information requested in an alternative manner, they should contact their agent and we would work with them.
- EO Determinations staff did ask for donor names from some applicants for c4 status. In cases in which the donor names were not used in making the determination, the donor information was expunged from the file.

**Self-Declarer Project (from EO Workplan)**

- 501(c)(4), (5) and (6) self-declarers questionnaire – distributed March 2013 to all organizations that file 990s, but have not received recognition by the IRS as being tax-exempt.

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**Draft 3-26-13**

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**Increase in section 501(c)(4) applications**

2008 - 1410

2009 - 1571

2010 - 1591

2011 - 2242

2012 - 3398

2013 - 2,092 (through March 26, 2013)

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**Self-Declarer Project (from EO Workplan)**

- 501(c)(4), (5) and (6) self-declarers questionnaire – distributed March 2013 to all organizations(over 1300) that file 990s in tax years 2010 or 2011, but have not received recognition by the IRS as being tax-exempt.

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**From:** Lerner Lois G  
**Sent:** Wednesday, March 27, 2013 3:39 PM  
**To:** Biss Meghan R  
**Subject:** FW: TIGTA REPORT

**Importance:** High

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Wednesday, March 27, 2013 4:36 PM  
**To:** Paz Holly O  
**Cc:** Marks Nancy J; Grant Joseph H  
**Subject:** TIGTA REPORT  
**Importance:** High

Met with Nikole today. She mentioned we need to do what we can to ameliorate the situation so that TIGTA will reconsider including the 2 referrals in the report. I was not involved in the piece regarding the "missing" email. From what I recall, a staffer mentioned the email to TIGTA? Is that right? If not, why did we know about the email? Are we actually certain there ever was an email?

What we need to do now, is go out to everyone who might have gotten the email and ask them to once again search their email files for a copy. We need to document that they have searched and did not find it. If we can't find it, we need a list of all who may have received the email and an approximate timeframe for it, so we can have the IT folks systemically search the computers for the email. Do we know who it was from and/or the title?

I guess we need to do the same thing re the June 20 11 BOLO list--The report now says "by June 2011, the criteria for identifying political cases included additional names(Patriots, and 9/12 project), as well as policy positions espoused by organizations in their applications. We requested information about who developed these criteria, but the IRS did not provide it." So, we need to ask everyone involved if they know who added those terms. I'm guessing you may have done this, but we need to do it again and get responses back--if it is "I don't know" so be it, but we need to have a record so we can give them the information.

We need this to happen ASAP and we need a date certain for them to respond back to us please.

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Thursday, March 28, 2013 8:13 AM  
**To:** Paz Holly O  
**Subject:** Re: A couple follow-ups

A day! Wow--that's awful  
Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

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**From:** Paz Holly O  
**Sent:** Thursday, March 28, 2013 06:15 AM Eastern Standard Time  
**To:** Paz Holly O; Lerner Lois G  
**Subject:** RE: A couple follow-ups

Meant to say 6 month catch up.

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**From:** Paz Holly O  
**Sent:** Thursday, March 28, 2013 6:15 AM  
**To:** Lerner Lois G  
**Subject:** RE: A couple follow-ups

Your explanation was great - only one correction, unfortunately, call site is getting about 25 per DAY. Our hope is that this is because the recent revocation list update was about a month catch up, and this volume will not continue going forward. Here's hoping!

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**From:** Lerner Lois G  
**Sent:** Wednesday, March 27, 2013 6:28 PM  
**To:** Paz Holly O  
**Subject:** FW: A couple follow-ups

**Sure I didn't get this exactly right, but needed something to go before I left for the day--Talk to you Friday. If you need me Thursday, call my cell (b)(6) Have fun**

*Lois G. Lerner*  
Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Wednesday, March 27, 2013 6:27 PM  
**To:** Flax Nikole C  
**Subject:** A couple follow-ups

**Mis-spoke about denials. Apparently the first one is in Counsel for review and seems like we are close. Hate to predict, but it could be issued in 2 weeks. The larger one is not as close as we'd like, but we will do what we can to move it to where Counsel can look at it.**

Have sent Holly an email to follow up on the TIGTA items. Suggested we ask folks to look and respond back via email that they were unable to find the email--at this point, I'm not even sure there ever was an email--so trying to nail down more where the idea came from.

[REDACTED]  
[REDACTED] [REDACTED] [REDACTED] [REDACTED]  
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[REDACTED] [REDACTED]

*Lois G. Lerner*  
Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Thursday, March 28, 2013 8:14 AM  
**To:** Flax Nikole C  
**Subject:** Fw: A couple follow-ups

FYI. I said 25 a week--it's much worse--25 a day!

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

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---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 27, 2013 6:28 PM  
**To:** Paz Holly O  
**Subject:** FW: A couple follow-ups

**Sure I didn't get this exactly right, but needed something to go before I left for the day--Talk to you Friday. If you need me Thursday, call my cell (b)(6) Have fun**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Wednesday, March 27, 2013 6:27 PM  
**To:** Flax Nikole C  
**Subject:** A couple follow-ups

**Mis-spoke about denials. Apparently the first one is in Counsel for review and seems like we are close. Hate to predict, but it could be issued in 2 weeks. The larger one is not as close as we'd like, but we will do what we can to move it to where Counsel can look at it.**



Have sent Holly an email to follow up on the TIGTA items. Suggested we ask folks to look and respond back via email that they were unable to find the email--at this point, I'm not even sure there ever was an email--so trying to nail down more where the idea came from.

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[REDACTED]

*Lois G. Lerner*  
Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Friday, March 29, 2013 4:21 PM  
**To:** Flax Nikole C  
**Subject:** RE: A couple follow-ups

OK--an issue I need to bring up. While we may have the proposed denial ready to go to the TP in 2 weeks, it will still be a long time before it will be public. These cases are going out of Cincinnati. So, here is the process

1. IRS issues a proposed denial.
2. TP has 30 days (plus extension if necessary) to protest, which may include additional information to consider about why the propose denial is incorrect.
3. TP additional information considered by Determs and questions about it, if any, discussed with TP.
4. If we still disagree, we forward the case to Appeals, and send a letter to TP about why we disagree.
5. Can't predict how long Appeals will take.
6. If TP doesn't protest or Appeals upholds, the denial final is issued. Then the denial goes through redaction process before it can be made public.

Whoever issued the final denial (Determs or Appeals) takes a first crack at the denial and sends it to disclosure who may make additional redactions.

Redacted copy goes to TP for TP additional suggested redactions. If the TP doesn't respond within 90 days, the redacted copy is made public. If the TP responds and wants redactions, it could be longer than 90 days before the redacted denial becomes public.

So, from the time we issue the proposed denial until it is public can be a very long time.

If we change course and issue denials out of R & A in DC, it shortens things up a slight bit. R & A issues the proposed denial

TP gets conference of right to try and convince R & A they are wrong. Usually includes additional written info.

R & A considers TP arguments, and if not convinced, issues final denial.

No Appeals process available, so you go right to the redaction process.

One other thing. I mentioned designating a case for litigation to avoid the Appeals process, since we think they all will want to go to court. The more I think about that, the less I think we will be in court with these cases. c3s can go to court if denied. c4s can only go to court if they owe taxes. Since these are Determ, not exams, no taxes will be assessed. This is something none of us have talked about so, I will raise with R & A and Counsel. But, absent them filing revised returns for back years and then filing refund claims, I don't think they can get to court.

Bottom line, I think designating a c4 for court doesn't work and that we probably won't see any of these denials publicly other than the redacted copies of the denials when the process is complete. That really won't be helpful as I'm guessing many of these will have to be redacted so heavily that they won't have much information left once that is done.

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Thursday, March 28, 2013 11:04 AM  
**To:** Lerner Lois G  
**Subject:** RE: A couple follow-ups

thanks. on the 1st, I hope that means we will be able to tell TIGTA that their report is inaccurate re no denials. guess we have to see how it works out (and I think the disclosure rules would prevent them from saying just one).

---

**From:** Lerner Lois G  
**Sent:** Wednesday, March 27, 2013 6:27 PM  
**To:** Flax Nikole C  
**Subject:** A couple follow-ups

Mis-spoke about denials. Apparently the first one is in Counsel for review and seems like we are close. Hate to predict, but it could be issued in 2 weeks. The larger one is not as close as we'd like, but we will do what we can to move it to where Counsel can look at it.

Have sent Holly an email to follow up on the TIGTA items. Suggested we ask folks to look and respond back via email that they were unable to find the email--at this point, I'm not even sure there ever was an email--so trying to nail down more where the idea came from.

*non-responsive*

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Friday, March 29, 2013 4:23 PM  
**To:** Paz Holly O  
**Cc:** Marx Dawn R  
**Subject:** FW: Action Items from the Op Review

**I've done # 1. As to #2--is Counsel looking at the actual files? I'm guessing they will want to on the "big" case. Perhaps we should start giving them copies to look at while we continue writing?**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Marx Dawn R  
**Sent:** Friday, March 29, 2013 4:54 PM  
**To:** Lerner Lois G  
**Cc:** Ghougasian Laurice A  
**Subject:** Action Items from the Op Review

Couple things you said you were going to do:

1. Send Nikole an email on the denial case; let her know CC came back w/minimal changes. You also mentioned that you needed to ask if the 1st case can be designated for litigation.
2. Joseph mentioned getting CC started on the "big" case. You were going to check to see if CC needed the actual case files or are they only interested in reviewing the denial letter that EO is drafting.

*Dawn R. Marx*

INTERNAL REVENUE SERVICE  
ATTN: Dawn R. Marx  
TE/GE SE:T:EO  
NCA-572  
1111 Constitution Avenue, NW  
Washington, DC 20224-0002

(202) 283-8861 Phone  
(877) 814-2234 EFax  
[Dawn.R.Marx@irs.gov](mailto:Dawn.R.Marx@irs.gov)



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**From:** Paz Holly O  
**Sent:** Monday, April 01, 2013 4:15 PM  
**To:** Lerner Lois G  
**Cc:** Marks Nancy J  
**Subject:** FW: Responses

**Importance:** High

Reading the discussion draft again, I think they are focused specifically on who developed the criteria noted in the June 2011 briefing paper, rather than the other iterations of the BOLO criteria (which is how I had first read the draft report). So in the draft email, I have attempted to address both issues. The June 2011 briefing paper "criteria" has been the subject of much discussion (see below) as it differed from what was on the BOLO at that time. We explained that in November when we gave comments on the timeline - Cindy asked screening manager and he asked his employees how they were interpreting/applying the BOLO's brief reference to "organizations involved with the Tea Party movement." TIGTA even interviewed one of those screening group employees who responded to the screening manager's question.

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**From:** Paz Holly O  
**Sent:** Monday, November 19, 2012 4:39 PM  
**To:** Paterson Troy D TIGTA  
**Cc:** Seidell Thomas F TIGTA; Medina Cheryl J TIGTA; Lerner Lois G  
**Subject:** RE: Responses

Troy,

Your reading of our response to question #1 is correct. The EO Determinations Program Manager and screener manager were not aware of the specific criteria being used prior to employees providing the criteria in response to the screener manager's request in June 2011. No one in the EO management chain sanctioned the use of the four criteria listed in your question #1 below.

Holly

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**From:** Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov]  
**Sent:** Wednesday, November 14, 2012 10:01 AM  
**To:** Paz Holly O  
**Cc:** Seidell Thomas F TIGTA; Medina Cheryl J TIGTA; Lerner Lois G  
**Subject:** RE: Responses

Holly,

Thank you again for the follow-up responses. In response to question #1, you mention that EO function executive management did not sanction the use of the 1-4 criteria we listed in our original questions. You also mention that the EO function Determinations Program Manager asked for the criteria from the screener manager and the screener manager asked his employees for the specific criteria. To be clear, does this mean that the EO function Determinations Program Manager and screener manager were not aware of the specific criteria being used prior to employees providing the criteria in response to the screener manager's request? In other words, no one in the EO function management chain sanctioned the use of the criteria.

Troy

b(6) and b(7)(C)\pers...



**From:** Paz Holly O [mailto:Holly.O.Paz@irs.gov]  
**Sent:** Friday, November 09, 2012 2:14 PM  
**To:** Paterson Troy D TIGTA  
**Cc:** Seidell Thomas F TIGTA; Medina Cheryl J TIGTA; Lerner Lois G  
**Subject:** RE: Responses

Troy,

Please see answers to your follow-up questions below. Please let me know if you have any further questions or if you think a discussion would be helpful.

Holly

1. In the response to questions 2 and 3, Lois states that 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." Does this mean that the manager of the screening group developed this criteria? If not, who created the criteria? We're trying to determine if anyone in EO function management sanctioned the use of the criteria.

EO executive management did not sanction use of 1-4 above as criteria for identifying advocacy cases. 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, I, as Acting Director of EO Rulings & Agreements, sought clarification as to the criteria being used to identify these cases 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.). My inquiry prompted the EO Determinations Program Manager to ask 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?"). We understand that the screening group manager asked his employees how they were applying the BOLO's short-hand reference to "tea party" and was told by his employees that they included organizations meeting any of criteria 1-4 above as falling within the BOLO's reference to "tea party" organizations.

2. On the May 14, 2012 entry on the timeline, the EO function changed the additional details column to read "Concluded, in light of case law on what is educational, that "propaganda" activities should be [emphasis added] considered part of an organization's social welfare activities in analyzing whether it is primarily engaged in promoting social welfare." Earlier, you provided an e-mail from Tom Miller that states "I could not find anything, but my analysis is that propaganda activities should not be [emphasis added] included in an organization's activities that promote social welfare in analyzing whether it is primarily engaged in promoting the SW within the meaning of the regulations. Did the EO function inadvertently leave out the word "not" in its feedback or are we misinterpreting Tom Miller's e-mail?

I am afraid that the wording of my question to Tom has contributed to the confusion. You can see I said we were seeing inflammatory talk, which I characterized as propaganda. "Propaganda," however, is a term with legal significance. So, Tom's email went on to discuss what constitutes "propaganda" versus what is "educational," for purposes of characterizing the inflammatory talk. He says that, "Posting of some questionable or snarky articles will not undue otherwise OK material . . . the bar [for whether material is educational] is quite low." The example in his second paragraph about the Institute for Historical Review shows just how difficult it is to conclude that inflammatory talk is actually "propaganda" rather than "educational." Senior members of the team bucketing the advocacy cases discussed Tom's email in light of the inflammatory talk we were seeing and concluded that it would be considered educational under existing precedents.

3. On the May 2012 entry on the timeline, the EO function deleted our wording that the EO Technical employee was reviewing all case files and closing letters prior to issuance. Our interview write-up states that case files were being reviewed and closing letters were being reviewed prior to issuance. Is this the case, or are only the development letters being reviewed?

EO Technical employees are reviewing all development letters to organizations in buckets 2 and 3 prior to issuance. Designated EO Technical employees are also available to answer questions the Determinations specialists may have after receiving responses to those development letters. While EO Technical employees are reviewing all development letters, typically on favorables, EO Technical does not review the closing letter itself because these are essentially form approval letters. All denial letters, however, are being closely coordinated between EO Technical and EO Determinations.

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**From:** Paterson Troy D TIGTA [<mailto:Troy.Paterson@tigta.treas.gov>]

**Sent:** Tuesday, November 06, 2012 3:00 PM

**To:** Paz Holly O

**Cc:** Seidell Thomas F TIGTA; Medina Cheryl J TIGTA

**Subject:** FW: Responses

Holly,

Thank you again for taking the time to review and provide feedback on the 3 questions we submitted and the long timeline. We have a few follow-up questions.

1. In the response to questions 2 and 3, Lois states that 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." Does this mean that the manager of the screening group developed this criteria? If not, who created the criteria? We're trying to determine if anyone in EO function management sanctioned the use of the criteria.
2. On the May 14, 2012 entry on the timeline, the EO function changed the additional details column to read "Concluded, in light of case law on what is educational, that "propaganda" activities **should be** [emphasis added] considered part of an organization's social welfare activities in analyzing whether it is primarily engaged in promoting social welfare." Earlier, you provided an e-mail from Tom Miller that states "I could not find anything, but my analysis is that propaganda activities **should not be** [emphasis added] included in an organization's activities that promote social welfare in analyzing whether it is primarily engaged in promoting the SW within the meaning of the regulations. Did the EO function inadvertently leave out the word "not" in its feedback or are we misinterpreting Tom Miller's e-mail?
3. On the May 2012 entry on the timeline, the EO function deleted our wording that the EO Technical employee was reviewing all case files and closing letters prior to issuance. Our interview write-up states that case files were being reviewed and closing letters were being reviewed prior to issuance. Is this the case, or are only the development letters being reviewed?

As always, we appreciate the assistance and we look forward to your response.

Troy

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**From:** Lerner Lois G [<mailto:Lois.G.Lerner@irs.gov>]

**Sent:** Friday, November 02, 2012 11:34 AM

**To:** Paterson Troy D TIGTA

**Cc:** Paz Holly O

**Subject:** Responses

**Attached is our redlined version of the long time line you prepared. We have made changes where we thought your folks didn't get it exactly right, and have added some comments for your consideration. Also attached are my response to your three questions. Rather than be repetitive, we have combined the response to questions 2 and 3 into one comprehensive response. I am out of the country next week, but Holly can probably answer any questions you may have in the meantime.**

*Leis G. Lerner*

Director of Exempt Organizations

(b)(3)/6103

(b)(3)/6103



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**From:** Marks Nancy J  
**Sent:** Tuesday, April 02, 2013 3:11 PM  
**To:** Daly Richard M; Lerner Lois G; Paz Holly O  
**Subject:** Re: TIGTA report

I'm fine. While I'd like Mike's add I suspect we can't get it if Nikole can't get us the referral. It came from them not us. We had email traffic about doing one but didn't since they had.

-----  
Sent using BlackBerry

----- Original Message -----

From: Daly Richard M  
Sent: Tuesday, April 02, 2013 04:03 PM Eastern Standard Time  
To: Lerner Lois G; Paz Holly O; Marks Nancy J  
Subject: RE: TIGTA report

With one exception this looks like what we discussed yesterday.

The exception is this: I thought we wanted to add something to the "Highlights" page, under the heading "Why TIGTA Did this Audit." I thought we wanted to add a phrase or a sentence recognizing that we also referred the issue to TIGTA and asked them to look into it. It wasn't an issue that only came up because members of Congress raised it. Of course, that may be the only reason TIGTA did the audit.

Still, you may want to propose a sentence or a phrase: "TIGTA initiated this audit based on concerns expressed by members of Congress and ON A REFERRAL OF THE ISSUE FROM {TE/GE or THE IRS} TO US."

-----Original Message-----

From: Lerner Lois G  
Sent: Tuesday, April 02, 2013 3:15 PM  
To: Daly Richard M; Marks Nancy J  
Cc: Paz Holly O  
Subject: FW: TIGTA report  
Importance: High

If you have the chance, please take a quick look to be sure we haven't missed anything.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Paz Holly O  
Sent: Tuesday, April 02, 2013 1:24 PM  
To: Lerner Lois G  
Subject: TIGTA report

Attached is a version of the discussion draft that contains our comments as discussed yesterday.

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 02, 2013 4:58 PM  
**To:** Daly Richard M; Marks Nancy J; Paz Holly O  
**Subject:** Re: Daly has no Email traffic re TEGE or IRS referral to TIGTA re c 4s etc

I've asked again

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

----- Original Message -----

**From:** Daly Richard M  
**Sent:** Tuesday, April 02, 2013 05:09 PM Eastern Standard Time  
**To:** Marks Nancy J; Lerner Lois G; Paz Holly O  
**Subject:** Daly has no Email traffic re TEGE or IRS referral to TIGTA re c 4s etc

I've just looked. I have not retained any email traffic on this. Sorry. Mike

-----Original Message-----

**From:** Marks Nancy J  
**Sent:** Tuesday, April 02, 2013 4:36 PM  
**To:** Lerner Lois G; Daly Richard M; Paz Holly O  
**Subject:** Re: TIGTA report

I'm guessing she'd have delivered it if finding it was easy. it would have been in the Fed/March 2012 time frame I believe. Those emails on my system are archived I never had a copy but if Michele can show we how to find them tomorrow I might be able to narrow time frame. Mike you may have some of that exchange as well.

You may want to update her on the reports two referrals and our efforts to clarify that we were cooperative and they have what there is to be had.

-----  
Sent using BlackBerry

----- Original Message -----

**From:** Lerner Lois G  
**Sent:** Tuesday, April 02, 2013 04:26 PM Eastern Standard Time  
**To:** Daly Richard M; Paz Holly O; Marks Nancy J  
**Subject:** RE: TIGTA report

Will ask Nikole one more time.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

**From:** Daly Richard M  
**Sent:** Tuesday, April 02, 2013 4:04 PM

To: Lerner Lois G; Paz Holly O; Marks Nancy J  
Subject: RE: TIGTA report

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The exception is this: I thought we wanted to add something to the "Highlights" page, under the heading "Why TIGTA Did this Audit." I thought we wanted to add a phrase or a sentence recognizing that we also referred the issue to TIGTA and asked them to look into it. It wasn't an issue that only came up because members of Congress raised it. Of course, that may be the only reason TIGTA did the audit.

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-----Original Message-----

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To: Daly Richard M; Marks Nancy J  
Cc: Paz Holly O  
Subject: FW: TIGTA report  
Importance: High

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Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Paz Holly O  
Sent: Tuesday, April 02, 2013 1:24 PM  
To: Lerner Lois G  
Subject: TIGTA report

Attached is a version of the discussion draft that contains our comments as discussed yesterday.

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 02, 2013 5:04 PM  
**To:** Marks Nancy J; Daly Richard M; Paz Holly O  
**Subject:** Re: TIGTA report

I never had one

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

----- Original Message -----

**From:** Marks Nancy J  
**Sent:** Tuesday, April 02, 2013 04:36 PM Eastern Standard Time  
**To:** Lerner Lois G; Daly Richard M; Paz Holly O  
**Subject:** Re: TIGTA report

I'm guessing she'd have delivered it if finding it was easy. it would have been in the Fed/March 2012 time frame I believe. Those emails on my system are archived I never had a copy but if Michele can show we how to find them tomorrow I might be able to narrow time frame. Mike you may have some of that exchange as well.

You may want to update her on the reports two referrals and our efforts to clarify that we were cooperative and they have what there is to be had.

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Sent using BlackBerry

----- Original Message -----

**From:** Lerner Lois G  
**Sent:** Tuesday, April 02, 2013 04:26 PM Eastern Standard Time  
**To:** Daly Richard M; Paz Holly O; Marks Nancy J  
**Subject:** RE: TIGTA report

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Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

**From:** Daly Richard M  
**Sent:** Tuesday, April 02, 2013 4:04 PM  
**To:** Lerner Lois G; Paz Holly O; Marks Nancy J  
**Subject:** RE: TIGTA report

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The exception is this: I thought we wanted to add something to the "Highlights" page, under the heading "Why TIGTA Did this Audit." I thought we wanted to add a phrase or a sentence recognizing that we also referred the issue to TIGTA

and asked them to look into it. It wasn't an issue that only came up because members of Congress raised it. Of course, that may be the only reason TIGTA did the audit.

Still, you may want to propose a sentence or a phrase: "TIGTA initiated this audit based on concerns expressed by members of Congress and ON A REFERRAL OF THE ISSUE FROM {TE/GE or THE IRS} TO US."

-----Original Message-----

From: Lerner Lois G  
Sent: Tuesday, April 02, 2013 3:15 PM  
To: Daly Richard M; Marks Nancy J  
Cc: Paz Holly O  
Subject: FW: TIGTA report  
Importance: High

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Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Paz Holly O  
Sent: Tuesday, April 02, 2013 1:24 PM  
To: Lerner Lois G  
Subject: TIGTA report

Attached is a version of the discussion draft that contains our comments as discussed yesterday.



---

**From:** Kindell Judith E  
**Sent:** Friday, April 12, 2013 10:34 AM  
**To:** Lerner Lois G  
**Cc:** Marx Dawn R  
**Subject:** lobbying speech  
**Attachments:** lobbying speech.docx

Here is a draft. It mentions most of the things in Celia's outline. It does not mention the low rate of election under section 501(h), because we don't care. It does talk about the availability of the election. It also does not state that we have no project targeting lobbying. Rather, it reaffirms the commitment we made in the IRM that we would look at both electors and non-electors when looking at lobbying (fortunately, there is one question on both the Form 990 and Form 990-EZ that gives us those orgs).

---

**From:** Lerner Lois G  
**Sent:** Friday, April 12, 2013 10:44 AM  
**To:** Kindell Judith E  
**Subject:** Re: lobbying speech

Thanks. Working on Georgetown speech right now, but will look at this later today or over the weekend

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

---

**From:** Kindell Judith E  
**Sent:** Friday, April 12, 2013 11:34 AM Eastern Standard Time  
**To:** Lerner Lois G  
**Cc:** Marx Dawn R  
**Subject:** lobbying speech

Here is a draft. It mentions most of the things in Celia's outline. It does not mention the low rate of election under section 501(h), because we don't care. It does talk about the availability of the election. It also does not state that we have no project targeting lobbying. Rather, it reaffirms the commitment we made in the IRM that we would look at both electors and non-electors when looking at lobbying (fortunately, there is one question on both the Form 990 and Form 990-EZ that gives us those orgs).

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**From:** Lerner Lois G  
**Sent:** Friday, April 12, 2013 7:25 PM  
**To:** Daly Richard M; Paz Holly O; Fish David L  
**Cc:** Grant Joseph H; Medina Moises C; Marks Nancy J  
**Subject:** Re: (c)(4) Draft Report - 2 notes

**Importance:** High

I haven't read but that is a short turn around. Holly-- you will have to work on this and nothing else so we can comment too before Nikole gets it. Sorry!

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

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**From:** Daly Richard M  
**Sent:** Friday, April 12, 2013 04:55 PM Eastern Standard Time  
**To:** Lerner Lois G; Paz Holly O; Fish David L  
**Cc:** Grant Joseph H; Medina Moises C; Marks Nancy J  
**Subject:** (c)(4) Draft Report - 2 notes

FYI:

- Re TIGTA's referrals of two issues to the Office of Investigations, TIGTA took those references out of the text, modified them a bit, and put them into two footnotes. Page 6.
- There is a new recommendation: number 8 at page 17. It is that we ask Counsel and Treasury to include guidance on how to measure the "primary activity" of (c)(4)s in the Priority Guidance Plan.

---

**From:** Daly Richard M  
**Sent:** Friday, April 12, 2013 2:56 PM  
**To:** Lerner Lois G; Paz Holly O; Fish David L  
**Cc:** Grant Joseph H; Medina Moises C; Marks Nancy J  
**Subject:** FW: 201210022-Draft Report

Joel Rutstein has just provided me with the draft of the report. This is the version we must respond to.

Joel appropriately asks why this is on something of a fast track. I have no answer, but am asking Troy.

Will let you know. In the meantime, let's get a draft response ready to send to Nikole by Thursday of next week, April 18.

Mike

---

**From:** Rutstein Joel S  
**Sent:** Friday, April 12, 2013 2:43 PM  
**To:** Daly Richard M  
**Cc:** Landes Scott S  
**Subject:** FW: 201210022-Draft Report

Hi Mike. TIGTA just issued the draft report, the discussion draft report for which we discussed last week. I've opened e-trak case #2013-41614. The response is due to TIGTA by April 30, 2013. Do you know why they're giving you less than the customary 30 days? Thanks, Joel

*Joel S. Rutstein, Esq.*

Program Manager, GAO/TIGTA Audits

Legislation and Reports Branch

Office of Legislative Affairs

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Email: [joel.s.rutstein@irs.gov](mailto:joel.s.rutstein@irs.gov)

Web: <http://irweb.irs.gov/AboutIRS/bu/cl/la/laqt/default.aspx>

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**From:** Stephens Dorothy A TIGTA [<mailto:Dot.Stephens@tigta.treas.gov>]

**Sent:** Friday, April 12, 2013 2:19 PM

**To:** Landes Scott S; Rutstein Joel S

**Subject:** 201210022-Draft Report

Fyi, the attached Draft Audit Report – *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review* has been signed and is ready for issuance. Thanks

*Dorothy Stephens*

*Staff Assistant to the DIGA*

*IG for Tax Administration*

*Office of Audit (OA)*

*(202) 927-7161 (office)*

*(202) 622-6513 (fax)*

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 17, 2013 9:06 AM  
**To:** Paz Holly O  
**Subject:** Re: Emailing: TIGTA advocacy response.doc

Ask Mike Daly for something to use. We should have a copy of Matthew on the auto-rev audit. I also would ask Mike to help and draft something along the lines of his thoughts re difficulty of issue. We can use, adjust or not use once we see it. tell him I suggested you ask in light of short time line Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Holly Paz  
To: Lois Call in Number  
Cc: Dawn Marx  
Subject: RE: Emailing: TIGTA advocacy response.doc  
Sent: Apr 17, 2013 9:59 AM

I have a meeting 10-11 but am free after that. I do not have any samples other than reports I pulled from TIGTA website so I do not know what format normally is for the response.

-----Original Message-----

From: Lerner Lois G  
Sent: Tuesday, April 16, 2013 8:48 PM  
To: Paz Holly O  
Cc: Marx Dawn R  
Subject: RE: Emailing: TIGTA advocacy response.doc

I sat we refer to them as we refer to them --advocacy cases.

I agree re screeners--let me think about how to deal with it

Can't deal with the rest until I've read it--Mike usually has good instincts though.

Do need to make it look like other responses--format I am working from home tomorrow--morning b(6) and b(7)(C)\... should be home by 10:30

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Paz Holly O  
Sent: Tuesday, April 16, 2013 2:59 PM  
To: Lerner Lois G  
Cc: Marx Dawn R  
Subject: Emailing: TIGTA advocacy response.doc  
Importance: High



Attached is a draft response. I have tried to take the approach you and Joseph outlined yesterday. I am just sending it to you at this time so that we do not have multiple people making edits at the same time. A couple questions to consider as you read the response:

1. How do we want to refer to these cases - advocacy cases or pick up on TIGTA's terminology and call them potential political campaign activity cases?
2. Do we want to agree to all of the recommendations - I am fine with most of them but the one about screeners documenting their decisions more concerns me as it could slow the process dramatically but don't know that we want to take that on.
3. In this draft, I simply say we accept all their recommendations? Do we want or need to say more at this point?
4. Do we want to be completely silent on the criteria issue? Mike Daly stopped by yesterday to talk about that. He doesn't want to cede that the criteria were completely inappropriate. He thinks we should make an argument as to why there was some basis for doing it based on the names.  
For example, in our comments on one of the cases TIGTA said should not be advocacy, we said "The organization seeks section 501(c)(3) status, but provided no description of its activities and has identified itself by name as associated with a national movement that has engaged in political campaign advocacy and should be worked with these other cases to ensure consistency." Perhaps we could consider something along those lines.  
Alternatively, do we want to reiterate (as noted by TIGTA in the report) that the names were just short hand for political c4s we were getting and not all the advocacy cases had those names?
5. Do we want to be completely silent on the development questions? In response to Congressionals, we have argued that there can be a basis in some cases to ask for that information. Do we want to say that here?
6. Most other responses to TIGTA reports I looked at contained some sort of general statement characterizing our reaction to the report. I did not do that here.

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**From:** Lerner Lois G  
**Sent:** Wednesday, April 17, 2013 7:18 PM  
**To:** (b)(6); (b)(7)(C)  
**Subject:** Fw: TIGTA report on Tea Party Cases - rebuttal to initial selection issue  
**Attachments:** SecureZIP Attachments.zip

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

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**From:** Daly Richard M  
**Sent:** Wednesday, April 17, 2013 07:16 PM Eastern Standard Time  
**To:** Lerner Lois G; Paz Holly O  
**Subject:** TIGTA report on Tea Party Cases - rebuttal to initial selection issue

Just sent this to you, but it's not showing up in my "sent box." Just to be safe, I'm sending it again. Sorry. Mike

In the dn of what our screening review is based on, I probably would add "the information initially submitted by the applicant," before I go on to "our experience with the e o community, etc.

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**From:** Lerner Lois G  
**Sent:** Wednesday, April 17, 2013 7:23 PM  
**To:** b(6) and b(7)(C)personal informati...  
**Subject:** Fw: TIGTA report on Tea Party Cases - rebuttal to initial selection issue  
**Attachments:** SecureZIP Attachments.zip

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

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**From:** Daly Richard M  
**Sent:** Wednesday, April 17, 2013 07:13 PM Eastern Standard Time  
**To:** Lerner Lois G; Paz Holly O  
**Subject:** TIGTA report on Tea Party Cases - rebuttal to initial selection issue

Hello, Lois and Holly,

Here is my take, for this evening, on the "selection on the basis of name and policy position" issue.

I'll revisit it in the am.

One consideration: the report makes it sound as if each of you immediately changed the name and position criteria as soon as it was brought to your attention. It's not altogether clear whether you were thinking about initial selection or final approval or denial of the application.

This could stir things up over at TIGTA. Not that that's a bad thing. Just saying.

See you in the am.

Mike

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**From:** Lerner Lois G  
**Sent:** Wednesday, April 17, 2013 7:42 PM  
**To:** Daly Richard M; Paz Holly O  
**Subject:** Re: TIGTA report on Tea Party Cases - rebuttal to initial selection issue

I read it. The themes are there, but I'm guessing you won't be surprised that I want to soften a bit (-: thanks Mike--I knew we could count on you to focus the issue. Will send to all once I play with it in the morning

Lois G. Lerner-----

Sent from my BlackBerry Wireless Handheld

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**From:** Daly Richard M  
**Sent:** Wednesday, April 17, 2013 07:16 PM Eastern Standard Time  
**To:** Lerner Lois G; Paz Holly O  
**Subject:** TIGTA report on Tea Party Cases - rebuttal to initial selection issue

Just sent this to you, but it's not showing up in my "sent box." Just to be safe, I'm sending it again. Sorry. Mike

In the dn of what our screening review is based on, I probably would add "the information initially submitted by the applicant," before I go on to "our experience with the e o community, etc.

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**From:** Grant Joseph H  
**Sent:** Thursday, April 18, 2013 8:17 PM  
**To:** Flax Nikole C; Daly Richard M  
**Cc:** Lerner Lois G; Marks Nancy J; Paz Holly O  
**Subject:** Re: TIGTA - Report on c 4s - April 18 2015 130 pm HOP - x

Nikole,

Yes. We wanted to give you adequate time to review since TIGTA gave us less than the usual 30 days to respond.

Joseph

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Sent from my BlackBerry Wireless Handheld

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**From:** Flax Nikole C  
**Sent:** Thursday, April 18, 2013 08:15 PM Eastern Standard Time  
**To:** Daly Richard M  
**Cc:** Grant Joseph H; Lerner Lois G; Marks Nancy J; Paz Holly O  
**Subject:** Re: TIGTA - Report on c 4s - April 18 2015 130 pm HOP - x

Thanks. For a number of reasons, we don't want to respond early. Don't we have until the 30th?

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**From:** Daly Richard M  
**Sent:** Thursday, April 18, 2013 08:12 PM Eastern Standard Time  
**To:** Flax Nikole C  
**Cc:** Grant Joseph H; Lerner Lois G; Marks Nancy J; Paz Holly O  
**Subject:** TIGTA - Report on c 4s - April 18 2015 130 pm HOP - x

Hello, Nicole,

Attached is our proposed response to the TIGTA report on EO's review of (c)(4)s etc.

We would like to provide our signed response to TIGTA by next Thursday, April 25. But if additional time is needed, we can get it.

Joseph will sign the memo. I am sending the response to Joel Rutstein in Leg Affairs and anticipate no concerns from his office.

There was no need to coordinate this response with any other part of the Service, and we did not do so.

Please note that in the second paragraph on page 1 we refer to a **doubling of (c)(4) applications between 2008 and 2012. We are looking into figures that address growth in (c)(4) applications from 2010, rather than 2008, since that is a more relevant period.** I did not want to delay sending this to you while we address that relatively minor point.

I will send a copy of the report by separate email, since I am still feeling my way on attaching multiple documents in Windows 7.



We will be happy to hear of any concerns or suggestions.

Mike

202.283.9964

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**From:** Lerner Lois G  
**Sent:** Friday, April 19, 2013 1:00 PM  
**To:** Lerner Lois G  
**Subject:** FW: lobbying speech  
**Attachments:** lobbying speech.docx

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Kindell Judith E  
**Sent:** Tuesday, April 16, 2013 3:55 PM  
**To:** Lerner Lois G  
**Subject:** lobbying speech

I added page numbers when I printed. Also, the draft mentions most of the things in Celia's outline. It does not mention the low rate of election under section 501(h), because we don't care. It does talk about the availability of the election and the decision boards need to make. It also does not state that we have no project targeting lobbying. Rather, it reaffirms the commitment we made in the IRM that we would look at both electors and non-electors when looking at lobbying (fortunately, there is one question on both the Form 990 and Form 990-EZ that gives us those orgs).

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**From:** Paz Holly O  
**Sent:** Friday, April 19, 2013 1:11 PM  
**To:** Lerner Lois G  
**Subject:** RE: Another Topic

Are you OK with (b)(3)/6103 being added to the BOLO by name or would you want something more general like?:

Organizations providing relief to victims of recent acts of mass violence.

That would capture anything re: (b)(3)/6103 .

-----Original Message-----

From: Lerner Lois G  
Sent: Friday, April 19, 2013 2:08 PM  
To: Paz Holly O  
Subject: Another Topic  
Importance: High

By the way--please tell Cindy if they see that application for the (b)(3)/6103 that was in the article I forwarded, it should be sent here right away--it needs to be worked here. Meghan and Judy can oversee--they suggested Liz Ardoin might be a good person to develop it.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Paz Holly O  
Sent: Friday, April 19, 2013 2:04 PM  
To: Lerner Lois G  
Subject: RE: Request

OK. It's really more of a Mike thing than a David thing. I invited Mike already.

-----Original Message-----

From: Lerner Lois G  
Sent: Friday, April 19, 2013 1:59 PM  
To: Paz Holly O  
Subject: RE: Request

The dates don't work for me, but I'm OK with you doing it without me so long as Counsel and Judy are there. Do you want David there too?

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Paz Holly O  
Sent: Friday, April 19, 2013 1:50 PM  
To: Lerner Lois G  
Subject: FW: Request

Below are the dates that work for TP and most of the IRS folks (me, Judy, Counsel). Would you like to attend? Are you available? Thanks.

-----Original Message-----

From: Amato Amy  
Sent: Friday, April 19, 2013 1:34 PM  
To: Paz Holly O  
Subject: RE: Request

The Hill staff is no longer involved and I'm working directly with the constituents. Here's what they propose. What are your thoughts? I have no idea what "early in the morning" means. If you want to meet here at 1111, I can make arrangements.

Thanks

Our first choice would be to meet early on the morning of 5/10. The second choice would be to meet late in the morning or early in the afternoon on 5/8. We would come in to town the night before the 10th or early in the morning on the 8th and could meet at either 999 North Capitol or 1111 Constitution, whichever would be more convenient for your people. When we have a specific time and location we will make travel and any necessary hotel arrangements and confirm the plan with you. It might be helpful if you could give us a time window of availability on the days in question.

-----Original Message-----

From: Paz Holly O  
Sent: Wednesday, April 17, 2013 4:32 PM  
To: Amato Amy  
Subject: RE: Request

Amy,

5/8 and 5/10 look the best for us. Morning would be better but afternoon is OK too. We agree with you that a call would be best, but, if the meeting will be in-person, we'd prefer it be at 1111 or 999 N. Capitol rather than the Hill.

-----Original Message-----

From: Amato Amy  
Sent: Wednesday, April 17, 2013 11:09 AM  
To: Paz Holly O  
Subject: RE: Request

Sorry Holly--the staff came back and asked if we could get this on the calendar. Were you able to connect with Lois?  
Thanks

-----Original Message-----

From: Paz Holly O  
Sent: Tuesday, April 16, 2013 2:05 PM  
To: Amato Amy  
Subject: RE: Request

Amy,

I am checking with Lois on dates, logistics and who should participate from our end. I will get back to you as soon as possible.

Holly

-----Original Message-----

From: Amato Amy  
Sent: Tuesday, April 16, 2013 11:12 AM  
To: Paz Holly O  
Subject: RE: Request

Sorry to pester, but have you had a chance look at those dates and see if we can proceed? I would rather offer a conference call, but if they want to sit down with us, can we do it here? I think that would be better than going to the Congressional office.

Thanks

-----Original Message-----

From: Amato Amy  
Sent: Monday, April 15, 2013 11:05 AM  
To: Paz Holly O  
Subject: RE: Request  
Importance: High

Holly,

The Senator's office just came back with the request below, after I told her we cannot provide advice, but we could talk about the process and applicable laws, generally, and the required forms. How would you like me to proceed?

Amy

My constituent would like to move forward with the meeting. Below and attached is some information about the constituent (the constituent is (b)(3)/6103) and a list of attendees expected to attend. They'd like to have an in-person meeting here in Washington (if possible). They are generally available during the weeks of 4/22, 4/29 and 5/6, although not on 4/22-4/23 or 5/6.

6103 is a not-for-profit health maintenance organization which we believe is a social welfare organization exempt from taxation under Section 501(c)(4) of the Internal Revenue Code. It would be most helpful to speak with someone at the IRS with experience in applications for exemption recognition by HMOs.



The following individuals are expected to attend:

b(3)\6103

-----Original Message-----

From: Paz Holly O

Sent: Thursday, April 11, 2013 10:53 AM

To: Amato Amy

Subject: FW: Request

Amy,

We are willing to meet with this taxpayer. However, please emphasize to the Congressional staff that we cannot advise the organization on how to fill out the application form and the conversation is no guarantee about how we'd look at the application because we need to look at all the facts and circumstances. We can speak generally about the process and law that may apply. You can say that in the past there have been misunderstandings on that front. Sometimes folks think they have made things clear in the discussion with us but things look different when the application is filed. So, we are happy to meet, but those are the caveats.

Thanks,

Holly

-----Original Message-----

From: Amato Amy

Sent: Wednesday, April 10, 2013 9:26 PM

To: Paz Holly O

Subject: Request

Importance: High

Holly, we got this question from the Hill. Would we ever agree to this type of meeting? Have we ever done anything like it in the past? Thanks

One of our constituents (who is a health insurer) may be filing an application soon to convert from a for-profit status to non-profit, tax-exempt status. Before filing their application, they'd to do a pre-meeting with the IRS. And we'd like to help them facilitate that meeting.

Good morning. You are here to learn about lobbying by tax-exempt organizations, and I've been asked to give you a view from the IRS perspective.

To understand that perspective, I think it is helpful to step back and look at organizations that engage in advocacy generally and see how lobbying fits into that. I like to use as an example people who care passionately about the cherry trees and have set up an exempt organization to ensure the health and well being of the trees. While they can do a number of activities to benefit the cherry trees, such as raising funds for fertilizer, they can also advocate on behalf of the cherry trees. For example, they can print brochures and run ad campaigns telling people about the cherry trees and how important it is to preserve and protect them. They could also decide to support a bill before Congress to provide additional funding for upkeep for the cherry trees. Finally, there may be a candidate running for office who feels just as strongly as they do about the cherry trees, so they decide to support that candidate's election. As far as the people in the exempt organization are concerned, they are just acting for the benefit of the cherry trees, whether they are advocating for a candidate for public office, for a piece of legislation, or to inform the public of the importance of the cherry trees. But, the tax code makes distinctions between these types of advocacy for exempt organizations.

Under the tax law, advocacy is broken out into three categories: political campaign intervention, lobbying, and general advocacy.

Political campaign intervention includes candidate endorsements and contributions to campaigns, but also includes any other activity that supports or opposes candidates for public office.

With limited exceptions, lobbying includes attempts to influence legislation whether through directly contacting members of a legislative body or encouraging the general public to contact members of a legislative body. It also includes attempts to influence ballot initiatives or referenda. It doesn't include "self-defense" lobbying or responses to requests for input from Congressional committees considering legislation. I'm sure you'll hear more about those exceptions in you later sessions.

So, back to our cherry tree folks,--if the cherry tree folks go up to Capital Hill to encourage representatives to pass a pending bill for cherry tree

funding, that would be lobbying. Or, if they initiate a letter writing campaign urging others to contact their representatives and tell them to vote for the bill, that would be what we call grass roots lobbying. If, on the other hand, they simply meet with representatives to express their cherry tree passion and generally educate the legislators about cherry trees without asking for legislation or advocating a stance on pending legislation, that would NOT be lobbying because there is no attempt to influence legislation. Rather, it would be general advocacy.

General advocacy is all advocacy that isn't political intervention or lobbying. In our cherry tree example, the ad campaigns telling people how important the cherry trees are would be general advocacy. General advocacy can include advocacy directed to public officials for non-legislative matters. For example, if our cherry tree friends wanted to influence a regulatory or administrative action of the Department of the Interior, that activity would be general advocacy for federal income tax purposes.

It is important to note that how an activity is characterized for some other purpose, such as state election law, is not determinative of how it will be treated under the tax law. As I mentioned, attempting to influence ballot measures is lobbying for federal income tax purposes even though, under many state election laws, ballot measure committees are treated like campaign committees. It is also important for you to remember that it is not enough to be compliant with the tax law, you must also be aware of and compliant with other applicable laws, such as election law and lobbying disclosure rules, which—too make things more difficult, may have different definitions for these activities

Now that we have broken out the three types of advocacy, what are the rules for each? That depends upon the type of tax-exempt organization that is engaging in the advocacy. It is important to note that all of these types of advocacy may be accomplished through a tax-exempt organization, but not necessarily the same tax-exempt organization.

I'm going to focus on the types of exempt organizations that we most frequently see engaged in advocacy, beginning with the section 501(c)(3) charities. These are the organizations most people think of when they think of tax-exempt organizations. They are the soup kitchens, the schools, the hospitals, the churches, and many others. They are eligible to receive tax-deductible contributions. These organizations may engage in General



Advocacy related to their exempt purpose along with a limited amount of lobbying, but they cannot support or oppose candidates for public office.

Next are the section 501(c)(4) social welfare organizations, the section 501(c)(5) labor and agricultural and horticultural organizations, and the section 501(c)(6) business leagues. Although these organizations have different requirements for exemption, the rules regarding their advocacy activities are the same so we discuss them as a group. For these organizations, they must engage primarily in activities that further their respective exempt purposes, which can include general advocacy and lobbying related to their exempt purpose. They can engage in other non-exempt purpose activities, including supporting or opposing candidates for public office, provided all of those activities are less than primary.

The final type of organization is the section 527 political organization, whose exempt purpose is to support or oppose candidates for public office, but can only engage in a limited amount of lobbying or general advocacy.

We provided a chart in your materials that is also on our website, which is a quick snapshot view of the distinctions between these types of organizations and the rules that apply to them regarding the three types of advocacy. I think it is helpful to keep this landscape in mind when thinking about these issues. These issues are not easy. We have to look at all of the facts and circumstances to determine what type of advocacy is involved. For example, does the communication support or oppose candidates or attempt to influence legislation? Factors such as the timing of the communication and identification of candidates can impact this determination.

So, back to the main topic--lobbying. The issues don't necessarily get easier with the narrowed focus. Even though section 501(c)(4), 501(c)(5), and 501(c)(6) organizations may engage in lobbying as their exempt purpose activity-- so there is not an exemption question, they still may be subject to the notice and proxy tax requirements of section 6033(e).

One of the challenges here is that section 6033(e) looks to section 162(e) for what is counted as lobbying, which is slightly different from what we would look at for a section 501(c)(3) organization. And, moving on to the section 501(c)(3) organizations, the complications multiply. There are

different rules depending upon whether the organization is a private foundation or a public charity.

For the public charities, there is an additional choice to be made by the organization. Traditionally, in determining whether “no substantial part of the section 501(c)(3) organizations activities were lobbying,” we looked to all of the facts and circumstances, including expenditures and volunteer activity. Congress, however, provided most public charities with the option to elect under section 501(h) to be covered by a test that looks ONLY at expenditures and provides a formula for the allowable lobbying expenditures, with the allowable amount capped at one million dollars. To complicate this further, this rule also makes a distinction between grassroots and direct lobbying. Also, churches were excepted from this provision at their request when Congress was enacting the provision.

So to clarify, the IRS doesn’t care whether or not public charities lobby. public charities can do some lobbying. And, if they choose to lobby, the IRS does not care whether they are covered by the all facts and circumstances test or they elect to be covered by the expenditure test under section 501(h). That is a decision for each organization’s managers and representatives must make. I’m guessing you will get the information you need to help make those decisions at this conference.

What the IRS does care about is ensuring that public charities lobbying efforts, regardless of the test the organization chooses to use, do not become a substantial part of their activities.

When section 501(h) was first enacted, there was some concern that making the election would increase an organization’s audit risk. That is NOT the case. To alleviate that concern, the IRS has committed to looking at both electors and non-electors when it looks specifically at lobbying by public charities. On the redesigned Form 990, there is one question that identifies both 501(h) electors and non-electors that lobby.

When redesigning the Form 990, we consolidated the reporting of political and lobbying activity on Schedule C. This schedule contains information about the organization’s political campaign activities, the lobbying activities of section 501(c)(3) organizations and the proxy tax information for section 501(c)(4), 501(c)(5), and 501(c)(6) organizations. As with all of our



schedules, there is also space for narrative explanations as necessary. On the Schedule C, both electors and non-electors are required to report information regarding their lobbying activities and, as with all activities, organizations are required to keep records supporting what is reported. This information would include how lobbying expenses were calculated, including personnel time and overhead costs as well as the direct expenditures. Therefore, organizations considering lobbying should ensure that their timekeeping and accounting systems will enable them to track their lobbying expenditures. This is no different from the requirements when an exempt organization undertakes other activities that need to be separately tracked, such as unrelated business activities.

Finally, the IRS' role in this area is not to take positions on the issues being advocated, but to ensure that the tax laws are being complied with. To help with that, we have information available on our website at [www.irs.gov/eo](http://www.irs.gov/eo). Just look up lobbying in our A-Z index.

**Recent section 501(c)(4) activity**  
**PRELIMINARY DRAFT 4-22-13**

So I think it's important to bring up a matter that came up over the last year or so concerning our determination letter process, some section 501(c)(4) organizations and their political activity. Some of this has been discussed publicly already. But I thought it would make sense to do just a couple of minutes on what we did, what we didn't do, and where we are today on the grouping of advocacy organizations in our determination letter inventory.

I will start with a summary. As you know, the number of c4 applications increased significantly starting after 2010. In particular, we saw a large increase in the volume of applications from organizations that appeared to be engaged or planning to engage in advocacy activities. At that time, we did not have good enough procedures or guidance in place to effectively work these cases. We also have the factual difficulty of separating politics from education in these cases -- it's not always clear. Complicating matters is the sensitivity of these cases. Before I get into more detail, let me say that the IRS should have done a better job of handling the review of the c4 applications. We made mistakes, for which we apologize. But these mistakes were not due to any political or partisan reason. They were made because of missteps in our process and insufficient sensitivity to the implications of some of our decisions. We believe we have fixed these issues, and our entire team will do a much better job going forward in this area. And I want to stress that our team - all career civil servants -- will continue to do their work in a fair, non-partisan manner.

So let me start again and provide more detail. Centralizing advocacy cases for review in the determination letter process made sense. Some of the ways we centralized did not make sense. But we have taken actions to fix the errors. What we did here, along with other mistakes that were made along the way, resulted in some cases being in inventory far longer than they should have.

Our front-line people in Cincinnati -- who do the reviews -- took steps to coordinate the handling of the uptick in cases to ensure consistency. We take this approach in areas where we want to promote consistency. Cases involving credit counseling are the best example of this sort of situation.

Here's where a problem occurred. In centralizing the cases in Cincinnati, my review team placed too much reliance on the particular name of an organization; in this case, relying on names in organization titles like "tea party" or "patriot," rather than looking deeper into the facts to determine the level of activity under the c4 guidelines. Our Inspector General is looking at this situation, but I believe and the IRS leadership team believe this to be an error -- not a political vendetta. The error was of a mistaken desire for too much efficiency on the applications without sufficient sensitivity to the situation.

We also made some errors in our development letters, asking for more than was needed. You may recall the publicity around donor lists. That resulted from insufficient

guidance being provided to our people working these cases. There was also an issue about whether we could do a guidesheet for these cases, an effort that took too long before we realized the diversity of the cases prevented success on such a document.

Now, we have remedied this situation -- both systemically for the IRS and for the taxpayers who were impacted. I think we have done a good job of turning the situation around to help prevent this from occurring again.

Let me walk you through the steps we have taken.

Systemically, decisions with respect to the centralized collection of cases must be made at a higher level. So what happened here will not happen again.

With respect to the specific c4 cases in inventory, we took a number of steps to move things along. First, we had a team review the cases to determine the necessary scope of our review. Now make no mistake, some need that review, some have or had endorsements in public materials, for example. But many did not.

We worked to move the inventory. We closed those cases that were clear and are working on those that are less certain.

With respect to what we agree may have been overbroad requests for information, we engaged in a process of an active back and forth with the taxpayer. With respect to donor names, we informed organizations that if they could provide information requested in an alternative manner, we would work with them. In cases in which the donor names were not used in making the determination, the donor information was expunged from the file.

We now have a process where each revenue agent assigned these cases works in coordination with a specific technical expert.

And we have made significant progress on these cases. Of the nearly 300 c4 advocacy cases, we have approved more than 120 to date. We have had more than 30 (?) withdrawals. And obviously some cases take longer than others depending on the issues raised, including the level of political activity compared with social welfare activity. Let me make another important point that shouldn't be lost in all of this. We remain committed to making sure that we properly review determinations where there are questions. We hope to wrap the remaining cases up relatively soon.

So I wanted to raise this situation today with you. You and I know the IRS does make mistakes. And I also think you agree that our track record shows that our decisions are based on the law -- not political affiliation. When we do make mistakes, we need to acknowledge it and work toward a better result. We also need to put in place safeguards to ensure the errors do not happen again. I think we have tried to do that here.

These cases will help us, along with the self-declarer questionnaire, to better understand the state of play on political activities in today's environment, the gaps in

guidance, and where we need to head into the future.

DECLASSIFIED

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**From:** Lerner Lois G  
**Sent:** Tuesday, April 23, 2013 12:25 PM  
**To:** Flax Nikole C  
**Subject:** Remarks  
**Attachments:** Document1.doc  
  
**Importance:** High

Whoa! I was very surprised to see the tone of your document. Not sure if you have seen the attached response to the TIGTA report, but believe this is the story we should be telling. I will try to marry the two versions--unless you tell me not to.



**Recent section 501(c)(4) activity**  
**PRELIMINARY DRAFT 4-22-13**

I think it's important to talk a bit about a matter that came up over the last year or so concerning our determination letter process, some section 501(c)(4) organizations and their political activity. There have been concerns raised that the IRS improperly selected applications for in depth review based on their names or policy positions, and that we asked inappropriate questions during the application review process. Some of this has been discussed publicly already, but I thought it would make sense to take a couple of minutes to talk about what we did, what we didn't do, and where we are today on the grouping of advocacy organizations in our determination letter inventory.

But before I get to the details of the program, it is important to recognize the context in which events occurred. Following the decision in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), in which the United States Supreme Court held that the First Amendment protected independent political expenditures by corporations, associations, or labor unions, Exempt Organizations saw an unprecedented increase in the number of section 501(c)(3) and section 501(c)(4) applications from organizations that appeared to be potentially engaged in political campaign activity. Between 2008 and 2012, the number of applications for section 501(c)(4) status more than doubled.

As the first election cycle following *Citizens United* began, the national print and broadcast media repeatedly reported that section 501(c)(4) organizations were being formed specifically to engage in political campaign activity. The media reports noted that many of these organizations were operating like section 527 political organizations, but were not publicly disclosing donors, as required by section 527. IRS also received numerous referrals from the public, watchdog groups, and members of Congress alleging that specific section 501(c)(4) organizations were engaged primarily in political campaign activity.

The determination whether an organization engaged in political campaign intervention qualifies under section 501(c)(4) is a difficult legal and factual issue, and it requires a two-step analysis. EO must first determine whether any activities described in the application constitute political campaign intervention. EO must then determine whether the applicant is primarily engaged in social welfare activity in light of any political campaign intervention and any other non-exempt activity. There are no bright line tests for what constitutes political campaign intervention or whether an organization is primarily engaged in social welfare activities. Whether an activity is political campaign intervention, and whether an organization meets the requirements of section 501(c)(4), must be decided on the specific facts of each case, and no one factor is determinative.

As you know, the number of 501(c)(4) applications increased significantly starting after the Citizens United decision in 2010. In particular, we saw a large increase in the volume of applications from organizations that appeared to be engaged or planning to engage in advocacy activities. At that time, we did not have good enough procedures or guidance in place to effectively work these cases. We also have the factual difficulty of separating politics from education in these cases – it's not always clear. Complicating matters is the sensitivity of these cases. Before I get into more detail, let me say that the IRS should have done a better job of handling the review of the c4 applications. We made mistakes, for which we apologize. But these mistakes were not due to any political or partisan reason. They were made because of missteps in our process and insufficient sensitivity to the implications of some of our decisions. We believe we have fixed these issues, and our entire team will do a much better job going forward in this area. And I want to stress that our team - all career civil servants -- will continue to do their work in a fair, non-partisan manner.

So let me provide more detail. Centralizing advocacy cases for review in the determination letter process made sense. Some of the ways we centralized did not make sense. But we have taken actions to fix the errors. What we did here, along with other mistakes that were made along the way, resulted in some cases being in inventory far longer than they should have.

Our front-line people in Cincinnati -- who do the reviews -- took steps to coordinate the handling of the uptick in cases to ensure consistency. We take this approach in areas where we want to promote consistency. Cases involving credit counseling are the best example of this sort of situation.

Here's where a problem occurred. In centralizing the cases in Cincinnati, my review team placed too much reliance on the particular name of an organization; in this case, relying on names in organization titles like "tea party" or "patriot," rather than looking deeper into the facts to determine the level of activity under the c4 guidelines. Our Inspector General is looking at this situation, but I believe and the IRS leadership team believes this to be an error -- not a political vendetta. The error was of a mistaken desire for too much efficiency on the applications without sufficient sensitivity to the situation.

We also made some errors in our development letters, asking for more than was needed. You may recall the publicity around donor lists. That resulted from insufficient guidance being provided to our people working these cases. There was also an issue about whether we could do a guidesheet for these cases, an effort that took too long before we realized the diversity of the cases prevented success on such a document.

Now, we have remedied this situation -- both systemically for the IRS and for the taxpayers who were impacted. I think we have done a good job of turning the situation around to help prevent this from occurring again.

Let me walk you through the steps we have taken.

Systemically, decisions with respect to the centralized collection of cases must be made



at a higher level. So what happened here will not happen again.

With respect to the specific c4 cases in inventory, we took a number of steps to move things along. First, we had a team review the cases to determine the necessary scope of our review. Now make no mistake, some need that review, some have or had endorsements in public materials, for example. But many did not.

We worked to move the inventory. We closed those cases that were clear and are working on those that are less certain.

With respect to what we agree may have been overbroad requests for information, we engaged in a process of an active back and forth with the taxpayer. With respect to donor names, we informed organizations that if they could provide information requested in an alternative manner, we would work with them. In cases in which the donor names were not used in making the determination, the donor information was expunged from the file.

We now have a process where each revenue agent assigned these cases works in coordination with a specific technical expert.

And we have made significant progress on these cases. Of the nearly 300 c4 advocacy cases, we have approved more than 120 to date. We have had more than 30 (?) withdrawals. And obviously some cases take longer than others depending on the issues raised, including the level of political activity compared with social welfare activity. Let me make another important point that shouldn't be lost in all of this. We remain committed to making sure that we properly review determinations where there are questions. We hope to wrap the remaining cases up relatively soon.

So I wanted to raise this situation today with you. You and I know the IRS does make mistakes. And I also think you agree that our track record shows that our decisions are based on the law – not political affiliation. When we do make mistakes, we need to acknowledge it and work toward a better result. We also need to put in place safeguards to ensure the errors do not happen again. I think we have tried to do that here.

These cases will help us, along with the self-declarer questionnaire, to better understand the state of play on political activities in today's environment, the gaps in guidance, and where we need to head into the future.

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 23, 2013 1:48 PM  
**To:** Flax Nikole C  
**Subject:** RE: Remarks

**Good!**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Tuesday, April 23, 2013 1:28 PM  
**To:** Lerner Lois G  
**Subject:** RE: Remarks

the response is being reworked so you should hold off for now

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 23, 2013 1:25 PM  
**To:** Flax Nikole C  
**Subject:** Remarks  
**Importance:** High

Whoa! I was very surprised to see the tone of your document. Not sure if you have seen the attached response to the TIGTA report, but believe this is the story we should be telling. I will try to marry the two versions--unless you tell me not to.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 24, 2013 6:02 PM  
**To:** Flax Nikole C  
**Subject:** FW: speech  
**Attachments:** TIGTA response draft 4-23-13.doc

Thanks. Although I would have preferred we kept the Citizen's United background in, I get why you took it out. I saw it as an opportunity for us to show that much of this has been foisted on us and the tools we have to deal with it are limited.

Having said that, I guess my one comment is that TIGTA doesn't use political or partisan in it's report--we worked hard to change that--they use not impartial--so we may not want to use those highly charged words if they didn't.

There was the word "update" next to the completion date on recommendation 8--I don't know why it was there or who put it there--was that you? I deleted

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Wednesday, April 24, 2013 6:39 PM  
**To:** Lerner Lois G  
**Subject:** RE: speech

This is the latest, but is still being tweaked. See what you think.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 24, 2013 5:49 PM  
**To:** Flax Nikole C  
**Subject:** RE: speech

I figured, but I do hope it won't look like the last one--We need to be careful not to be inconsistent with what we have said in the past in Congressional responses and to TIGTA

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Wednesday, April 24, 2013 5:28 PM  
**To:** Lerner Lois G  
**Subject:** speech



Sorry for the fire drill - don't say anything re c4s at the speech. Sounds like Steve may get a question at his hearing tomorrow instead. I will send a revised version of the response when we are done with edits. Thanks

---

**From:** Flax Nikole C  
**Sent:** Wednesday, April 24, 2013 8:40 PM  
**To:** Lerner Lois G  
**Subject:** RE: speech

Sorry, that was me. How did we notify OTP of the recommendation? Think we have to leave it as a future action.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 24, 2013 7:02 PM  
**To:** Flax Nikole C  
**Subject:** FW: speech

**Thanks.** Although I would have preferred we kept the Citizen's United background in, I get why you took it out. I saw it as an opportunity for us to show that much of this has been foisted on us and the tools we have to deal with it are limited.

Having said that, I guess my one comment is that TIGTA doesn't use political or partisan in its report--we worked hard to change that--they use not impartial--so we may not want to use those highly charged words if they didn't.

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*Lois G. Lerner*  
Director of Exempt Organizations

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*Lois G. Lerner*  
Director of Exempt Organizations

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---

**From:** Paz Holly O  
**Sent:** Monday, April 29, 2013 11:06 AM  
**To:** Lerner Lois G  
**Subject:** RE: TIGTA response draft 4-27-13(1).doc  
**Attachments:** TIGTA response draft 4-27-13(1).doc

Revised dates included in the attached. There was also a word missing earlier in the document that I filled in. The response looks good. I do wonder in the piece on the short turnaround times given to applicants to respond, if we should note, while we followed the IRM provisions regarding response time, we should have told taxpayers at the outset that, given the the delay on our end and the amount of info requested, we would grant extensions. We made a big point of the fact that these timeframes are set by IRM in responses to Congressional and in TIGTA's timeline so I am worried that this draft of the response implies otherwise.

---

**From:** Lerner Lois G  
**Sent:** Monday, April 29, 2013 11:49 AM  
**To:** Paz Holly O  
**Subject:** TIGTA response draft 4-27-13(1).doc

**Take a look**

---

**From:** Lerner Lois G  
**Sent:** Monday, April 29, 2013 11:07 AM  
**To:** Paz Holly O  
**Subject:** RE: TIGTA response draft 4-27-13(1).doc

**I'll mention it**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Paz Holly O  
**Sent:** Monday, April 29, 2013 12:06 PM  
**To:** Lerner Lois G  
**Subject:** RE: TIGTA response draft 4-27-13(1).doc

Revised dates included in the attached. There was also a word missing earlier in the document that I filled in. The response looks good. I do wonder in the piece on the short turnaround times given to applicants to respond, if we should note, while we followed the IRM provisions regarding response time, we should have told taxpayers at the outset that, given the the delay on our end and the amount of info requested, we would grant extensions. We made a big point of the fact that these timeframes are set by IRM in responses to Congressional and in TIGTA's timeline so I am worried that this draft of the response implies otherwise.

---

**From:** Lerner Lois G  
**Sent:** Monday, April 29, 2013 11:49 AM  
**To:** Paz Holly O  
**Subject:** TIGTA response draft 4-27-13(1).doc

**Take a look**



---

**From:** Marks Nancy J  
**Sent:** Monday, April 29, 2013 11:50 AM  
**To:** Lerner Lois G  
**Subject:** FW: Revised response

Can I see the response for my own reading pleasure

-----Original Message-----

From: Daly Richard M  
Sent: Monday, April 29, 2013 12:33 PM  
To: Grant Joseph H; Lerner Lois G; Paz Holly O; Marks Nancy J  
Cc: Flax Nikole C  
Subject: FW: Revised response

I have four comments:

1. Para. 2 on page 1. The word "influx" seems a little odd. I suggest "intake."
2. Para 3 on page 1. We talk about the number of (c)(4) applications doubling between 2008 and 2012. Since the relevant period begins in 2010, it would be better to have stats for that period. Also, the following sentence begins "At this time." That's confusing since the preceding sentence talks about 2008 - 2012, while this reference is to the time period beginning in 2010. So, I suggest we start this sentence saying "At the same time" rather than "At this time."
3. Second full para on page 2. Beginning "While warranted." It would be much clearer if we said, "While centralization was warranted."
4. Bottom sentence on page two, carrying over to page 3. Beginning "It is important to understand." The third sentence beginning "Moreover, cases selected for development." I do not understand the parenthetical. Are we saying that the majority of cases that were subject to full development were not cases that were selected initially because they had Tea Party, Patriot or 9/12 in their name. If so, I don't think that is what the parenthetical says. But I really don't know what the parenthetical says.

There are a few other personal-preference nits, but I'm suppressing them.

Mike

-----Original Message-----

From: Lerner Lois G  
Sent: Monday, April 29, 2013 11:50 AM  
To: Flax Nikole C; Grant Joseph H; Daly Richard M  
Subject: RE: Revised response

I think the response looks really good. Admits some flaws, but lays out the context and what we did to correct. Good job! Holly and I will work on dates--some easier to shorten up than others--stay tuned

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C

Sent: Sunday, April 28, 2013 9:34 AM

To: Grant Joseph H; Lerner Lois G; Daly Richard M

Cc: Flax Nikole C

Subject: Revised response

Please take a look and let me know of any suggested edits. Steve needs to see any changes before we submit so please send back to me. Also, he asked that we be more aggressive on the dates so please let me know which ones can change for the corrective actions. Thanks

---

**From:** Lerner Lois G  
**Sent:** Monday, April 29, 2013 11:54 AM  
**To:** Marks Nancy J  
**Cc:** Daly Richard M  
**Subject:** FW: TIGTA response draft 4-27-13(1).doc  
**Attachments:** TIGTA response draft 4-27-13(1).doc

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G  
**Sent:** Monday, April 29, 2013 12:26 PM  
**To:** Flax Nikole C  
**Cc:** Paz Holly O; Daly Richard M; Grant Joseph H  
**Subject:** TIGTA response draft 4-27-13(1).doc

See notes on text--a couple suggestions. We have cut back on the timing for most. As to the completion of these applications, we have added some verbiage that tries to explain the long lead time. Considering staffing issues and lack of overtime, we think the date on there is realistic. If you want to suggest a stretch goal, let us know what you are thinking.

---

**From:** Lerner Lois G  
**Sent:** Monday, April 29, 2013 11:55 AM  
**To:** Daly Richard M; Flax Nikole C  
**Cc:** Paz Holly O; Grant Joseph H  
**Subject:** RE: TIGTA response draft 4-27-13(1).doc

**That is up to Miller and Flax--it came out of a phone conversation--I think it will look different--just providing her with something.**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Daly Richard M  
**Sent:** Monday, April 29, 2013 12:48 PM  
**To:** Lerner Lois G; Flax Nikole C  
**Cc:** Paz Holly O; Grant Joseph H  
**Subject:** RE: TIGTA response draft 4-27-13(1).doc

On response to number 7, "id" should be "is." And we normally don't provide explanations as elaborate as is proposed here. Do we really need it?

---

**From:** Lerner Lois G  
**Sent:** Monday, April 29, 2013 12:26 PM  
**To:** Flax Nikole C  
**Cc:** Paz Holly O; Daly Richard M; Grant Joseph H  
**Subject:** TIGTA response draft 4-27-13(1).doc

**See notes on text--a couple suggestions. We have cut back on the timing for most. As to the completion of these applications, we have added some verbiage that tries to explain the long lead time. Considering staffing issues and lack of overtime, we think the date on there is realistic. If you want to suggest a stretch goal, let us know what you are thinking.**

---

**From:** Paz Holly O  
**Sent:** Monday, April 29, 2013 12:06 PM  
**To:** Lerner Lois G  
**Subject:** RE: Revised response

Lois,

We do have numbers on c4 apps from 2010-2012 if you want to use those. I used 2008 because it allowed me to say they doubled without having to give numbers to make the point as you would if you want to focus 2010-2012.

Increase in section 501c4 applications  
2008 - 1410  
2009 - 1571  
2010 - 1591  
2011 - 2242  
2012 - 3398  
2013 - 2,092 (through March 26, 2013)

-----Original Message-----

From: Lerner Lois G  
Sent: Monday, April 29, 2013 1:01 PM  
To: Daly Richard M; Grant Joseph H; Paz Holly O; Marks Nancy J  
Cc: Flax Nikole C  
Subject: RE: Revised response

We've had this conversation before--we don't have stats for the 20010-12 period. Everyone is aware--it was in "our" draft also.

I agree the parenthetical isn't exactly right. The name of the organization wasn't used to centralize--it was on the BOLO for a limited time, but the cases were centralized before and after BOLO.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Daly Richard M  
Sent: Monday, April 29, 2013 12:33 PM  
To: Grant Joseph H; Lerner Lois G; Paz Holly O; Marks Nancy J  
Cc: Flax Nikole C  
Subject: FW: Revised response

I have four comments:

1. Para. 2 on page 1. The word "influx" seems a little odd. I suggest "intake."
2. Para 3 on page 1. We talk about the number of (c)(4) applications doubling between 2008 and 2012. Since the relevant period begins in 2010, it would be better to have stats for that period. Also, the following sentence begins "At



this time." That's confusing since the preceding sentence talks about 2008 - 2012, while this reference is to the time period beginning in 2010. So, I suggest we start this sentence saying "At the same time" rather than "At this time."

3. Second full para on page 2. Beginning "While warranted." It would be much clearer if we said, "While centralization was warranted."

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Mike

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Sent: Monday, April 29, 2013 11:50 AM

To: Flax Nikole C; Grant Joseph H; Daly Richard M

Subject: RE: Revised response

I think the response looks really good. Admits some flaws, but lays out the context and what we did to correct. Good job! Holly and I will work on dates--some easier to shorten up than others--stay tuned

Lois G. Lerner

Director of Exempt Organizations

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Sent: Sunday, April 28, 2013 9:34 AM

To: Grant Joseph H; Lerner Lois G; Daly Richard M

Cc: Flax Nikole C

Subject: Revised response

Please take a look and let me know of any suggested edits. Steve needs to see any changes before we submit so please send back to me. Also, he asked that we be more aggressive on the dates so please let me know which ones can change for the corrective actions. Thanks

---

**From:** Marks Nancy J  
**Sent:** Monday, April 29, 2013 12:31 PM  
**To:** Lerner Lois G  
**Subject:** RE: TIGTA response draft 4-27-13(1).doc

I agree

---

**From:** Lerner Lois G  
**Sent:** Monday, April 29, 2013 1:02 PM  
**To:** Marks Nancy J  
**Subject:** RE: TIGTA response draft 4-27-13(1).doc

I do think Mike is right on the parenthetical--unclear what we are saying

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Marks Nancy J  
**Sent:** Monday, April 29, 2013 12:59 PM  
**To:** Lerner Lois G  
**Subject:** RE: TIGTA response draft 4-27-13(1).doc

Right (wasn't planning to try that ;-)

---

**From:** Lerner Lois G  
**Sent:** Monday, April 29, 2013 12:59 PM  
**To:** Marks Nancy J  
**Subject:** RE: TIGTA response draft 4-27-13(1).doc

By the way--this is Steve's version, after two other versions--one really bad. So, while I understand Mike wanting to comment--it probably won't change absent a mis-statement. (-:

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Marks Nancy J  
**Sent:** Monday, April 29, 2013 12:57 PM  
**To:** Lerner Lois G  
**Subject:** RE: TIGTA response draft 4-27-13(1).doc

thanks

---

**From:** Lerner Lois G  
**Sent:** Monday, April 29, 2013 12:54 PM  
**To:** Marks Nancy J

**Cc:** Daly Richard M

**Subject:** FW: TIGTA response draft 4-27-13(1).doc

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Lerner Lois G

**Sent:** Monday, April 29, 2013 12:26 PM

**To:** Flax Nikole C

**Cc:** Paz Holly O; Daly Richard M; Grant Joseph H

**Subject:** TIGTA response draft 4-27-13(1).doc

See notes on text--a couple suggestions. We have cut back on the timing for most. As to the completion of these applications, we have added some verbiage that tries to explain the long lead time. Considering staffing issues and lack of overtime, we think the date on there is realistic. If you want to suggest a stretch goal, let us know what you are thinking.

---

**From:** Lerner Lois G  
**Sent:** Monday, April 29, 2013 1:09 PM  
**To:** Flax Nikole C  
**Subject:** Heads-Up

Mike Daley stopped by to see Holly--he is concerned about timing--apparently the TIGTA report is due tomorrow and there are things we will have to do with the doc before it can go. Joseph has to sign then we have to print on IRS/TEGE letterhead, and then it has to be scanned into the computer and supposedly must be sent via my computer--they have it programmed so they will only receive if from the address it was sent to is what I'm told. So, we need to make sure we have enough time. Did I mention in my email that I agree with Mike's comment **on the parenthetical? Not sure what we are saying**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Grant Joseph H  
**Sent:** Monday, April 29, 2013 6:42 PM  
**To:** Flax Nikole C  
**Cc:** Lerner Lois G; Daly Richard M; Ghougasian Laurice A; Grant Joseph H  
**Subject:** TIGTA response draft 4-27-13(1)  
**Attachments:** TIGTA response draft 4-27-13(1).doc

Nikole,

Attached are the collected comments of Lois Lerner, Mike Daly, Nan Marks and me. I have left them in the track changes format so that you can see them easily. The changes are to clarify the intent. The biggest change was to the last sentence in the carryover paragraph at the top of page 3, where we propose to use two shorter sentences that unpack the several thoughts in the original sentence and parenthetical. Finally, as you requested **we shortened all of the deadlines in our response to the recommendations with one exception. We are staying with the June 30, 2015 deadline in recommendation #7. If you need to advance that by a year, feel free to do so, but given the current backlogs in EO, we doubt that we will be able to meet such an aggressive timeframe.**

We do appreciate all the time and effort that you and Steve have given to this response. We think that it is a good one, and one that we can fully embrace and implement.

Thanks as always – Joseph



---

**From:** Daly Richard M  
**Sent:** Tuesday, April 30, 2013 10:27 AM  
**To:** Grant Joseph H; Lerner Lois G; Marks Nancy J; Ghougasian Laurice A  
**Subject:** RE: TIGTA response draft 4-27-13(1)

My sense is that TIGTA always wants a date, so we should use today's date, per Nikole

---

**From:** Flax Nikole C  
**Sent:** Tuesday, April 30, 2013 10:53 AM  
**To:** Grant Joseph H; Daly Richard M; Lerner Lois G; Marks Nancy J; Ghougasian Laurice A  
**Subject:** FW: TIGTA response draft 4-27-13(1)

Edits look fine. Assume you are good with the "doubled" point (I know there were some emails yesterday). On the dates, re #7, I don't read the recommendation that they are asking when we will be finished with the cases (which we can't predict) so we should just say we are already complying and state "ongoing" in the response. If they need a date in the system, just use today's date (but keep "ongoing" in the response). Also see change for 8 – we will mention to OTP/CC this week. Otherwise, good to go. Thanks

---

**From:** Grant Joseph H  
**Sent:** Monday, April 29, 2013 7:42 PM  
**To:** Flax Nikole C  
**Cc:** Lerner Lois G; Daly Richard M; Ghougasian Laurice A; Grant Joseph H  
**Subject:** TIGTA response draft 4-27-13(1)

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Thanks as always – Joseph

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 30, 2013 6:01 PM  
**To:** White Shirley A; Paz Holly O; Partner Melaney J  
**Cc:** Kindell Judith E  
**Subject:** RE: IRS and ABA Meetings-- May 9, 1:30 - 2:30

**Holly I think we need to tell them to talk to Treasury about these issues--we have nothing to say. I'm going up to see what they suggest. otherwise we will be sitting there saying over and over--we have nothing to say and no you can't help**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** White Shirley A  
**Sent:** Tuesday, April 30, 2013 11:10 AM  
**To:** Paz Holly O; Lerner Lois G; Partner Melaney J  
**Cc:** Kindell Judith E  
**Subject:** FW: IRS and ABA Meetings-- May 9, 1:30 - 2:30

Attached is the agenda for the ABA committee meetings here on May 9<sup>th</sup>.

Shirley A.E. White  
Customer Education & Outreach  
IRS, TE/GE, Exempt Organizations  
(202) 283-9745 Phone  
[shirley.a.white@irs.gov](mailto:shirley.a.white@irs.gov)

*Sign up for [EO Update-Exempt Organizations' FREE e-newsletter](#).*

---

**From:** McDowell, Suzanne [<mailto:smcdowell@steptoe.com>]  
**Sent:** Tuesday, April 30, 2013 10:55 AM  
**To:** White Shirley A  
**Cc:** [lmack@polsinelli.com](mailto:lmack@polsinelli.com)  
**Subject:** RE: IRS and ABA Meetings-- May 9, 1:30 - 2:30

Shirley,

Attached is our proposed agenda for the meeting between the ABA Tax Section Exempt Organizations Group, the ABA Health Law Section Tax and Accounting Group and the TE/GE Division. We realize that this is a long agenda for a one-hour meeting and will simply do the best we can to cover these matters in that time.

Please let me know if you need any additional information.

Best regards,  
Suzy

Suzanne Ross McDowell

Partner  
[smcdowell@step toe.com](mailto:smcdowell@step toe.com)

**Step toe**

+1 202 429 6209 direct  
+1 202 261 0633 fax

**Step toe & Johnson LLP**  
1330 Connecticut Avenue, NW  
Washington, DC 20036  
[www.step toe.com](http://www.step toe.com)

---

**From:** Lerner Lois G  
**Sent:** Tuesday, April 30, 2013 6:07 PM  
**To:** Marks Nancy J  
**Cc:** Paz Holly O  
**Subject:** FW: IRS and ABA Meetings-- May 9, 1:30 - 2:30  
**Attachments:** EOC IRS Agenda May 2013 (3).doc

I have a conundrum. ABA come in twice a year to discuss issues of interest and ask whether they can assist us with any matters. looks like 6 items are asking status of long outstanding regs and wanting to know what they can do to help. There is nothing we can say--I almost want to send them an email suggesting it might be best if they raise issues about outstanding guidance with Treasury. otherwise our answer is we're working on it--which we've been saying for years. I don't know why they ask. I've made it clear we can't tell them anything that isn't public. This is a waste of everyone's time. Suggestions? I won't even be there--Holly/David will have to do it.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** White Shirley A  
**Sent:** Tuesday, April 30, 2013 11:10 AM  
**To:** Paz Holly O; Lerner Lois G; Partner Melaney J  
**Cc:** Kindell Judith E  
**Subject:** FW: IRS and ABA Meetings-- May 9, 1:30 - 2:30

Attached is the agenda for the ABA committee meetings here on May 9<sup>th</sup>.

Shirley A.E. White  
Customer Education & Outreach  
IRS, TE/GE, Exempt Organizations  
(202) 283-9745 Phone  
[shirley.a.white@irs.gov](mailto:shirley.a.white@irs.gov)

*Sign up for [EO Update-Exempt Organizations' FREE e-newsletter](#).*

---

**From:** McDowell, Suzanne [<mailto:smcdowell@steptoe.com>]  
**Sent:** Tuesday, April 30, 2013 10:55 AM  
**To:** White Shirley A  
**Cc:** [lmack@polsinelli.com](mailto:lmack@polsinelli.com)  
**Subject:** RE: IRS and ABA Meetings-- May 9, 1:30 - 2:30

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Suzy

**Suzanne Ross McDowell**  
Partner  
[smcdowell@step toe.com](mailto:smcdowell@step toe.com)

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+1 202 261 0633 fax

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Washington, DC 20036  
[www.step toe.com](http://www.step toe.com)



---

**From:** Lerner Lois G  
**Sent:** Wednesday, May 01, 2013 8:33 PM  
**To:** Paz Holly O  
**Subject:** Re: Revised response

Looks to me like 2010-2012 doubled too. Oh well--thanks Lois G. Lerner----- Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Paz Holly O  
Sent: Monday, April 29, 2013 01:05 PM Eastern Standard Time  
To: Lerner Lois G  
Subject: RE: Revised response

Lois,

We do have numbers on c4 apps from 2010-2012 if you want to use those. I used 2008 because it allowed me to say they doubled without having to give numbers to make the point as you would if you want to focus 2010-2012.

Increase in section 501c4 applications  
2008 - 1410  
2009 - 1571  
2010 - 1591  
2011 - 2242  
2012 - 3398  
2013 - 2,092 (through March 26, 2013)

-----Original Message-----

From: Lerner Lois G  
Sent: Monday, April 29, 2013 1:01 PM  
To: Daly Richard M; Grant Joseph H; Paz Holly O; Marks Nancy J  
Cc: Flax Nikole C  
Subject: RE: Revised response

We've had this conversation before--we don't have stats for the 20010-12 period. Everyone is aware--it was in "our" draft also.

I agree the parenthetical isn't exactly right. The name of the organization wasn't used to centralize--it was on the BOLO for a limited time, but the cases were centralized before and after BOLO.

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Daly Richard M  
Sent: Monday, April 29, 2013 12:33 PM

To: Grant Joseph H; Lerner Lois G; Paz Holly O; Marks Nancy J

Cc: Flax Nikole C

Subject: FW: Revised response

I have four comments:

1. Para. 2 on page 1. The word "influx" seems a little odd. I suggest "intake."
2. Para 3 on page 1. We talk about the number of (c)(4) applications doubling between 2008 and 2012. Since the relevant period begins in 2010, it would be better to have stats for that period. Also, the following sentence begins "At this time." That's confusing since the preceding sentence talks about 2008 - 2012, while this reference is to the time period beginning in 2010. So, I suggest we start this sentence saying "At the same time" rather than "At this time."
3. Second full para on page 2. Beginning "While warranted." It would be much clearer if we said, "While centralization was warranted."
4. Bottom sentence on page two, carrying over to page 3. Beginning "It is important to understand." The third sentence beginning "Moreover, cases selected for development." I do not understand the parenthetical. Are we saying that the majority of cases that were subject to full development were not cases that were selected initially because they had Tea Party, Patriot or 9/12 in their name. If so, I don't think that is what the parenthetical says. But I really don't know what the parenthetical says.

There are a few other personal-preference nits, but I'm suppressing them.

Mike

-----Original Message-----

From: Lerner Lois G

Sent: Monday, April 29, 2013 11:50 AM

To: Flax Nikole C; Grant Joseph H; Daly Richard M

Subject: RE: Revised response

I think the response looks really good. Admits some flaws, but lays out the context and what we did to correct. Good job! Holly and I will work on dates--some easier to shorten up than others--stay tuned

Lois G. Lerner

Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C

Sent: Sunday, April 28, 2013 9:34 AM

To: Grant Joseph H; Lerner Lois G; Daly Richard M

Cc: Flax Nikole C

Subject: Revised response

Please take a look and let me know of any suggested edits. Steve needs to see any changes before we submit so please send back to me. Also, he asked that we be more aggressive on the dates so please let me know which ones can change for the corrective actions. Thanks

---

**From:** Lerner Lois G  
**Sent:** Wednesday, May 08, 2013 4:40 PM  
**To:** Miller Steven T  
**Subject:** RE: Hey

OK--I am not in until 10:00-10:30

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Miller Steven T  
Sent: Wednesday, May 08, 2013 5:37 PM  
To: Lerner Lois G  
Subject: Re: Hey

Let's talk in am. Think we do it

-----  
Sent using BlackBerry

----- Original Message -----

From: Lerner Lois G  
Sent: Wednesday, May 08, 2013 05:31 PM Eastern Standard Time  
To: Miller Steven T  
Subject: RE: Hey

LOL! Thanks--hope they were easy on you. I do need to talk to someone as early as possible about ABA and whether we're still on? Will need to reach out if so. Thanks

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Miller Steven T  
Sent: Wednesday, May 08, 2013 5:29 PM  
To: Lerner Lois G  
Subject: Hey

Heard I was the second best witness today! Ain't that cool. Thank you.

-----  
Sent using BlackBerry

---

**From:** Sinno Suzanne  
**Sent:** Thursday, May 09, 2013 8:08 AM  
**To:** Cook Janine; Lerner Lois G; Kindell Judith E; Haynes Patricia J; Lurger Richard  
**Cc:** Barre Catherine M; Rose Nancy L; Goldstein Richard S; Flax Nikole C; Landes Scott S  
**Subject:** RE: JUSTICE Questions for the Record on Current Issues in Campaign Finance Law Enforcement (FC-ALERTS:DOJ-0026-A)

That is a good idea to coordinate together on this. Nancy - let me know if you want to coordinate. I don't mind doing it though.

Please see CI's comment:

Response 3(c) may be of concern. It suggests that DOJ prosecutors cannot find out who the donors are in the context of a criminal investigation, which they can via the grand jury process, ex parte orders, etc. It also suggests that IRS has the ability to identify contributions made by foreign sources based upon the IRS forms filed, which seems too simplistic, and is dependent on a number of variables, including whether the 501(c) organization is reporting accurate donor information. Obviously, in a criminal case, the organization is likely falsely reporting who the donor is.

- c. **What safeguards exist to ensure that a 501(c) engaging in political activity is not accepting and using donations from foreign sources for political activity? Does DOJ have access to information necessary to enforce the ban on use of foreign donations for political activity? Please elaborate.**

**Response:**

501(c) organizations are required, on an annual basis, to describe their spending and to disclose their donors to the IRS. The IRS should thus be in a position to identify where a 501(c) organization engaged in political spending has accepted contributions from foreign sources. That said, the lack of public disclosure to the FEC of significant donors to 501(c) organizations engaged in political spending does create a higher risk of foreign influence over American elections. That donor information is not available to the Department's election crime prosecutors and investigators.

---

**From:** Cook Janine [mailto:Janine.Cook@irsounsel.treas.gov]  
**Sent:** Wednesday, May 08, 2013 7:46 PM  
**To:** Sinno Suzanne; Lerner Lois G; Barre Catherine M; Kindell Judith E  
**Cc:** Brown Susan D  
**Subject:** Fw: JUSTICE Questions for the Record on Current Issues in Campaign Finance Law Enforcement (FC-ALERTS:DOJ-0026-A)

Have you engaged on this? I just read through the answers and see places for some technical tweaking, but also expect we may have a broader interest in some of the suggestions raised in the responses. While typically we respond to LLR requests separately, I figured we'd want to coordinate on this, even though not much time. Thoughts or any other plans underway?

---

**From:** Rose Nancy L  
**Sent:** Wednesday, May 08, 2013 01:47 PM



**To:** Munroe David; Cook Janine; Yanes Marta - CT; Gulas A M; Schwartz Julie C

**Cc:** Goldstein Richard S

**Subject:** FW: JUSTICE Questions for the Record on Current Issues in Campaign Finance Law Enforcement (FC-ALERTS:DOJ-0026-A)

Attached are Justice's responses to QFR's from the April 9th hearing on Campaign Finance. This is related to the QFR's we reviewed recently. Please let me know if you have any comments or edits by Friday, May 10, so that we can send a coordinated response to LLR on behalf of the Service and Chief Counsel.

Thanks,  
Nancy

*Nancy L. Rose*  
Senior Counsel  
CC:PA:2  
(202) 622-3167

---

**From:** LLR@treasury.gov [mailto:LLR@treasury.gov]

**Sent:** Wednesday, May 08, 2013 11:18 AM

**To:** Rochelle.Granat@treasury.gov; Jason.Brown@treasury.gov; Margaret.Bailey@treasury.gov; Paula.Farrell@treasury.gov; Christian.Furey@treasury.gov; Gordon.Canning@treasury.gov; Robert.Mahaffie@treasury.gov; Barbara.Wiss@treasury.gov; Barre Catherine M; Rose Nancy L; Marshall.Kofler@fms.treas.gov; Marc.Seldin@fms.treas.gov; Thomas.Santaniello@fms.treas.gov; DeAnna.O'Reilly@treasury.gov; Elizabeth.Rosenberg@treasury.gov; Kevin.O'Connor@treasury.gov; Mike.Maher@do.treas.gov; cynthia.clark@fincen.gov; Patrick.Obrien@fincen.gov

**Cc:** Luke.Harman@treasury.gov; Marcus.Singleton@treasury.gov; Adewale.Adeyemo@treasury.gov; Alexander.Krulic@treasury.gov; Andrew.Woolf@treasury.gov; Barb.Bracy@treasury.gov; Brandon.Oliver@treasury.gov; Brian.Egan@treasury.gov; Brian.Peretti@treasury.gov; Brian.Sonfield@treasury.gov; Brian.Townsend@treasury.gov; Cara.Camacho@treasury.gov; CatherineSun.Ahn@treasury.gov; ExecSecProcessUnit@treasury.gov; Gary.Sutton@treasury.gov; Julia.Yoo@treasury.gov; Kathryn.Alvarez@treasury.gov; leigh.williams@treasury.gov; LLR@treasury.gov; Michael.McRaith@treasury.gov; Michelle.Ayers@treasury.gov; DelmarR@oig.treas.gov; Patrick.Maloney@treasury.gov; Patricia.Long@treasury.gov; Paul.Ahern@treasury.gov; Peter.Lee@treasury.gov; Priti.Agrawal@treasury.gov; Counsel.Office@tigta.treas.gov; Lisa.Abraham@treasury.gov; Kathleen.Mellody@treasury.gov; Colleen.McLoughlin@treasury.gov; Karen.Weber@treasury.gov; Anita.Blair@treasury.gov; Benjamin.Mann@treasury.gov; Cathy.Higginbotham@treasury.gov; Daniel.Ballard@treasury.gov; Darlene.Peterson@treasury.gov; Karen.Melanson@treasury.gov; Lisa.Pena@treasury.gov; Lorraine.Cole@treasury.gov; Mariam.Harvey@treasury.gov; Michael.Lewis@treasury.gov; Polly.Dietz@treasury.gov; Robyn.East@treasury.gov; Scott.Canty@treasury.gov; Thomas.Sharpe@treasury.gov; TOC@treasury.gov; Veronica.Marco@treasury.gov; Corwin Erik H; Goldstein Richard S; Landes Scott S; McField Terri; Ilritems@fms.treas.gov; Tom.Longnecker@fms.treas.gov; Joseph.Jensen@treasury.gov; Mark.Poncy@treasury.gov; Colleen.Stack@treasury.gov; Bill.Bradley@fincen.gov; lindsay.orlin@fincen.gov

**Subject:** JUSTICE Questions for the Record on Current Issues in Campaign Finance Law Enforcement (FC-ALERTS:DOJ-0026-A)

**DEADLINE: 2:00 P.M. Monday, May 13, 2013**

**COMMENTS:** Attached are Justices responses to Questions for the Record from an April 9th hearing before the Senate Judiciary Committees Subcommittee on Crime and Terrorism titled Current Issues in Campaign Finance Law Enforcement.

**PLEASE NOTE:** Comments/edits must be approved by an official from your office at the Director level or higher. If you are with a bureau of Treasury, please ensure that a Treasury policy official has approved the comments/edits before sending them to LLR. Please submit comments on behalf of your office to [LLR@do.treas.gov](mailto:LLR@do.treas.gov). In responding to this email, please use the exact subject line of this e-mail and provide the name of the policy official who approved the response. OMB's preference is specific edits, not general



comments. If you cannot meet the deadline, please e-mail [LLR@do.treas.gov](mailto:LLR@do.treas.gov) as far in advance of the deadline as possible and be specific about when you could have comments. Except in extraordinary circumstances, if the deadline has passed, the opportunity to comment has also passed.

---

**From:** Lerner Lois G  
**Sent:** Thursday, May 09, 2013 3:04 PM  
**To:** Zarin Roberta B  
**Subject:** RE: American Journalism Review: seeks comment on March study on IRS policy re: media/newspaper orgs seeking exempt status - says deadline COB tomorrow (Friday)

**Right**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Zarin Roberta B  
**Sent:** Thursday, May 09, 2013 4:00 PM  
**To:** Lerner Lois G  
**Subject:** FW: American Journalism Review: seeks comment on March study on IRS policy re: media/newspaper orgs seeking exempt status - says deadline COB tomorrow (Friday)

Still no comment—correct?

Bobby Zarin, Director  
Communications and Liaison  
Tax Exempt and Government Entities  
202-283-8868

---

**From:** Williams Grant  
**Sent:** Thursday, May 09, 2013 1:40 PM  
**To:** Zarin Roberta B; Eldridge Michelle L  
**Subject:** American Journalism Review: seeks comment on March study on IRS policy re: media/newspaper orgs seeking exempt status - says deadline COB tomorrow (Friday)

Bobby and Michelle,

We have received the inquiry below from the American Journalism Review magazine that asks about a March study by The Council on Foundations on IRS policy on media/newspaper organizations seeking tax-exempt status. The reporter said her editor asked her to contact the IRS for comment on the study, its findings/conclusions, etc. She hopes to be told if the IRS has no comment.

When we received other inquiries about this study back in March, Lois had let us know we had no response. Would anything have changed since then? Would it be appropriate for me to tell the reporter now that the IRS has no comment? The reporter hopes to hear back by end of day tomorrow (Friday).

The full study is here: <http://www.cof.org/files/Bamboo/home/documents/Nonprofit-Media-Full-Report-03042013.pdf>  
A summary of the study is here: <http://www.cof.org/files/Bamboo/home/documents/Nonprofit-Media-Report-Summary.pdf>

Thank you,

Grant Williams  
IRS National Media Relations  
(202) 622-4000

Hi Grant,

As we discussed earlier, I am writing a story for American Journalism Review, a journalism-centered niche magazine with national circulation, centered around the Council on Foundations study released this March.

In general, the report examines several nonprofit news organizations and uses those case studies to identify five key problems with the IRS policy regarding granting tax-exempt status, and also makes several recommendations about how the IRS can update its policy to fix this issues.

As you will see in the summary (linked above) the study identifies that main problems as:

1. Applications for tax-exempt status are processed inconsistently and take too long.
2. The IRS approach appears to undervalue journalism
3. The IRS approach appears to inhibit the long-term sustainability of tax-exempt media organizations.
4. Confusion may be inhibiting nonprofit entrepreneurs trying to address the information needs of communities.
5. The IRS approach does not sufficiently recognize the changing nature of digital media.

The recommendations the study makes are:

- The IRS methodology for analyzing whether a media organization qualifies for exemption should not take into account irrelevant operational similarities to for-profits.
- The IRS should focus on whether the media organization is engaged primarily in educational activities that provide a community benefit, as opposed to advancing private interests, and whether it is organized and managed as a nonprofit, tax-exempt organization.
- News and journalism do count as “educational” under the tax-exempt rules.
- The IRS should maintain the key structural requirements for being a tax-exempt media organization that properly distinguish it from a commercial enterprise, such as: it cannot have shareholders or investors, it must have a governing board that is independent of private interests, and it cannot endorse candidates or lobby lawmakers.

I was wondering if the IRS had **any comment** regarding the study, its findings, or the 501(c)(3) guidelines themselves? For example, does the IRS have any interest in following through with any of these recommendations?

As I mentioned before, I would appreciate a response as soon as possible this week. If the IRS has no comment, I would also appreciate I response telling me so.

Thank you,  
Taylor Griffith

--

Taylor M. Griffith  
Web Reporter  
American Journalism Review

---

**From:** Lerner Lois G  
**Sent:** Thursday, May 09, 2013 3:05 PM  
**To:** Paz Holly O  
**Subject:** FW: American Journalism Review: seeks comment on March study on IRS policy re: media/newspaper orgs seeking exempt status - says deadline COB tomorrow (Friday)

**you think something will go on the Plan? not that I would say, but if it does, we need to let Zarin and Media Relations know**

*Lois G. Lerner*

Director of Exempt Organizations

---

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202-283-8868

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- News and journalism do count as “educational” under the tax-exempt rules.
- The IRS should maintain the key structural requirements for being a tax-exempt media organization that properly distinguish it from a commercial enterprise, such as: it cannot have shareholders or investors, it must have a governing board that is independent of private interests, and it cannot endorse candidates or lobby lawmakers.

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Thank you,  
Taylor Griffith

--

Taylor M. Griffith  
Web Reporter  
American Journalism Review



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**From:** Lemons Terry L  
**Sent:** Friday, May 10, 2013 3:00 PM  
**To:** Lerner Lois G  
**Subject:** FW: My thoughts

\*Any adverse rulings against section 501(c)(4) organizations require multiple layers of review. No single person makes the determination, and multi-person review provides further protection for the integrity of the review process.

\*While we acknowledged centralization of these applications last year, the IRS did not acknowledge the use of names as part of the process earlier because the details were not initially known to senior leadership and TIGTA has been reviewing the situation. Their work is now far enough along that it was appropriate to address the issue when it came up during today's tax conference.

\*The IRS is not singling out front-line employees. There were broader systemic issues at play involving our processes. Although mistakes were made we have resolved these issues.

\*Press reports have said we 'targeted' specific groups. There was no targeting, but there was a shortcut taken in our processes to determine which groups needed additional review. It is important to note that almost all of the cases that were centralized by name would have been centralized in any event under appropriate criteria. And the review of these were guided only by the tax law – not any partisan factors.

---

**From:** Lerner Lois G  
**Sent:** Friday, May 10, 2013 3:21 PM  
**To:** Flax Nikole C; Eldridge Michelle L; Lemons Terry L; Marks Nancy J  
**Subject:** RE: Proposed answers: Washington Post Editorial Board

**It isn't the balance I am focused on--it's the idea that we know--that sounds like we track it and we don't. Doesn't look good if it looks like we check to see what side of the aisle an org is on.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Friday, May 10, 2013 4:17 PM  
**To:** Lerner Lois G; Eldridge Michelle L; Lemons Terry L; Marks Nancy J  
**Subject:** RE: Proposed answers: Washington Post Editorial Board

**We know the balance may be off, but we had been told earlier there are a few and this is an important point.**

---

**From:** Lerner Lois G  
**Sent:** Friday, May 10, 2013 4:09 PM  
**To:** Flax Nikole C; Eldridge Michelle L; Lemons Terry L  
**Subject:** RE: Proposed answers: Washington Post Editorial Board

**I can't confirm that there was anyone on the other side of the political spectrum--I think that sentence presumes we keep track of which side of the aisle an org falls--we don't. The one with names used were only known because that have been very loud in the press. I think that line is dangerous**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Friday, May 10, 2013 3:44 PM  
**To:** Lerner Lois G; Eldridge Michelle L; Lemons Terry L  
**Subject:** FW: Proposed answers: Washington Post Editorial Board

**Know the numbers are not even, but want to add the following – can you live with it?**

---

**From:** Flax Nikole C  
**Sent:** Friday, May 10, 2013 3:35 PM  
**To:** Eldridge Michelle L; Vozne Jennifer L; Lemons Terry L; Miller Steven T  
**Cc:** Patterson Dean J  
**Subject:** RE: Proposed answers: Washington Post Editorial Board

**Can we add the CAP language?**

---

**From:** Eldridge Michelle L  
**Sent:** Friday, May 10, 2013 3:15 PM  
**To:** Flax Nikole C; Vozne Jennifer L; Lemons Terry L  
**Cc:** Patterson Dean J  
**Subject:** Proposed answers: Washington Post Editorial Board

Here is the proposed answer based on our discussion. Comments or concerns?

Proposed answer:

Here is our full statement. I have also answered your questions below.

### IRS Statement

Between 2010 and 2012, the IRS saw the number of applications for section 501(c)(4) status double. As a result, local career employees in Cincinnati sought to centralize work and assign cases to designated employees in an effort to promote consistency and quality. This approach has worked in other areas. However, the IRS recognizes we should have done a better job of handling the influx of advocacy applications. While centralizing cases for consistency made sense, the way we initially centralized them did not. Mistakes were made initially, but they were in no way due to any political or partisan rationale. We fixed the situation last year and have made significant progress in moving the centralized cases through our system. To date, more than half of the cases have been approved or withdrawn. It is important to recognize that all centralized applications WHICH INCLUDE ORGANIZATIONS FROM ALL PARTS OF THE POLITICAL SPECTRUM received the same, even-handed treatment, and the majority of cases centralized were not based on a specific name. In addition, new procedures also were implemented last year to ensure that these mistakes won't be made in the future. The IRS also stresses that our employees - all career civil servants -- will continue to be guided by tax law and not partisan issues.

---

**From:** Stromberg, Stephen W [<mailto:stephen.stromberg@wpost.com>]  
**Sent:** Friday, May 10, 2013 1:46 PM  
**To:** Burke Anthony  
**Subject:** From Washington Post Editorial Board

Hi –

I am writing an on-deadline editorial on the Tea Party/IRS issue, filing by 4:30 p.m. at the latest. At the moment, I have three questions:

Why weren't there protections in place to ensure that selecting out groups of a particular political stripe was not possible? What procedures are in place now to prevent this, both in the tax-exempt office and elsewhere in the IRS?

The IRS recognizes we should have done a better job of handling the influx of advocacy applications. While centralizing cases for consistency made sense, the way we initially centralized them did not. Mistakes were made initially, but they were in no way due to any political or partisan rationale. We fixed the situation last year and have made significant progress in moving the centralized cases through our system. To date, more than half of the cases have been approved or withdrawn.

It is important to recognize that all centralized applications received the same, even-handed treatment, and the majority of cases centralized were not based on a specific name.

In addition, new procedures also were implemented last year to ensure that these mistakes won't be made in the future. The IRS also stresses that our employees - all career civil servants -- will continue to be guided by tax law and not partisan issues.

Who has led the investigation into this episode? Is someone else inside or outside of the IRS going to investigate further?

The IRS has internally reviewed this matter. Additionally, this issue is being reviewed by the Treasury Inspector General.

Thanks in advance.

Best,  
Steve Stromberg

Steve Stromberg  
Editorial Writer  
The Washington Post  
Office: 202.334.6370  
Cell: 310.770.6646



Obtained by Judicial Watch, Inc. via FOIA

**From:** Lerner Lois G  
**To:** 1. Lemons Terry L <Terry.L.Lemons@irs.gov>  
2. Kindell Judith E <Judith.E.Kindell@irs.gov>  
3. Flax Nikole C <Nikole.C.Flax@irs.gov>  
4. Keith Frank <Frank.Keith@irs.gov>  
5. Williams Grant <Grant.M.Williams@irs.gov>  
**CC:** 1. Urban Joseph J <Joseph.J.Urban@irs.gov>  
2. Fish David L <David.L.Fish@irs.gov>  
**Subject:** RE: Bloomberg: IRS letter re gift tax and 501c4 donation in 2008  
**Sent:** 5/26/2011 9:41:29 PM +00:00

OK--we took a crack at specifically addressing his previous #1-3, which he thinks we didn't answer. For # 2 it got I have included both the systems issue and confidentiality. You may only want to go with one. Let us know what you think.

His earlier questions on this point specifically were:

"I am focusing on groups that answer NO when asked question 15 on the 1024 application about whether they have have spent or plan to spend any money to influence the election of any person to public office.

1. what is the penalty for an untruthful answer to that question?

As we previously discussed, organizations submitting a 1024 to the IRS are involved in a representational process. They represent what they plan to do and, based on those representations, the IRS determines whether they meet the requirements for tax exemption. An organization described in section 501(c)(4) may permissibly engage in a limited amount of political campaign activity. Thus, an organization that answers yes to question 15 of Form 1024 may very well still be tax-exempt. An organization that answers "no" to question 15 because, at the time it files the application, doesn't plan to spend money to influence an election, but later decides to do so, will still be exempt so long as its primary activity is its exempt activity.

If the IRS discovers that an organization is operating in a manner different than that represented in its application, the organization may be examined. If its operation is inconsistent with the requirements for its exempt status, the organization's exempt status may be revoked, and tax would be due.

In addition, there are criminal penalties for willfully providing false information to a Federal government agency, as well as criminal provisions in the Internal Revenue Code for willfully filing false tax returns and other documents signed under penalties of perjury, such as an application for tax-exempt status, with the IRS.

2. what if any penalties have ever been filed against a group for such a violation, including details of date, group and circumstance?

Our automated systems do not capture data in the format you request. In addition, I.R.Code section 6103 prohibits the IRS from disclosing information regarding specific taxpayers.

3. if there are few or none please explain why."

Thank you,



Grant

Obtained by Judicial Watch, Inc. via FOIA

Grant Williams  
IRS National Media Relations  
(202) 622-4000

Lois G. Lerner  
Director, Exempt Organizations

-----Original Message-----

From: Lemons Terry L  
Sent: Thursday, May 26, 2011 1:29 PM  
To: Lerner Lois G; Kindell Judith E; Flax Nikole C; Keith Frank; Williams Grant; Lipold John A  
Cc: Miller Steven T; Davis Jonathan M (Wash DC)  
Subject: FW: Bloomberg: IRS letter re gift tax and 501c4 donation in 2008

Lois / Judy -- thanks for the help on the earlier questions. Here are the remaining questions -- and a follow-up one.

Earlier, we had talked about possibly having a background conversation about some of the enforcement and application questions. However, question No. 1 about reporting on the 709 is one that we do not want to get anywhere close to at the moment. Afraid if we have a conversation with the reporter, there's no way to avoid getting into the 709 issue and putting you guys on the spot.

What if we offer up written answers on these other ones this afternoon? Any other thoughts from anyone?

Call me if you want to talk. 2.4760.

Thanks.

-----Original Message-----

From: Williams Grant  
Sent: Thursday, May 26, 2011 12:21 PM  
To: Lemons Terry L  
Cc: Lipold John A  
Subject: FW: Bloomberg: IRS letter re gift tax and 501c4 donation in 2008

Hi Terry,

Chuck Babcock of Bloomberg is now asking these follow-up questions:

- 1) Re: the attached letter from the IRS to a donor that Bloomberg obtained via a fax (and then forwarded to us), Mr. Babcock asks us: "this raises an additional question: is the statement in the attached letter, that donations to 501c4s are taxable gifts and should be reported on form 709, the current position of the IRS?"
- 2) Mr. Babcock is apparently not fully satisfied with what we sent yesterday (in our two batches of information) because he now asks: "What is the status of my [earlier] questions about penalties and enforcement cases, if any, for violations of 1024 application rules?"

His earlier questions on this point specifically were:

"I am focusing on groups that answer NO when asked question 15 on the 1024 application about whether they have have spent or plan to spend any money to influence the election of any person to public office.

1. what is the penalty for an untruthful answer to that question?
2. what if any penalties have ever been filed against a group for such a violation, including details of date, group and circumstance?
3. if there are few or none please explain why."

Thank you,

Grant

Grant Williams  
IRS National Media Relations  
(202) 622-4000

**Message Headers:**

Microsoft Mail Internet Headers Version 2.0  
x-mimeole: Produced By Microsoft Exchange V6.5  
Content-class: urn:content-classes:message  
MIME-Version: 1.0  
Content-Type: application/ms-tnef;  
name="winmail.dat"  
Content-Transfer-Encoding: binary  
Subject: RE: Bloomberg: IRS letter re gift tax and 501c4 donation in 2008  
Date: Thu, 26 May 2011 17:41:29 -0400  
Message-ID:  
<CEE27F8195F9824B99A75E06C98A7BD70D0098C3@NCT0010CP3MB02.ds.irsnet.gov>  
In-Reply-To:  
<CEE27F8195F9824B99A75E06C98A7BD70C86E53B@NCT0010CP3MB02.ds.irsnet.gov>  
X-MS-Has-Attach:  
X-MS-TNEF-Correlator:  
<CEE27F8195F9824B99A75E06C98A7BD70D0098C3@NCT0010CP3MB02.ds.irsnet.gov>  
Thread-Topic: Bloomberg: IRS letter re gift tax and 501c4 donation in 2008  
Thread-Index: Acwbs37DuOiLAWUiSH29fniFOSGJZgAC2RGgAAKySkAABjx74A==  
References:  
<CEE27F8195F9824B99A75E06C98A7BD70C86E53B@NCT0010CP3MB02.ds.irsnet.gov>  
From: "Lerner Lois G" <Lois.G.Lerner@irs.gov>  
To: "Lemons Terry L" <Terry.L.Lemons@irs.gov>,  
"Kindell Judith E" <Judith.E.Kindell@irs.gov>,  
"Flax Nikole C" <Nikole.C.Flax@irs.gov>,  
"Keith Frank" <Frank.Keith@irs.gov>,  
"Williams Grant" <Grant.M.Williams@irs.gov>  
Cc: "Urban Joseph J" <Joseph.J.Urban@irs.gov>,  
"Fish David L" <David.L.Fish@irs.gov>

---

**From:** Light Sharon P  
**Sent:** Monday, May 06, 2013 10:12 AM  
**To:** Goehausen Hilary  
**Subject:** FW: Response on 501(c)(4), bucket 4 political advocacy case  
**Attachments:** (b)(3)\6103 response.tif

Can you take a quick look at the response and see if you agree with his recommendation for approval?

---

**From:** Herr Joseph R  
**Sent:** Monday, May 06, 2013 11:09 AM  
**To:** Light Sharon P  
**Subject:** Response on 501(c)(4), bucket 4 political advocacy case

Sharon,

Attached is a response from (b)(3)\6103

I have reviewed the response. I would like to recommend this case for approval under 501(c)(4). The response supports that the organization is promoting social welfare, that political activity is not the primary activity, and that there are no inurement/private benefit concerns. Please see my original email below regarding my thoughts on this case.

Joseph

Joseph R. Herr

(b)(6) and (b)(7)(C)

---

**From:** Goehausen Hilary  
**Sent:** Thursday, March 21, 2013 12:29 PM  
**To:** Herr Joseph R  
**Subject:** FW: Draft Letter 1312 for 501(c)(4), bucket 4 political advocacy case

Hi Joseph,

Sharon had asked me to review the attached letter.

Thanks,  
Hilary

Hilary Goehausen  
Tax Law Specialist  
Exempt Organizations  
Technical Group 1  
1111 Constitution Ave., NW  
Washington, D.C. 20224  
p: 202.283.8915  
f: 202.283.8937  
[Hilary.Goehausen@irs.gov](mailto:Hilary.Goehausen@irs.gov)



**From:** Light Sharon P  
**Sent:** Tuesday, February 19, 2013 4:31 PM  
**To:** Goehausen Hilary  
**Subject:** FW: Draft Letter 1312 for 501(c)(4), bucket 4 political advocacy case

Can you review Joseph's letter? He says you were involved with the bucketing. See below.

---

**From:** Herr Joseph R  
**Sent:** Monday, February 11, 2013 7:58 AM  
**To:** Light Sharon P  
**Subject:** RE: Draft Letter 1312 for 501(c)(4), bucket 4 political advocacy case

Let's try again.

Joseph R. Herr

(b)(6) and (b)(7)(C)

---

**From:** Light Sharon P  
**Sent:** Friday, February 08, 2013 5:14 PM  
**To:** Herr Joseph R  
**Subject:** RE: Draft Letter 1312 for 501(c)(4), bucket 4 political advocacy case

Hi, Joseph – I don't see a letter.

---

**From:** Herr Joseph R  
**Sent:** Friday, February 08, 2013 4:03 PM  
**To:** Light Sharon P  
**Subject:** Draft Letter 1312 for 501(c)(4), bucket 4 political advocacy case

Sharon,

Attached is my draft Letter 1312 for [REDACTED] (b)(3)6103. The attached zip file includes various items. Only the items named "webprint" are intended to be included as attachments to the letter. The other items are tax law research and internet research for our internal consumption.

You should probably ask Hilary to review the draft letter because she completed the bucketing of this case and wrote an additional memorandum for this case over and above that of the bucketing sheet. One extra item she noted is that this organization is part of a network of organizations, which include [REDACTED] (501(c)(3)) and [REDACTED] (501(c)(4)). She also questioned whether the online social network activity of the organization qualifies as social welfare.

I conducted some tax law research and believe the online social network activity may be considered social welfare. Insomuch that 501(c)(3) activity can qualify as 501(c)(4) activity, Revenue Ruling 71-413 grants (c)(3) exemption to an organization that furthers education through clearinghouse and coordinating activities. T.C. Memo 1985-570 further expounds on this topic (See information regarding Footnote 4). I have included copies of that tax law.

In my interpretation of the tax law, there is a certain level of active involvement by the applicant in the clearinghouse and coordination that is needed to qualify for exemption. For this case, it appears the organization actively manages the application process for membership organizations. I have asked a series of questions about membership to explore this idea further. I would like to know your thoughts.

Regarding the level of political activity, I have included a couple of articles I found online. Although there appears to be political activity, I do not see any indicators that it is primary activity. On the flip side, I have asked the organization about

their involvement in [REDACTED] event and whether they produce any original content for the website. Those activities could bolster furthering social welfare.

With this case, I am also concerned about possible inurement/private benefit for the company that manages the website. I have included some research from the company's website.

Joseph

Joseph R. Herr

(b)(6) and (b)(7)(C)



---

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**Sent:** Monday, May 06, 2013 11:33 AM  
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**Subject:** RE: Response on 501(c)(4), bucket 4 political advocacy case

No problem. I'll take a look.

Hilary Goehausen  
Tax Law Specialist  
Exempt Organizations  
Technical Group 1  
1111 Constitution Ave., NW  
Washington, D.C. 20224  
p: 202.283.8915  
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Joseph

Joseph R. Herr  
Revenue Agent Group 7824  
Exempt Organizations Determinations  
(513) 263-3725  
(513) 263-4488 fax

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organization is part of a network of organizations, which include (b)(3) 6103(a) (501(c)(3)) and (b)(3) 6103(a) (501(c)(4)). She also questioned whether the online social network activity of the organization qualifies as social welfare.

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Joseph R. Herr

(b)(6) and (b)(7)(C)

Obtained by Judicial Watch, Inc. via FOIA  
**TEGE Division Sensitive Case Report**  
(revised January 2007)

<b>CASE NAME:</b> (1) <span style="background-color: black; color: black;">nonresponsive and (b)(3)/6103</span> (501(c)(3) applicant), (2) <span style="background-color: black; color: black;">(b)(3)/6103</span> <span style="background-color: black; color: black;">(b)(3)/6103</span> (501(c)(4) applicant), (3) <span style="background-color: black; color: black;">nonresponsive and (b)(3)/6103</span> (501(c)(3) applicant)  <b>TIN/EIN:</b> <span style="background-color: black; color: black;">nonresponsive and (b)(3)/6103</span> <b>POA:</b> <span style="background-color: black; color: black;">nonres...</span>	<b>TAX PERIODS:</b> 2009 and forward  <b>EARLIEST STATUTE DATE:</b>
<b>FUNCTION REPORTING:</b> EO RA  <b>POD:</b> Washington, D.C.	<input type="checkbox"/> <b>INITIAL REPORT</b> <input type="checkbox"/> <b>FOLLOW-UP REPORT</b> <input type="checkbox"/> <b>FINAL REPORT</b>
<b>SENSITIVE CASE CRITERIA:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input checked="" type="checkbox"/> Likely to attract media or Congressional attention  <input type="checkbox"/> Unique or novel issue  <input type="checkbox"/> Affects large number of taxpayers </div> <div style="width: 48%;"> <input type="checkbox"/> Potentially involves large dollars (\$10M or greater)  <input type="checkbox"/> Other (explain in Case Summary) </div> </div>	
<b>FORM TYPE(S):</b> (1) Form 1023. (2) Form 1024	<b>START DATE:</b> 04/02/2010
<b>POTENTIAL DOLLARS INVOLVED (IF &gt; \$10M) :</b> Unknown	<b>CRIMINAL REFERRAL? Unknown IF YES, WHEN?</b>  <b>Freeze Code TC 914 ( Yes or No)</b>
<b>CASE OR ISSUE SUMMARY:</b> The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The "tea party" organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding three applications from organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and approximately twenty-two applications from organizations which have applied for recognition of exemption under section 501(c)(4) as social welfare organizations. Two organizations that we believe may be "tea party" organizations already have been recognized as exempt under section 501(c)(4). EOT has not seen the case files, but are requesting copies of them. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.	
<b>CURRENT SIGNIFICANT ACTIONS ON CASE:</b> Organization (1) – <span style="background-color: black; color: black;">nonresponsive and (b)(3)/6103</span> Organization (2) – <span style="background-color: black; color: black;">nonresponsive and (b)(3)/6103</span> Organization (3) – <span style="background-color: black; color: black;">nonresponsive and (b)(3)/6103</span> Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).	
<b>SIGNIFICANT NEXT STEPS, IF ANY:</b> Organization (2) <span style="background-color: black; color: black;">nonresponsive and (b)(3)/6103</span> <span style="background-color: black; color: black;">nonresponsive and ...</span> Organization 3 <span style="background-color: black; color: black;">nonresponsive and ...</span> <span style="background-color: black; color: black;">nonresponsive and ...</span> Continue coordinated review of applications in EO Determinations.	<b>ESTIMATED CLOSURE DATE:</b> January 31 , 2011
<b>BARRIERS TO RESOLUTION, IF ANY:</b> Concerns whether the organizations are involved in political activities.	

**Please note:** This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

JW1559-042237

**TEGE Division Sensitive Case Report**  
(revised January 2007)

<b>SUBMITTED BY:</b> Carter C. Hull, SE:T:EO:RA:T:2	<b>MANAGER:</b> RONALD SHOEMAKER, SE:T:EO:RA:T:2
<b>DATE:</b> December 13, 2010	

**Please note:** This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

JW1559-042238



Obtained by Judicial Watch, Inc. via FOIA  
**TEGE Division Sensitive Case Report**  
(revised January 2007)

<b>CASE NAME:</b> (1) <span style="background-color: black; color: white;">nonresponsive and (b)(3)/6103</span> (501(c)(3) applicant), (2) <span style="background-color: black; color: white;">(b)(3)/6103</span> <span style="background-color: black; color: white;">(b)(3)/...</span> 501(c)(4) applicant), (3) <span style="background-color: black; color: white;">nonresponsive and (b)(3)/6...</span> (501(c)(3) applicant)  <b>TIN/EIN:</b> <span style="background-color: black; color: white;">nonresponsive and (b)(3)/6103</span> <b>POA:</b> <span style="background-color: black; color: white;">nonres...</span>	<b>TAX PERIODS:</b> 2009 and forward  <b>EARLIEST STATUTE DATE:</b>
<b>FUNCTION REPORTING:</b> EO RA  <b>POD:</b> Washington, D.C.	<input type="checkbox"/> INITIAL REPORT <input checked="" type="checkbox"/> FOLLOW-UP REPORT <input type="checkbox"/> FINAL REPORT
<b>SENSITIVE CASE CRITERIA:</b> <div style="display: flex; justify-content: space-between;"> <div> <input checked="" type="checkbox"/> Likely to attract media or Congressional attention  <input type="checkbox"/> Unique or novel issue  <input type="checkbox"/> Affects large number of taxpayers </div> <div> <input type="checkbox"/> Potentially involves large dollars (\$10M or greater)  <input type="checkbox"/> Other (explain in Case Summary) </div> </div>	
<b>FORM TYPE(S):</b> (1) Form 1023. (2) Form 1024	<b>START DATE:</b> 04/02/2010
<b>POTENTIAL DOLLARS INVOLVED (IF &gt; \$10M) :</b> Unknown	<b>CRIMINAL REFERRAL? Unknown IF YES, WHEN?</b>  <b>Freeze Code TC 914 ( Yes or No)</b>
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<b>BARRIERS TO RESOLUTION, IF ANY:</b> Concerns whether the organizations are involved in political activities.	

**Please note:** This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

JW1559-042239

**TEGE Division Sensitive Case Report**  
(revised January 2007)

<b>SUBMITTED BY:</b> Carter C. Hull, SE:T:EO:RA:T:2	<b>MANAGER:</b> RONALD SHOEMAKER, SE:T:EO:RA:T:2
<b>DATE:</b> February 24, 2011	

**Please note:** This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

JW1559-042240

Obtained by Judicial Watch, Inc. via FOIA  
**TEGE Division Sensitive Case Report**  
(revised January 2007)

<b>CASE NAME:</b> (1) <i>nonresponsive and (b)(3)/6103</i> (501(c)(3) applicant), (2) <i>(b)(3)/6103</i> <i>(b)(3)/...</i> 501(c)(4) applicant), (3) <i>nonresponsive and (b)(3)/6...</i> (501(c)(3) applicant)  <b>TIN/EIN:</b> <i>nonresponsive and (b)(3)/6103</i> <b>POA:</b> <i>nonres...</i>	<b>TAX PERIODS:</b> 2009 and forward  <b>EARLIEST STATUTE DATE:</b>
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<b>SENSITIVE CASE CRITERIA:</b> <input checked="" type="checkbox"/> Likely to attract media or Congressional attention <input type="checkbox"/> Unique or novel issue <input type="checkbox"/> Affects large number of taxpayers <input type="checkbox"/> Potentially involves large dollars (\$10M or greater) <input type="checkbox"/> Other (explain in Case Summary)	
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<b>POTENTIAL DOLLARS INVOLVED (IF &gt; \$10M) :</b> Unknown	<b>CRIMINAL REFERRAL? Unknown IF YES, WHEN?</b>  <b>Freeze Code TC 914 ( Yes or No)</b>
<b>CASE OR ISSUE SUMMARY:</b> The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The "tea party" organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding three applications from organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and approximately twenty-two applications from organizations which have applied for recognition of exemption under section 501(c)(4) as social welfare organizations. Two organizations that we believe may be "tea party" organizations already have been recognized as exempt under section 501(c)(4). EOT has not seen the case files, but are requesting copies of them. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.	
<b>CURRENT SIGNIFICANT ACTIONS ON CASE:</b> Organization (1) – <i>nonresponsive and (b)(3)/6103</i> Organization (2) – <i>nonresponsive and (b)(3)/6103</i> Organization (3) – <i>nonresponsive and (b)(3)/6103</i> <i>nonresponsive and (b)(3)/6103</i> Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).	
<b>SIGNIFICANT NEXT STEPS, IF ANY:</b> Organization (2) <i>nonresponsive and (b)(3)/6103</i> <i>nonresponsive and (b)(3)/6103</i> Organization 3 <i>nonresponsive and (b)(3)/6103</i> <i>nonresponsive and (b)(3)/6103</i> Continue coordinated review of applications in EO Determinations.	<b>ESTIMATED CLOSURE DATE:</b> January 31 , 2011
<b>BARRIERS TO RESOLUTION, IF ANY:</b>	

**Please note:** This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

JW1559-042241

**TEGE Division Sensitive Case Report**  
(revised January 2007)

Concerns whether the organizations are involved in political activities.	
<b>SUBMITTED BY:</b> Carter C. Hull, SE:T:EO:RA:T:2	<b>MANAGER:</b> RONALD SHOEMAKER, SE:T:EO:RA:T:2
<b>DATE:</b> November 18, 2010	

**Please note:** This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

JW1559-042242



Obtained by Judicial Watch, Inc. via FOIA  
**TEGE Division Sensitive Case Report**  
(revised January 2007)

<b>CASE NAME:</b> (1) <i>nonresponsive and (b)(3)/6103</i> (501(c)(3) applicant), (2) <i>(b)(3)/6103</i> (b)(3) (501(c)(4) applicant), (3) <i>nonresponsive and (b)(3)/6103</i> (501(c)(3) applicant)  <b>TIN/EIN:</b> <i>nonresponsive and (b)(3)/6103</i> <b>POA:</b> <i>nonres...</i>	<b>TAX PERIODS:</b> 2009 and forward  <b>EARLIEST STATUTE DATE:</b>
<b>FUNCTION REPORTING:</b> EO RA  <b>POD:</b> Washington, D.C.	<input type="checkbox"/> <b>INITIAL REPORT</b> <input type="checkbox"/> <b>FOLLOW-UP REPORT</b> <input type="checkbox"/> <b>FINAL REPORT</b>
<b>SENSITIVE CASE CRITERIA:</b> <input checked="" type="checkbox"/> Likely to attract media or Congressional attention <input type="checkbox"/> Unique or novel issue <input type="checkbox"/> Affects large number of taxpayers <input type="checkbox"/> Potentially involves large dollars (\$10M or greater) <input type="checkbox"/> Other (explain in Case Summary)	
<b>FORM TYPE(S):</b> (1) Form 1023. (2) Form 1024	<b>START DATE:</b> 04/02/2010
<b>POTENTIAL DOLLARS INVOLVED (IF &gt; \$10M) :</b> Unknown	<b>CRIMINAL REFERRAL? Unknown IF YES, WHEN?</b>  <b>Freeze Code TC 914 ( Yes or No)</b>
<b>CASE OR ISSUE SUMMARY:</b> The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The "tea party" organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding three applications from organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and approximately twenty-two applications from organizations which have applied for recognition of exemption under section 501(c)(4) as social welfare organizations. Two organizations that we believe may be "tea party" organizations already have been recognized as exempt under section 501(c)(4). EOT has not seen the case files, but are requesting copies of them. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.	
<b>CURRENT SIGNIFICANT ACTIONS ON CASE:</b> Organization (1) – <i>nonresponsive and (b)(3)/6103</i> Organization (2) – a second development letter is being drafted and will be ready by 11/14/10. Organization (3) – <i>nonresponsive and (b)(3)/6103</i> <i>nonresponsive and (b)(3)/6103</i> Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).	
<b>SIGNIFICANT NEXT STEPS, IF ANY:</b> Send Organization (2) development letter by 11/14/10. Continue coordinated review of applications in EO Determinations.	<b>ESTIMATED CLOSURE DATE:</b> March 31, 2011
<b>BARRIERS TO RESOLUTION, IF ANY:</b> Concerns whether the organizations are involved in political activities.	

**Please note:** This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

JW1559-042243



**TEGE Division Sensitive Case Report**  
(revised January 2007)

<b>SUBMITTED BY:</b> Carter C. Hull, SE:T:EO:RA:T:2	<b>MANAGER:</b> RONALD SHOEMAKER, SE:T:EO:RA:T:2
<b>DATE:</b> October 27, 2010	

**Please note:** This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

JW1559-042244

## Notes on background info gathering/prep for potential (c)(4) hearing

### I. Status of Congressionals (and copies incoming/outgoing and all attachments): [Jo Urban will keep track working with Dave and Andy]

February 16 Bennett, Franken, Merkley, Schumer,

March 1—Boustany

March 12—Boustany

March 14---Boustany

March 27—Boustany

??—Hatch—[being worked assigned to Melinda and Justin—some challenges because of confusion in the questions but need to respond quickly was discussed]

?? Welch (not here yet?)

[Jo Urban will look for any other hill letters]

### II. II. Historical and Current Case related Data and Case handling procedures

1. a. Demographic information on (c) (3) (4) (5) (6) and 527 for adequately representative period [Group settled on 8 years as sufficiently broad to show trends, other election cycles, and pick up the PACI initiative which presents some similar challenges] [A lot of this data can be pulled from the SOI records—Dave Fish will update what is already compiled]

Applications including handling and outcome— (note to the extent we can we should identify what numbers relate to auto revocation so we can back those out of what might otherwise look like trend upticks)

Examinations including handling and outcome same level of detail as above.

B General performance metrics—e.g. budgets, number of employees, exam determ break out etc. [Dave Fish will have Brian go back and build the additional information needed on this]

## 2. Process—The Determ process

This should address all aspects of processing—where received, who handles, how decisions are made re buckets/assignment/development etc., what tools are available, how are decisions made as to tools needed, how are tools developed, what actions were taken/what results will want to track not only what but when—e.g. when did screening and intermediate processing come in—capture process from beginning to end [e.g. Cindy noted involvement of mandatory review]

In this context where have we faced similar issues/used similar tools and approaches e.g. credit counseling, down payment assistance, supporting orgs, PACI, charter schools--  
The exam process—

EO plan--including workplans

(we should capture specifically anything we've said/done re advocacy issues)

## 3. Referral history and trends [Nan Downing]

As background for the hearing need all background recoverable on other cases that may be seen as raising similar issues (e.g. [REDACTED])

(b)(3)/6103

[REDACTED] {Judy/Jack Riley may know this one} Other cases?  
[Tom Miller will focus on this area]

III.

Copy of JCT report

Any relevant TIGTA reports e.g. 527, NAACP, PACI? [Jo work with Mike Daley]

Any relevant published guidance whether of general applicability [most of this captured in current draft of guide sheet] or internal e.g. manual, exam guidelines, CPE materials, GCMs [Jo Urban will coordinate on the internal stuff with help from EO. . . .]

- IV. Capture the various reg/guidance suggestions and have a sense of what we think can be or can't be worked administratively (Shumer letter) –ultimately will need Treasury start internally
- V. Any Taxpayer Advocate issues/input [Holly and Cindy—Cindy indicates she keeps a folder]
- VI. All the 501 (c)(4) gift tax materials provided earlier [Jo Urban]
- VII. The public PACI reports [Lois may have]
- VIII. The AARP materials [Jo will talk to Nikole]
- IX. A copy of retention schedules given that many of the cases are beyond the retention schedules and files were disposed of at an earlier point or before the move.





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**From:** Paz Holly O  
**Sent:** Wednesday, May 16, 2012 10:01 AM  
**To:** Lerner Lois G; Marks Nancy J; Kindell Judith E; Light Sharon P  
**Subject:** potential revised BOLO language

I would like your thoughts on the language below. I would like this language to replace the current advocacy org language on the BOLO as well as the separate references to 6103 successors and 6103 groups. Once I have incorporated your suggestions I will send the language to Cindy to see if she thinks it will be meaningful to and workable for the Determs folks. Thanks.

501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention or close connection to a political party or candidate(s). Note: typical advocacy type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria.

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**From:** Marks Nancy J  
**Sent:** Wednesday, August 29, 2012 1:37 PM  
**To:** Paz Holly O  
**Subject:** Tigta Document Request  
**Attachments:** FW: (b)(5)/AC Information; Re: next steps

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**From:** Lerner Lois G  
**Sent:** Monday, May 21, 2012 9:57 AM  
**To:** Paz Holly O  
**Cc:** Flax Nikole C; Marks Nancy J; Grant Joseph H  
**Subject:** FW: (b)(5)/AC Information

Looks like we can (b)(5)/AC We'll need a carefully drafted letter to describe what we are doing. Perhaps best to send it past Disclosure.

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Stevens Margo [<mailto:Margo.L.Stevens@IRSCOUNSEL.TREAS.GOV>]  
**Sent:** Monday, May 21, 2012 10:50 AM  
**To:** Lerner Lois G  
**Cc:** Witter Kirsten N  
**Subject:** (b)(5)/AC Information

Lois, I wanted to get back with you with respect to your question whether TEGE could (b)(5)/AC

(b)(5)/AC

As you noted, (b)(5)/AC

(b)(5)/AC

(b)(5)/AC

Thus, I wanted to touch base with Kirsten Witter, GLS, with respect to any Federal Records Act ("FRA") implications of a decision by TEGE to (b)(5)/AC. Kirsten, and Beth Levine of her branch, called me this morning. Based upon our understanding of what occurred here, they have advised me that the (b)(5)/AC

(b)(5)/AC

Accordingly, it would seem to follow that, (b)(5)/AC

(b)(5)/AC

Thanks to Kirsten and Beth for their quick analysis and response back, so that I could provide you what I think is good news.

Margo L. Stevens

Deputy Associate Chief Counsel for Legislation & Privacy

Procedure & Administration

Telephone: (202) 622-3400 Fax: (202) 622-6292

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**From:** Marks Nancy J  
**Sent:** Thursday, May 17, 2012 10:21 PM  
**To:** Paz Holly O; Lerner Lois G  
**Cc:** Light Sharon P  
**Subject:** Re: next steps

Thanks.

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Sent using BlackBerry

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**From:** Paz Holly O  
**Sent:** Thursday, May 17, 2012 11:07 PM  
**To:** Lerner Lois G; Marks Nancy J  
**Cc:** Light Sharon P  
**Subject:** RE: next steps

Quality reviews the closing docs such as the favorable letter as well as the application file. The combined 2-day numbers are below. I will ask Donna how many she thinks Quality can handle. The favorables that QA is not reviewing can go out next week. Just need to script out call to the applicants telling them it is coming and draft educational language insert language for favorable letter.

Added to yesterday, that's a total of:

24 approvals  
12 focused development  
10 general development  
11 denials

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**From:** Lerner Lois G  
**Sent:** Thursday, May 17, 2012 6:34 PM  
**To:** Paz Holly O; Marks Nancy J  
**Cc:** Light Sharon P  
**Subject:** RE: next steps

**I think we should be finalizing the closing docs while quality is reviewing to save time. If there are 7, then lets start with half--3. As we go along we can adjust down once we are comfortable that everyone is on the right track. Having said that--we need to talk to Donna about what they can handle--we do not want to review to hold these up too long--we need to get some out next week.**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Paz Holly O  
**Sent:** Thursday, May 17, 2012 5:52 PM  
**To:** Lerner Lois G; Marks Nancy J

**Cc:** Light Sharon P  
**Subject:** Re: next steps

I mean how many in each bucket as they are now constituted. So out of 7 approvals (yesterday's numbers) - how many go to Quality. I think we wanted to keep the normal process as much as possible so since these are mandatory review cases we wanted sample of open cases to go to QA even though dc folks may have already reviewed in bucketing.

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Sent from my BlackBerry Wireless Device

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**From:** Lerner Lois G  
**Sent:** Thursday, May 17, 2012 05:36 PM  
**To:** Paz Holly O; Marks Nancy J  
**Cc:** Light Sharon P  
**Subject:** RE: next steps

Well, as to the number that go to quality, do you mean approvals denials or the 4 buckets? As we want to get some of these out, I'm not sure we can come up with numbers for a whole bucket. Do you think we'd get the letter faster if DC person took a crack?

*Lois G. Lerner*  
Director of Exempt Organizations

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**From:** Paz Holly O  
**Sent:** Thursday, May 17, 2012 5:33 PM  
**To:** Lerner Lois G; Marks Nancy J  
**Cc:** Light Sharon P  
**Subject:** Fw: next steps

We need to figure out asap what we will say to the orgs getting approvals but have not responded to development letter. As to the who, I am thinking Faye and Jodi, two Determs specialists on the team who are not bucketing. I think they could follow the script but would confirm w Cindy. Also need to decide how many cases in each bucket go to Quality. Will get updated bucket numbers tonight or tomorrow morning.

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Sent from my BlackBerry Wireless Device

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**From:** Light Sharon P  
**Sent:** Thursday, May 17, 2012 05:15 PM  
**To:** Paz Holly O  
**Cc:** Thomas Cindy M  
**Subject:** next steps

Holly -- Cindy and I agreed that we will give her four stacks of cases (corresponding to the four buckets). As I understand it, the first cases to be worked are the approvals. The open question is who will be calling the orgs that have not responded to their development letters but will suddenly be getting an approval.

sharon



Hi Troy—

Hope you had an enjoyable holiday. I wanted to touch base with you regarding our preliminary take on your staff's position of the advocacy files they reviewed. I know they have asked for a meeting on the shorter list very soon and have given us a bit more time to look at the longer list. All in all, I believe they are preparing for a meeting with????, where they may be opining on their preliminary take on the review.

Before my staff meets with yours, I thought I'd give you a heads up on what we're seeing in the event you prefer a "smaller" meeting with Holly and me before the staff talk. In any event, I would request you be on the meeting with the staff, as I intend to attend from our end. As you know, the issues here are very sensitive and I know we both recognize that they are not as black and white as some of the issues we deal with, so I think it is important that higher levels on both sides hear the discussion to ensure the best result.

So, to give you a preview, we generally agree with your findings on the shorter list—that the cases should have been included in the group of advocacy cases. We had not yet had time to do this look, which we did have planned, so thank you for providing the information. We still plan to look to see if there are any root causes that might have led to them not being included, so we can better address the issue, and will keep your staff posted on what we find.

As to the larger list, we have not completed our review, but, we are not in agreement with your staff's findings that the cases we have looked at thus far should not have been included as advocacy cases. We think the "disconnect" may become from a misunderstanding about why cases were added to the advocacy group. Your staff's analysis seems to focus on whether the application explicitly stated that the organization participated or intervened in a political campaign. Because the legal analysis of whether specific advocacy is political intervention requires analyzing all the facts and circumstances surrounding that advocacy in light of the formal guidance provided in this area, we included all organizations indicating they were engaged in advocacy, so that they would be worked by specialists who have a better understanding of the facts and circumstances to be considered, and who would be able to analyze the cases in a consistent manner.

Having said that, we are concerned that your staff's analysis to come up with the two lists is not consistent. Let me cite a couple examples for you to think about. The list your staff provided indicates that "given the lack of specifics in the application about the types of activities the organization has/will conduct to establish its goals," XXXXX should have been included as an advocacy case. On the other hand, after noting that the YYYYYY "had not begun activities at the time of the application, and there is not enough information about the type of activities planned, staff concluded that the organization

should not have been included as an Advocacy case, but sent for general development instead.<sup>1</sup>

Another set of cases that puzzles us are ZZZZZ, which your list says should have been included as an advocacy case because it did not respond to question 15<sup>2</sup>, and AAAAA, which your list says should not have been considered an advocacy case even though the application responded yes to question 15.

While at the end of the day, there may very well continue to be disagreement on some cases, I think it would be constructive for us to discuss the apparent differences before we put further pen to paper in a more formal way. Let me know your thoughts. I am out of the office Wednesday and Thursday, but can set something up Tuesday or Friday if you'd like.

---

<sup>1</sup> I think what is missing here is some indication that YYYY was going to do some advocacy? Otherwise they would be correct if we had no reason from the application to think they might do advocacy. Is there something?

<sup>2</sup> I assume 15 asks whether you will do advocacy? Please tell me what the question is.  
Thanks

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**From:** Paz Holly O  
**Sent:** Monday, January 14, 2013 5:29 AM  
**To:** Marks Nancy J  
**Subject:** FW: E-Mail to Troy  
**Attachments:** Hi Troy.doc

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**From:** Paz Holly O  
**Sent:** Monday, January 14, 2013 5:24 AM  
**To:** Kindell Judith E; Nan Marks; Lerner Lois G  
**Subject:** RE: E-Mail to Troy

My suggestions are in the attached. I also included the Congressman's name (Issa) and the language of question 15. Most of my edits are minor but I have one substantive one in paragraph 4.

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**From:** Toby Miles [[mailto:](#) (b)(6); (b)(7)(C)]  
**Sent:** Sunday, January 13, 2013 6:45 PM  
**To:** Kindell Judith E; Paz Holly O; Nan Marks; Lerner Lois G  
**Subject:** E-Mail to Troy

Please take a look. i used Judy's email and went from there. There are a few things I need Judy to do--I left names as XXXX, YYYY, ZZZZ and AAA because this isn't secure, so I need you to insert correct names--also see the footnotes and provide the information I asked for. Finally, who ar they preparing to brief--see 1st paragraph and fill in. I welcome any other comments. Am hoping to send the email when I get in after (b)(6); (b)(7)(C) Monday morning around 11. Thanks

Hi Troy—

Hope you had an enjoyable holiday. I wanted to touch base with you regarding our preliminary take on your staff's position on the application files they reviewed. I know they have asked for a meeting on the shorter list (cases that were not treated as advocacy cases but your team believes should have been) very soon and have given us a bit more time to look at the longer list (cases that were treated as advocacy cases but your team believes they should not have been). All in all, I believe they are preparing for a meeting with Cong. Issa, where they may be opining on their preliminary take on the review.

Before my staff meets with yours, I thought I'd give you a heads up on what we're seeing in the event you prefer a "smaller" meeting with Holly and me before the staff talk. In any event, I would request you be on the meeting with the staff, as I intend to attend from our end. As you know, the issues here are very sensitive and I know we both recognize that they are not as black and white as some of the issues we deal with, so I think it is important that higher levels on both sides hear the discussion to ensure the best result.

So, to give you a preview, we generally agree with your findings on the shorter list—that the cases should have been included in the group of advocacy cases. We had not yet had time to do this look, which we did have planned, so thank you for providing the information. We still plan to look to see if there are any root causes that might have led to them not being included, so we can better address the issue, and will keep your staff posted on what we find.

As to the larger list, we have not completed our review, but, we are not in agreement with your staff's findings that the cases we have looked at thus far should not have been included as advocacy cases. We think the "disconnect" may come from a misunderstanding about why cases were added to the advocacy group. Your staff's analysis seems to focus on whether the application explicitly stated that the organization participated or intervened in a political campaign. Because the legal analysis of whether specific advocacy is political intervention requires analyzing all the facts and circumstances surrounding that advocacy in light of the formal guidance provided in this area, we included all organizations indicating they were engaged in advocacy, so that they would be worked by specialists who have a better understanding of the facts and circumstances to be considered, and who would be able to analyze the cases in a consistent manner.

Having said that, we are concerned that your staff's analysis to come up with the two lists is not consistent. Let me cite a couple examples for you to think about. The list your staff provided indicates that "given the lack of specifics in the application about the types of activities the organization has/will conduct to establish its goals," XXXXX should have been included as an advocacy case. On the other hand, after noting that the YYYYYY "had not begun activities at the time of the application, and there is not enough information about the type of activities planned, staff concluded that the organization



should not have been included as an Advocacy case, but sent for general development instead.<sup>1</sup>

Another set of cases that puzzles us are ZZZZZ, which your list says should have been included as an advocacy case because it did not respond to question 15 of Form 1024 (Has the organization spent or does it plan to spend any money attempting to influence the selection, nomination, election, or appointment of any person to any Federal, state, or local public office or to an office in a political organization?)<sup>2</sup>, and AAAAA, which your list says should not have been considered an advocacy case even though the application responded yes to question 15.

While at the end of the day, there may very well continue to be disagreement on some cases, I think it would be constructive for us to discuss the apparent differences before we put further pen to paper in a more formal way. Let me know your thoughts. I am out of the office Wednesday and Thursday, but can set something up Tuesday or Friday if you'd like.

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<sup>1</sup> I think what is missing here is some indication that YYYY was going to do some advocacy? Otherwise they would be correct if we had no reason from the application to think they might do advocacy. Is there something?

<sup>2</sup> I assume 15 asks whether you will do advocacy? Please tell me what the question is.  
Thanks



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**From:** Marks Nancy J  
**Sent:** Thursday, February 07, 2013 5:00 PM  
**To:** Medina Moises C  
**Cc:** Grant Joseph H  
**Subject:** FW: Potential topics

Fyi--Moises this is the issue I mentioned to you yesterday.

-----Original Message-----

**From:** Marks Nancy J  
**Sent:** Thursday, February 07, 2013 5:59 PM  
**To:** Flax Nikole C  
**Cc:** Lerner Lois G; Paz Holly O  
**Subject:** RE: Potential topics

Lois, Holly and I have talked about the strategies Cathy Barry and Steve have been thinking about in building relationship and background with the oversight committees (if we do W&M don't we want to offer Senate Finance the same opportunity?)

We basically agreed with the possible topics--Our suggestion would be to group the topics in three clusters and we have two adds (although the first is essentially foundational). We think breaking it out allows the time for the conversations to be thoughtful with plenty of room for questions and also allows the work of preparing and presenting to be spread out which would be invaluable in light of the other priorities being juggled. We also anticipate that while Lois and either Joseph, Moises or I would probably always be present (and generally Holly) there would be other attendee/presenters (for example Chris Giosa on 512 and possibly Sharon Light on hospitals and universities) so having the right crew in the room without creating a cast of thousands would work more easily with the break out.

We'd suggest

- 1) A meeting covering our general enforcement strategies and the evolution in those strategies as the community and the tools change. Then go into Governance and Executive Compensation which offer some good examples of the challenges and the strategies being used.
- 2) A meeting on 512(b)(13) and politics (c)(3) and (c)(4) (5) and (6)
- 3) A meeting on the hospitals and universities study and on community benefit/501(r)
- 4) We thought they might be interested in a background and approaches meeting on over overall picture in the Determination Letter area since this is a place where they often bump into questions and having the broader context might be helpful.

We would not anticipate putting written presentations together but (1) on at least several of these there are some useful materials we can cannibalize that may be helpful and (2) given the general sensitivity of all the topics we anticipate that we'd put together a bullet point summary of what we expected to cover which we'd want to run by you (and possibly/your judgement would be best on this/Steve--e.g. the recent back and forth on governance and whether we are stepping back a little in what we are saying in that area).



---

**From:** Marks Nancy J  
**Sent:** Monday, February 18, 2013 6:31 PM  
**To:** Paz Holly O; Lerner Lois G  
**Subject:** Re: comments on TIGTA's analysis of appropriateness of advocacy case development questions

I think that's right

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Sent using BlackBerry

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**From:** Paz Holly O  
**Sent:** Friday, February 15, 2013 12:16 PM Eastern Standard Time  
**To:** Lerner Lois G; Marks Nancy J  
**Subject:** comments on TIGTA's analysis of appropriateness of advocacy case development questions

Lois and Nan,

Before I send this on to TIGTA, wanted to give you a chance to review the comment I will pass along about their analysis of the appropriateness of the development questions. I tried to capture what I think we discussed yesterday but welcome suggested edits. Thanks!

While the appropriateness of the development questions varies depending upon the facts of the particular cases, in general, the IRS considers the repeated use of these questions as overbroad and nonprobative, and the IRS does not disagree with TIGTA concerns about these questions.

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**From:** Barre Catherine M  
**Sent:** Tuesday, February 19, 2013 5:08 PM  
**To:** Marks Nancy J; Flax Nikole C  
**Subject:** RE: Potential topics

Thanks

-----Original Message-----

From: Marks Nancy J  
Sent: Tuesday, February 19, 2013 4:10 PM  
To: Barre Catherine M; Flax Nikole C  
Subject: RE: Potential topics

Cathy Joseph Grant is just back today and he and I will be talking about this this evening. Let me get back to you then with our attendees. Thanks

-----Original Message-----

From: Barre Catherine M  
Sent: Tuesday, February 19, 2013 3:47 PM  
To: Flax Nikole C; Marks Nancy J  
Subject: Fw: Potential topics

Who should I be looking to to attend for irs? Need to coordinate calendars and provide some dates and times.

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Sent using BlackBerry

----- Original Message -----

From: Barre Catherine M  
Sent: Tuesday, February 19, 2013 03:46 PM Eastern Standard Time  
To: Marks Nancy J; Flax Nikole C; Lerner Lois G; Paz Holly O  
Subject: Re: Potential topics

Sounds good.

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Sent using BlackBerry

----- Original Message -----

From: Marks Nancy J  
Sent: Tuesday, February 19, 2013 10:26 AM Eastern Standard Time  
To: Flax Nikole C; Barre Catherine M; Lerner Lois G; Paz Holly O  
Subject: RE: Potential topics

That would be my suggestion. If it proves that more time is needed a second meeting could be set.

-----Original Message-----

From: Flax Nikole C

Sent: Tuesday, February 19, 2013 10:23 AM

To: Barre Catherine M; Lerner Lois G; Marks Nancy J; Paz Holly O

Subject: Re: Potential topics

Can we start with 90 minutes?

----- Original Message -----

From: Barre Catherine M

Sent: Tuesday, February 19, 2013 08:56 AM Eastern Standard Time

To: Flax Nikole C; Lerner Lois G; Marks Nancy J; Paz Holly O

Subject: RE: Potential topics

Sure. I believe they would be open to a 2 hour meeting. Would you all be open to that?

-----Original Message-----

From: Flax Nikole C

Sent: Sunday, February 17, 2013 5:19 PM

To: Lerner Lois G; Barre Catherine M; Marks Nancy J; Paz Holly O

Subject: RE: Potential topics

No way could cover in an hour. Would it work to set up 90 minutes and then stick to a hard stop and cover as much as possible in that time?

-----Original Message-----

From: Lerner Lois G

Sent: Wednesday, February 13, 2013 6:36 PM

To: Barre Catherine M; Marks Nancy J; Flax Nikole C; Paz Holly O

Subject: RE: Potential topics

Depends on what we say and what they ask--as to the political stuff, I need a sense from the people above me about where they want me to go and what I can say. I get the sense they don't want the rules--they want the challenges and I would need some guidance from Nikole et al

Lois G. Lerner

Director of Exempt Organizations

-----Original Message-----

From: Barre Catherine M

Sent: Wednesday, February 13, 2013 6:21 PM

To: Marks Nancy J; Flax Nikole C; Lerner Lois G; Paz Holly O

Subject: RE: Potential topics

I talked to Jen Acuna. She and I agreed that we would schedule one meeting and then discuss what else made sense rather than lining up more than one meeting at the outset.

They would like to move forward with a briefing on items 2 & 3. Can we cover both topics in the course of one meeting?

Thanks

-----Original Message-----

From: Marks Nancy J



Sent: Monday, February 11, 2013 10:56 AM  
To: Flax Nikole C  
Cc: Lerner Lois G; Paz Holly O; Barre Catherine M  
Subject: RE: Potential topics

Cathy as part of that, particularly if we are going to two meetings, we'd be grateful for your help in getting this in place while not having this all pile on too swiftly. Folks are stretched pretty thin and there will be some work involved both in prep and in making sure we are on message in the sensitive areas. Thanks

-----Original Message-----

From: Flax Nikole C  
Sent: Sunday, February 10, 2013 10:14 PM  
To: Marks Nancy J  
Cc: Lerner Lois G; Paz Holly O; Barre Catherine M  
Subject: Re: Potential topics

Topics look good, but preference that we limit to no more than two meetings. Cathy, do you think we should offer these up and see what they want.

----- Original Message -----

From: Marks Nancy J  
Sent: Thursday, February 07, 2013 05:59 PM Eastern Standard Time  
To: Flax Nikole C  
Cc: Lerner Lois G; Paz Holly O  
Subject: RE: Potential topics

Lois, Holly and I have talked about the strategies Cathy Barry and Steve have been thinking about in building relationship and background with the oversight committees (if we do W&M don't we want to offer Senate Finance the same opportunity?)

We basically agreed with the possible topics--Our suggestion would be to group the topics in three clusters and we have two adds (although the first is essentially foundational). We think breaking it out allows the time for the conversations to be thoughtful with plenty of room for questions and also allows the work of preparing and presenting to be spread out which would be invaluable in light of the other priorities being juggled. We also anticipate that while Lois and either Joseph, Moises or I would probably always be present (and generally Holly) there would be other attendee/presenters (for example Chris Giosa on 512 and possibly Sharon Light on hospitals and universities) so having the right crew in the room without creating a cast of thousands would work more easily with the break out.

We'd suggest

- 1) A meeting covering our general enforcement strategies and the evolution in those strategies as the community and the tools change. Then go into Governance and Executive Compensation which offer some good examples of the challenges and the strategies being used.
- 2) A meeting on 512(b)(13) and politics (c)(3) and (c)(4) (5) and (6)
- 3) A meeting on the hospitals and universities study and on community benefit/501(r)
- 4) We thought they might be interested in a background and approaches meeting on over overall picture in the Determination Letter area since this is a place where they often bump into questions and having the broader context might be helpful.

We would not anticipate putting written presentations together but (1) on at least several of these there are some useful materials we can cannibalize that may be helpful and (2) given the general sensitivity of all the topics we anticipate that we'd put together a bullet point summary of what we expected to cover which we'd want to run by you (and possibly/your judgement would be best on this/Steve--e.g. the recent back and forth on governance and whether we are stepping back a little in what we are saying in that area).

---

**From:** Marks Nancy J  
**Sent:** Wednesday, February 20, 2013 3:40 PM  
**To:** Barre Catherine M; Lerner Lois G; Flax Nikole C; Paz Holly O  
**Subject:** RE: Potential topics

Thanks, Joseph Grant would like to be part of that call

-----Original Message-----

From: Barre Catherine M  
Sent: Wednesday, February 20, 2013 4:25 PM  
To: Lerner Lois G; Flax Nikole C; Marks Nancy J; Paz Holly O  
Subject: Re: Potential topics

Leg affairs will set a time for a 30 minute internal planning call for the 5 of us. Good?

-----  
Sent using BlackBerry

----- Original Message -----

From: Lerner Lois G  
Sent: Wednesday, February 20, 2013 02:42 PM Eastern Standard Time  
To: Flax Nikole C; Barre Catherine M; Marks Nancy J; Paz Holly O  
Subject: RE: Potential topics

Is someone setting this up\_\_I haven't gotten an invite?

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Tuesday, February 19, 2013 7:08 PM  
To: Lerner Lois G; Barre Catherine M; Marks Nancy J; Paz Holly O  
Subject: RE: Potential topics

Probably easiest to discuss. Can we have a quick chat tomorrow or the next day? Thanks

-----Original Message-----

From: Lerner Lois G  
Sent: Tuesday, February 19, 2013 6:46 PM  
To: Flax Nikole C; Barre Catherine M; Marks Nancy J; Paz Holly O  
Subject: RE: Potential topics

Sorry, my previous email used c3 as an example where I might need some input as to how far you'd like me to go, but I see the topics we agreed on for the first meeting are c4,5,and 6--same issue--how far do you want me to go in talking about the poor tools we have to resolve these issues? And as to C & U--we have a lot of stuff to talk about UBIT-wise,

but the final report isn't out so I'm guessing you wouldn't want me to tell them about it--correct? The interim does go to comp issues, so I can talk about the challenges of determining whether comp is reasonable--

Can someone tell me the purpose of these meetings and what we hope to achieve--that might help. Thanks

Lois G. Lerner  
Director of Exempt Organizations

-----Original Message-----

From: Flax Nikole C  
Sent: Sunday, February 17, 2013 5:19 PM  
To: Lerner Lois G; Barre Catherine M; Marks Nancy J; Paz Holly O  
Subject: RE: Potential topics

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Sent: Wednesday, February 13, 2013 6:36 PM  
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Subject: RE: Potential topics

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Lois G. Lerner  
Director of Exempt Organizations

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From: Barre Catherine M  
Sent: Wednesday, February 13, 2013 6:21 PM  
To: Marks Nancy J; Flax Nikole C; Lerner Lois G; Paz Holly O  
Subject: RE: Potential topics

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Sent: Monday, February 11, 2013 10:56 AM  
To: Flax Nikole C  
Cc: Lerner Lois G; Paz Holly O; Barre Catherine M  
Subject: RE: Potential topics

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Cc: Lerner Lois G; Paz Holly O; Barre Catherine M  
Subject: Re: Potential topics

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To: Flax Nikole C  
Cc: Lerner Lois G; Paz Holly O  
Subject: RE: Potential topics

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(and possibly/your judgement would be best on this/Steve--e.g. the recent back and forth on governance and whether we are stepping back a little in what we are saying in that area).

---

**From:** Cook Janine  
**Sent:** Monday, May 21, 2012 3:00 PM  
**To:** Spellmann Don R; Marshall David L  
**Cc:** Munroe David; Brown Susan D  
**Subject:** RE: EO Coordinator on (c)(4) questions

I'm guessing the questions involve the Sch B in light of the other follow up questions Hatch's office seemed to have about Sch B.

---

**From:** Spellmann Don R  
**Sent:** Monday, May 21, 2012 3:49 PM  
**To:** Cook Janine; Marshall David L  
**Cc:** Judson Victoria A; Munroe David; Brown Susan D  
**Subject:** RE: EO Coordinator on (c)(4) questions

[REDACTED]  
[REDACTED] (b)(5) AC [REDACTED]  
[REDACTED]

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**From:** Cook Janine  
**Sent:** Monday, May 21, 2012 2:50 PM  
**To:** Spellmann Don R; Marshall David L  
**Cc:** Judson Victoria A; Munroe David; Brown Susan D  
**Subject:** FW: EO Coordinator on (c)(4) questions

Don/David

ok, back on now. Can you see if we have anything else to add to what Henry offered up below on the authority for asking for donor info on applications. Sounded like they wanted to respond to it generically, but if there is any authority directly on point, please let Vicki and I know.

---

**From:** Schneiderman Henry S  
**To:** Barre Catherine M  
**Cc:** Butler Deborah A; Schneiderman Henry S; McField Terri; Munroe David  
**Sent:** Fri May 18 17:50:54 2012  
**Subject:** RE: EO Coordinator on (c)(4) questions

I spoke with Dave Munroe about this matter. TEGE will take the lead with respect to Counsel. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] (b)(5) AC [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

(b)(5) AC

---

**From:** Barre Catherine M [<mailto:Catherine.M.Barre@irs.gov>]  
**Sent:** Wednesday, May 16, 2012 3:35 PM  
**To:** Munroe David  
**Cc:** Lerner Lois G; Flax Nikole C; Cook Jeannie M; McField Terri; Kindell Judith E; Schneiderman Henry S  
**Subject:** FW: EO Coordinator on (c)(4) questions

I contacted Terri McField for her assistance in reaching out to counsel on a statutory authority issue that has been raised related to a c4 congressional staff inquiry. I had already raised the same issue with Lois but, we agreed that counsel, most likely P&A, could be helpful.

If counsel has helpful insight on this issue please come back to Terri and to me.

Thanks.

Cathy Barré

---

**From:** Kindell Judith E  
**Sent:** Wednesday, May 16, 2012 03:14 PM  
**To:** Munroe David  
**Cc:** Cook Janine; Lerner Lois G  
**Subject:** RE: EO Coordinator on (c)(4) questions

Lois has been actively involved in all of the responses.

---

**From:** Munroe David [<mailto:David.Munroe@IRSCOUNSEL.TREAS.GOV>]  
**Sent:** Wednesday, May 16, 2012 2:58 PM  
**To:** Kindell Judith E  
**Cc:** Cook Janine  
**Subject:** EO Coordinator on (c)(4) questions

Someone on the CC's staff called us regarding a (c)(4) question on the statutory authority to require donor names during the application process. The person had been contacted by Leg Affairs. Was wondering who in your office is coordinating the (c)(4) Congressional questions. It seems to us the Leg Affairs person should be talking to that person so everything is coming through 1 channel. Can you please let us know who that person in EO would be. Thanks. Dave 622-4799

---

**From:** Spellmann Don R  
**Sent:** Tuesday, May 22, 2012 8:07 AM  
**To:** Cook Janine; Marshall David L; Brown Susan D  
**Subject:** RE: Hatch Staff

(b)(5) AC

---

**From:** Cook Janine  
**Sent:** Monday, May 21, 2012 5:20 PM  
**To:** Spellmann Don R; Marshall David L; Brown Susan D  
**Subject:** RE: Hatch Staff

Thanks so much. Is the latter requirement synonymous with Sch B or does B require more or less?

---

**From:** Spellmann Don R  
**Sent:** Monday, May 21, 2012 4:34 PM  
**To:** Cook Janine; Marshall David L; Brown Susan D  
**Subject:** RE: Hatch Staff

(b)(5) AC; non responsive

---

**From:** Cook Janine  
**Sent:** Monday, May 21, 2012 4:01 PM  
**To:** Spellmann Don R; Marshall David L; Brown Susan D  
**Subject:** FW: Hatch Staff

Background email that references Sch B

---

**From:** Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]  
**Sent:** Monday, May 21, 2012 2:40 PM  
**To:** Cook Janine  
**Subject:** Re: Hatch Staff

I was on the phone with them I think what we wanted from Counsel was a

(b)(5) AC

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

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**From:** Cook Janine [mailto:Janine.Cook@irs.counsel.treas.gov]  
**Sent:** Monday, May 21, 2012 02:32 PM  
**To:** Lerner Lois G  
**Cc:** Judson Victoria A  
**Subject:** RE: Hatch Staff

That's our concern. [REDACTED] (b)(5) AC. Cathy Barre said they asked you this question on a call. Do you recall getting the question? Wonder if the question is getting confused with the questions Joseph responded to below?

---

**From:** Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]  
**Sent:** Monday, May 21, 2012 2:18 PM  
**To:** Cook Janine  
**Cc:** Judson Victoria A  
**Subject:** RE: Hatch Staff

I would say you need to be very careful responding to that--we probably have responded "around it" in numerous Congressional. Let me check with Nikole to see whether the expectation is for you or us to respond.

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Cook Janine [mailto:Janine.Cook@irs.counsel.treas.gov]  
**Sent:** Monday, May 21, 2012 1:14 PM  
**To:** Lerner Lois G  
**Cc:** Judson Victoria A  
**Subject:** RE: Hatch Staff

THanks Lois. Seems like we were forwarded a THIRD question not talked about below: *the statutory authority to ASK for donor names for c4 applicants*. The questions below are about not disclosing the names.

Please confirm whether you want us to handle getting an answer to this question back to Cathy or whether you think you covered it separately.

Thanks.

---

**From:** Barre Catherine M  
**Sent:** Friday, May 18, 2012 12:25 PM  
**To:** Grant Joseph H  
**Cc:** Flax Nikole C; Davis Jonathan M (Wash DC); Lerner Lois G  
**Subject:** RE: Hatch Staff

Thanks, Joseph. I think I should go back on this with a conversation rather than a written response. I will touch base with Nikole and Jonathan on this as well.

Cathy

---

**From:** Grant Joseph H  
**Sent:** Thursday, May 17, 2012 9:45 AM



**To:** Barre Catherine M  
**Cc:** Flax Nikole C; Davis Jonathan M (Wash DC); Lerner Lois G  
**Subject:** RE: Hatch Staff

Cathy,

- 1) *What is the IRS process with respect to the 990 schedule B – is there a document identification number placed on the schedule B by the IRS?*

*non responsive*

- 2) *Does the IRS share 990 Schedule B information with any party such as, under an exchange of information with the State taxing authorities?*

*non responsive*

I hope this helps. Please let me know if TE/GE can provide you with any further assistance in this matter.

Thanks as always - Joseph

---

**From:** Barre Catherine M  
**Sent:** Thursday, May 17, 2012 8:45 AM  
**To:** Grant Joseph H  
**Subject:** FW: Hatch Staff

[Any status on the answers to these questions?](#)

Thanks.

---

**From:** Barre Catherine M  
**Sent:** Monday, May 14, 2012 4:40 PM  
**To:** Grant Joseph H  
**Cc:** Flax Nikole C; Davis Jonathan M (Wash DC); Stevens Margo  
**Subject:** Hatch Staff

I had a conversation with Hatch staff today. They have 2 general questions:

- 1) What is the IRS process with respect to the 990 schedule B – is there a document identification number placed on the schedule B by the IRS?

- 2) Does the IRS share 990 Schedule B information with any party such as, under an exchange of information with the State taxing authorities?

Thanks.

Cathy

---

**From:** Davis Jonathan M (Wash DC)  
**Sent:** Monday, February 27, 2012 5:10 PM  
**To:** Lerner Lois G; Flax Nikole C; Eldridge Michelle L; Keith Frank; Lemons Terry L; Grant Joseph H  
**Cc:** Eguren Sara L; Patterson Dean J; Miller Steven T  
**Subject:** RE: 501c4 repsonse for AP and roll call  
**Attachments:** Document1 (6).doc

a few edits from Steve and me.

thanks

---

**From:** Lerner Lois G  
**Sent:** Monday, February 27, 2012 5:59 PM  
**To:** Flax Nikole C; Eldridge Michelle L; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L; Grant Joseph H  
**Cc:** Eguren Sara L; Patterson Dean J; Miller Steven T  
**Subject:** RE: 501c4 repsonse for AP and roll call

**Your right--but I think it's just a duplicate of the first one. Stop after any other relevant information**

*Lois G. Lerner*

Director of Exempt Organizations

---

**From:** Flax Nikole C  
**Sent:** Monday, February 27, 2012 5:50 PM  
**To:** Eldridge Michelle L; Davis Jonathan M (Wash DC); Lerner Lois G; Keith Frank; Lemons Terry L; Grant Joseph H  
**Cc:** Eguren Sara L; Patterson Dean J; Miller Steven T  
**Subject:** Re: 501c4 repsonse for AP and roll call

I am reading on the bb, but seems to be a lot of repetition of the same language. Maybe it isn't showing up right.

---

**From:** Eldridge Michelle L  
**Sent:** Monday, February 27, 2012 05:31 PM  
**To:** Davis Jonathan M (Wash DC); Flax Nikole C; Lerner Lois G; Keith Frank; Lemons Terry L; Grant Joseph H  
**Cc:** Eguren Sara L; Patterson Dean J  
**Subject:** 501c4 repsonse for AP and roll call

Here is the statement we plan to give AP and Roll call. The inbound is asking about c4's and tea party affiliations. I have been working this with Lois & co. Sorry for short time frame but I need to respond back to AP in just a few minutes. Thanks. --Michelle

By law, the IRS cannot discuss any specific taxpayer situation or case. Generally however, when determining whether an organization is eligible for tax-exempt status, including 501(c)(4) social welfare organizations, all the facts and circumstances of that specific organization must be considered to determine whether it meets the eligibility requirements. To be tax-exempt as a social

welfare organization described in Internal Revenue Code (IRC) section 501(c)(4), an organization's primary activities must promote social welfare.

The promotion of social welfare does not include any unrelated business activities or intervention in political campaigns on behalf of or in opposition to any candidate for public office. However, a section 501(c)(4) social welfare organization may engage in some political activities and some business activities, so long as, in the aggregate, these non-exempt activities are not its primary activities. Even where the non-exempt activities are not the primary activities, they may be taxed. Unrelated business income may be subject to tax under section 511-514, and expenditures for political activities may be subject to tax under section 527(f). For further information regarding political campaign intervention by section 501(c) organizations, see Election Year Issues, Political Campaign and Lobbying Activities of IRC 501(c)(4), (c)(5), and (c)(6) Organizations, and Revenue Ruling 2004-6.

Unlike 501(c)(3) organizations, 501(c)(4) organizations are not required to apply to the IRS for recognition of their tax-exempt status. Organizations may self-declare and if they meet the statutory and regulatory requirements they will be treated as tax-exempt. If they do want reliance on an IRS determination of their status, they can file an application for exemption.

In cases where an application for exemption under 501 (c)(4) presents issues that require further development before a determination can be made, the IRS engages in a back and forth dialogue with the applicant. For example, if an application appears to indicate that the organization has engaged in political activities or may engage in political activities, the IRS will request additional information about those activities to determine whether they, in fact, constitute political activity. If so, the IRS will look at the rest of the organization's activities to determine whether the primary activities are social welfare activities or whether they are non-exempt activities. In order to make this determination, the IRS must build an administrative record of the case. That record could include answers to questions, copies of documents, copies of web pages and any other relevant information.

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Career civil servants, not political appointees, make these determination decisions in a fair, impartial manner and do so without regard to political party affiliation or ideology.



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Career civil servants make all decisions on exemption applications in a fair, impartial manner and do so without regard to political party affiliation or ideology.

---

**From:** Eldridge Michelle L  
**Sent:** Monday, February 27, 2012 5:17 PM  
**To:** Miller Steven T; Davis Jonathan M (Wash DC); Lerner Lois G; Grant Joseph H; Flax Nikole C; Keith Frank; Lemons Terry L; Zarin Roberta B  
**Subject:** FW: 501c4 response for AP  
**Attachments:** Document1 (6).doc

OK--Here is final I'm using. Edits were incorporated. Thanks. --Michelle

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Career civil servants make all decisions on exemption applications in a fair, impartial manner and do so without regard to political party affiliation or ideology.



By law, the IRS cannot discuss any specific taxpayer situation or case. Generally however, when determining whether an organization is eligible for tax-exempt status, including 501(c)(4) social welfare organizations, all the facts and circumstances of that specific organization must be considered to determine whether it is eligible for tax-exempt status. To be tax-exempt as a social welfare organization described in Internal Revenue Code (IRC) section 501(c)(4), an organization must be primarily engaged in the promotion of social welfare.

The promotion of social welfare does not include any unrelated business activities or intervention in political campaigns on behalf of or in opposition to any candidate for public office. However, the law allows a section 501(c)(4) social welfare organization to engage in some political activities and some business activities, so long as, in the aggregate, these non-exempt activities are not its primary activities. Even where the non-exempt activities are not the primary activities, they may be taxed. Unrelated business income may be subject to tax under section 511-514, and expenditures for political activities may be subject to tax under section 527(f). For further information regarding political campaign intervention by section 501(c) organizations, see Election Year Issues, Political Campaign and Lobbying Activities of IRC 501(c)(4), (c)(5), and (c)(6) Organizations, and Revenue Ruling 2004-6.

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Career civil servants make all decisions on exemption applications in a fair, impartial manner and do so without regard to political party affiliation or ideology.

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**From:** Flax Nikole C  
**Sent:** Wednesday, February 29, 2012 7:29 PM  
**To:** Miller Steven T  
**Subject:** Re: 501c4 status/Cincinatti task force

That could be the effect bc of grades of cases and specialists, but will check about topic.

---

**From:** Miller Steven T  
**Sent:** Wednesday, February 29, 2012 08:02 PM  
**To:** Flax Nikole C  
**Subject:** Re: 501c4 status/Cincinatti task force

I should just go to bed...I do question whether we have limited the number of specialists who see these cases. We can discuss.

-----  
Sent using BlackBerry

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**From:** Flax Nikole C  
**Sent:** Wednesday, February 29, 2012 07:14 PM  
**To:** Miller Steven T; Lerner Lois G; Eldridge Michelle L  
**Cc:** Davis Jonathan M (Wash DC)  
**Subject:** FW: 501c4 status/Cincinatti task force

Does the following work? Lois, you need to make sure the 2nd sentence is accurate. I think some are worked in DC, but think the statement is correct if they all come through Cincinnati.

The IRS does not have a task force dedicated to looking at 501c4 political activity. All applications for determination of tax-exempt status (including applications for tax exemption under sections 501(c)(3), (c)(4) or otherwise) are submitted to our Cincinnati office.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 5:46 PM  
**To:** Flax Nikole C  
**Subject:** FW: 501c4 status/Cincinatti task force

**What can I say--**

*Lois G. Lerner*  
Director of Exempt Organizations

**Sent:** Wednesday, February 29, 2012 5:22 PM  
**To:** Zarin Roberta B; Eldridge Michelle L  
**Cc:** Patterson Dean J; Williams Grant  
**Subject:** FW: 501c4 status/Cincinnati task force

This reporter is asking us to specifically confirm whether there is an IRS Cincinnati task force dedicated to looking at 501c4s political activity and sending these organizations questionnaires.

**Sara L. Eguren**  
IRS Media Relations

---

**From:** Janie Lorber [<mailto:JanieLorber@rollcall.com>]  
**Sent:** Wednesday, February 29, 2012 5:10 PM  
**To:** Eguren Sara L  
**Subject:** 501c4 status/Cincinnati task force

Sara,  
Thanks very much for your time just now.

I hear that the IRS Exempt Organizations Division has set up a task force to address concerns about 501c4 organizations that are acting more like political parties than social welfare organizations. My understanding is that that task force is based in Cincinnati and has been in operation for just about two months. I'm told that this committee has issued a series of requests for additional information to organizations applying for 501c4 status.

Can you confirm this information? Further detail would also be greatly appreciated. My deadline is noon tomorrow. I can be reached at 202 650 6834

Thank you,  
Janie

--

Janie Lorber  
Reporter  
CQ Roll Call  
202 650 6834 (O)  
339 206 5812 (C)  
[janielorber@rollcall.com](mailto:janielorber@rollcall.com)  
[www.rollcall.com](http://www.rollcall.com)

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**From:** Lerner Lois G  
**Sent:** Thursday, March 01, 2012 11:58 AM  
**To:** Flax Nikole C; Miller Steven T; Eldridge Michelle L  
**Cc:** Davis Jonathan M (Wash DC)  
**Subject:** RE: 501c4 status/Cincinatti task force

**The only time they came up here was the initial look at a few cases to help develop guidance for the Cincy folks**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Flax Nikole C  
**Sent:** Thursday, March 01, 2012 12:23 PM  
**To:** Lerner Lois G; Miller Steven T; Eldridge Michelle L  
**Cc:** Davis Jonathan M (Wash DC)  
**Subject:** Re: 501c4 status/Cincinatti task force

Steve, I checked out the question you had and the language is correct.

---

**From:** Lerner Lois G  
**Sent:** Thursday, March 01, 2012 12:15 PM  
**To:** Lerner Lois G; Flax Nikole C; Miller Steven T; Eldridge Michelle L  
**Cc:** Davis Jonathan M (Wash DC)  
**Subject:** RE: 501c4 status/Cincinatti task force

**Bobby got an inquiry from someone in media relations asking if we are responding to the allegation. I thought we got the OK to use this yesterday--just checking to be sure--can we give it out?**

*Lois G. Lerner*

Director of Exempt Organizations

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**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 7:17 PM  
**To:** Flax Nikole C; Miller Steven T; Eldridge Michelle L  
**Cc:** Davis Jonathan M (Wash DC)  
**Subject:** RE: 501c4 status/Cincinatti task force

**Correct. See my edit--wordy, but maybe a little clearer**

*Lois G. Lerner*

Director of Exempt Organizations

**From:** Flax Nikole C  
**Sent:** Wednesday, February 29, 2012 7:15 PM  
**To:** Miller Steven T; Lerner Lois G; Eldridge Michelle L  
**Cc:** Davis Jonathan M (Wash DC)  
**Subject:** FW: 501c4 status/Cincinnati task force

Does the following work? Lois, you need to make sure the 2nd sentence is accurate. I think **some are worked in DC, but think the statement is correct if they all come through Cincinnati.**

**The IRS does not have a task force dedicated to looking at 501c4 political activity. All applications for determination of tax-exempt status (including applications for tax exemption under sections 501(c)(3), (c)(4) or otherwise) are submitted to our Determinations Office in Cincinnati , Ohio.**

---

**From:** Lerner Lois G  
**Sent:** Wednesday, February 29, 2012 5:46 PM  
**To:** Flax Nikole C  
**Subject:** FW: 501c4 status/Cincinnati task force

**What can I say--**

*Lois G. Lerner*

Director of Exempt Organizations

---

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**To:** Zarin Roberta B; Eldridge Michelle L  
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**Subject:** FW: 501c4 status/Cincinnati task force

This reporter is asking us to specifically confirm whether there is an IRS Cincinnati task force dedicated to looking at 501c4s political activity and sending these organizations questionnaires.

**Sara L. Eguren**  
IRS Media Relations

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**Sent:** Wednesday, February 29, 2012 5:10 PM  
**To:** Eguren Sara L  
**Subject:** 501c4 status/Cincinnati task force

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Can you confirm this information? Further detail would also be greatly appreciated. My deadline is noon tomorrow. I can be reached at 202 650 6834

Thank you,

Janie

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Janie Lorber

Reporter

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**From:** Miller Steven T  
**Sent:** Thursday, April 18, 2013 7:29 AM  
**To:** Flax Nikole C  
**Subject:** Re: speech

We will talk at noon

-----  
Sent using BlackBerry

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**From:** Flax Nikole C  
**Sent:** Thursday, April 18, 2013 08:28 AM Eastern Standard Time  
**To:** Miller Steven T  
**Subject:** Re: speech

Maybe not a terrible idea for her to get out how many approvals we have had to date and discuss the issue a bit.

---

**From:** Miller Steven T  
**Sent:** Thursday, April 18, 2013 08:21 AM Eastern Standard Time  
**To:** Flax Nikole C  
**Subject:** Re: speech

She can apologize for undermanaging.

-----  
Sent using BlackBerry

---

**From:** Flax Nikole C  
**Sent:** Thursday, April 18, 2013 08:17 AM Eastern Standard Time  
**To:** Miller Steven T  
**Subject:** Re: speech

April 25 - she is begging for material to discuss

---

**From:** Miller Steven T  
**Sent:** Thursday, April 18, 2013 08:04 AM Eastern Standard Time  
**To:** Flax Nikole C  
**Subject:** Re: speech

When is her speech--may want to use it to burst a bubble

-----  
Sent using BlackBerry

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**From:** Flax Nikole C  
**Sent:** Wednesday, April 17, 2013 08:37 PM Eastern Standard Time  
**To:** Miller Steven T

**Subject:** Fw: speech

I assume you don't want lois talking sequestration at GT? I know the answer, but she will want to know that I asked.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 17, 2013 08:08 PM Eastern Standard Time  
**To:** Flax Nikole C  
**Subject:** Re: speech

Any possibility we'd ask permission on this?  
Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

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**From:** Flax Nikole C  
**Sent:** Wednesday, April 17, 2013 07:32 PM Eastern Standard Time  
**To:** Lerner Lois G  
**Subject:** Re: speech

Anything we say re sequestration has to be cleared by omb. A new memo on it came out today.

---

**From:** Lerner Lois G  
**Sent:** Wednesday, April 17, 2013 07:13 PM Eastern Standard Time  
**To:** Flax Nikole C  
**Subject:** Re: speech

Am at home so can't send until tomorrow. Got a message from Terry nixing it, which puts me in a pickle since I need to talk about something high level for 40 minutes. C and U won't do it. I have already spoken about sequester publicly and only used stats that came from Miller messages--except one, which Joseph got permission for yesterday. So, where does this leave me? Can we take stats out or is the topic just off the table? I will be asked, so there is no avoiding it. I figured managing it was a better shot. Will send as soon as I can  
Lois G. Lerner-----  
Sent from my BlackBerry Wireless Handheld

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**From:** Flax Nikole C  
**Sent:** Wednesday, April 17, 2013 04:12 PM Eastern Standard Time  
**To:** Lerner Lois G  
**Subject:** speech

Lois - C&L said you sent a copy of your speech - can you send it? Thanks



**Recent section 501(c)(4) activity**  
**DRAFT 4-19-13**

So I thought I would mention a matter that came up over the last year around section 501(c)(4) organizations and their level of political activity. There are a number of issues that have generated discussion including the law and long-standing regulations as well as our determination process for these cases, and most recently our new questionnaire.

Let me focus on one aspect that was in the news. As you know, the number of c4 applications increased significantly starting after 2010. In particular, we saw a large volume of applications from organizations that appeared to be engaged in advocacy activities and we did not have good procedures in place to work these cases. We took steps to coordinate the handling of the cases to ensure consistency. We do this in areas where we want to drive consistency. Credit counseling is another example.

But we made a mistake here. The in centralizing the cases in Cincinnati, my team placed too much reliance on the particular name of an organization rather than looking deeper into the activities. These efforts resulted in some cases being in inventory for a longer time than expected and other mistakes were made along the way. Now, we have remedied this, both systemically and for the taxpayers who were impacted. I think we have done a good job of turning around the situation, but there has been much interest in the issue which is why I wanted to raise it today.

In efforts to identify those cases that warranted a closer look and to provide consistent treatment, at some points So there are some organizations that may have been put into our advocacy group of cases that should not have been because my staff thought their names implied that they may be engaged in political activity. We have taken steps to ensure that this can't happen in the future.

In addition, given the volume of cases and the difficult facts and circumstances determinations, we attempted to develop a uniform guide sheet approach to working these. While this approach has been successful in other projects (for example, XXX), after spending too much time, we came to the realization that there was not a one-size fits all approach and we needed to pivot.

In early 2012, after development letters were sent to some applicant organizations, other issues with respect to these cases were raised. For example, in some cases, we had requested donor names and voluminous materials. While these types of requests can be appropriate in some cases, it is clear that such requests are not appropriate with respect to a broad set of applicants before the issues have been developed.

At this point, recognizing that too much time had lagged with respect to many of the cases, we determined that a more refined approach was warranted to ensure more timely and consistent handling. We put together a team of experienced technical experts in Washington to work with the revenue agents in Cincinnati handling the cases.

With respect to the broad information requests, for many cases, updated information

requests were sent to focus on the specific legal issues in question. In lieu of the voluminous paper requests, we engaged in a process of an active back and forth with organizations in those cases where there were questions as to whether the legal requirements for tax exemption are satisfied.

With respect to donor names, we informed organizations that if they could provide information requested in an alternative manner, they should contact their agent and we would work with them. In cases in which the donor names were not used in making the determination, the donor information was expunged from the file.

We now have a process where each revenue agent assigned these cases works in coordination with a specific technical expert assigned to assist the agent. On section 501(c)(3) and section 501(c)(4) cases where there appears to be potential political intervention, the EO staff member processing the application consults with his or her assigned technical expert on a real-time basis as to whether the facts raise issues of significant potential political intervention, and as to what information is needed to fully develop those issues.

And as discussed, we have made significant progress on these cases to date. Of the nearly 300 c4 advocacy cases, we have approved more than 120 to date. We have had more than 30 (?) withdrawals. And obviously some cases take longer than others to work depending on the issues raised including the level of political activity compared with social welfare activity. We hope to wrap the remaining cases up relatively soon.

[is it worth noting the # of c3 advocacy cases?]

And while I am proud of our activities to turn the situation around, this was not an ideal situation for the applications and the IRS must take ownership of the mistakes made along the way. I can assure that we have learned from these and will be in a better posture to handle these types of cases going forward.

So now that I have explained our activities in the determination process, let me touch on our recent activities related to those organizations that have not come to the IRS to seek recognition of exempt status. [insert discussion of self-declarer questionnaire]

-----

As you know, unlike section 501(c)(3) organizations, the law allows section 501(c)(4) organizations to hold themselves out as tax-exempt or to apply for IRS recognition as tax-exempt. There are organizations that hold themselves out as tax-exempt, but for a variety of reasons, most come into the IRS for recognition [??].

For example, from 2010 to 2012, the number of c4 applications more than doubled (from 1591 to 3398). Starting in 2010, we also 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.

As you know, to qualify under section 501(c)(4), organizations must be primarily engaged in the promotion of social welfare. A section 501(c)(4) social welfare organization can engage in some political activities as long as it is primarily engaged in activities that promote social welfare. Whether an organization meets the requirements of section 501(c)(4) depends upon all of the facts and circumstances of the particular applicant, and no one factor is determinative so these are difficult cases for the IRS to work.



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**DRAFT 4-19-13**

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**From:** Lemons Terry L  
**Sent:** Sunday, April 21, 2013 11:46 AM  
**To:** Miller Steven T; Flax Nikole C; Vozne Jennifer L  
**Subject:** Fw: Emailing: draft c4 comments 4-18-13.doc  
**Attachments:** draft c4 comments 4-18-13.doc

So it's close ... But I don't think it's quite there. For the people in the room at Georgetown, it's fine. But it's not clear enough for people who won't be there and will be combing through the speech afterward. Think current version will create a lot of questions coming in after the speech and actually amplify attention on the upcoming report. Think we need to frame up better – goal should be having a text that stands on its own for reporters and others coming in later and minimizing follow-up questions. (And perhaps goal should also be for reporters in the hearing room to be handed this and fold this into their stories.)

With that in mind, I've made some edits as a starting point – tried simplifying and making clearer at a couple of points. Biggest addition is paragraph three – that's where the reporters will go.

Thanks for listening;)

-----  
Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Terry Lemons [mailto:(b)(6) and (b)(7)(C)]  
Sent: Sunday, April 21, 2013 12:40 PM Eastern Standard Time  
To: Lemons Terry L  
Subject: RE: Emailing: draft c4 comments 4-18-13.doc

----- Original Message -----

From: Miller Steven T  
Sent: Sunday, April 21, 2013 11:30 AM Eastern Standard Time  
To: Flax Nikole C; Vozne Jennifer L; Lemons Terry L  
Cc: Miller Steven T  
Subject: Emailing: draft c4 comments 4-18-13.doc

Take a look. This is the possible insert into Lois' Thursday speech.

-----  
Sent using BlackBerry

**Recent section 501(c)(4) activity**  
**DRAFT 4-21-13**

So I think it's important to bring up a matter that came up over the last year or so concerning our determination letter process, some section 501(c)(4) organizations and their political activity. Some of this has been discussed publicly already. But I thought it would make sense to do just a couple of minutes on what we did, what we didn't do, and where we are today on the grouping of advocacy organizations in our determination letter inventory.

I will start with a summary. As you know, the number of c4 applications increased significantly starting after 2010. In particular, we saw a large increase in the volume of applications from organizations that appeared to be engaged or planning to engage in advocacy activities. We did not have good enough procedures in place to effectively work these cases. You also know about the level of guidance in this area -- we need more. There's also the factual difficulty we have of separating politics from education in these cases -- it's not always a clear area. Complicating matters is the sensitivity of these cases. Before I get into more detail, let me be clear. The IRS should have done a better job of handling the review of the c4 applications. We made mistakes, for which we deeply apologize. But these mistakes were in no way due to any political or partisan reason. They were made because of missteps in our process and insufficient sensitivity to the implications of some of our decisions. We believe we have fixed these issues, and our entire team will do a much better job going forward in this complex area. And I want to stress that our team - all career civil servants -- will continue to do their work in a fair, non-partisan manner.

So let me start again and provide more detail. Centralizing advocacy cases for review in the determination letter process made sense. The way we centralized did not make sense. But we have taken actions to fix the errors. What we did here, along with other mistakes that were made along the way, resulted in some cases being in inventory far longer than they should have. For that I apologize.

Our front-line people in Cincinnati -- who do the reviews -- took steps to coordinate the handling of the uptick in cases to ensure consistency. We take this approach in areas where we want to promote consistency. Cases involving credit counseling are the best example of this sort of situation.

Here's where a problem occurred. In centralizing the cases in Cincinnati, my review team placed too much reliance on the particular name of an organization; in this case, relying on names in organization titles like "tea party" or "patriot," rather than looking deeper into the facts (to determine the level of activity under the c4 guidelines.) Our Inspector General is looking at this situation, but I believe and the IRS leadership team believe this to be an error -- not a political vendetta. The error was of a mistaken desire for too much efficiency on the applications without sufficient sensitivity to the situation.

We also made some errors in our development letters, asking for more than was

needed. You may recall the publicity around donor lists. That resulted from insufficient guidance being provided to our people working on these cases. ( )

Now, we have remedied this situation --, both systemically for the IRS and for the taxpayers who were impacted. I think we have done a good job of turning the situation around to help prevent a situation like this from occurring again.

Let me walk you through the process.

Systemically, we will not allow the centralized collection of cases without greater and higher level review. So what happened here will not happen again.

With respect to the specific c4 cases in inventory, we took a number of steps to move things along. First, we had a team review the cases to determine the necessary scope of our review. Now make no mistake, some need that review, (some have or had endorsements on their website for example)(given recent events-likely would drop parenthetical). But many did not.

We worked to move the inventory. We closed those cases that were clear and are working on those that are less certain.

With respect to what we agree may have been overbroad requests for information, we engaged in a process of an active back and forth with the taxpayer. With respect to donor names, we informed organizations that if they could provide information requested in an alternative manner, we would work with them. In cases in which the donor names were not used in making the determination, the donor information was expunged from the file.

We now have a process where each revenue agent assigned these cases works in coordination with a specific technical expert.

And we have made significant progress on these cases. Of the nearly 300 c4 advocacy cases, we have approved more than 120 to date. We have had more than 30 (?) withdrawals. And obviously some cases take longer than others depending on the issues raised, including the level of political activity compared with social welfare activity. Let me make another important point that shouldn't be lost in all of this. We remain committed to making sure that we properly review determinations where there are questions. And I will say it seems likely that we will see some denials out of this remaining group as well. We hope to wrap the remaining cases up relatively soon.

So I wanted to raise this situation today with you. You and I know the IRS does make mistakes. And I also think you agree that our track record shows that our decisions are based on the law -- not political affiliation. When we do make mistakes, we need to acknowledge it and work toward a better result on pending cases. We also need to put in place safeguards to ensure the errors do not happen again. I think we have tried to do that here.

These cases will help us, along with the self-declarer questionnaire, to better

understand the state of play on political activities in today's environment, the gaps in guidance, and where we need to head into the future.



**Recent section 501(c)(4) activity**  
**PRELIMINARY DRAFT 4-22-13**

So I think it's important to bring up a matter that came up over the last year or so concerning our determination letter process, some section 501(c)(4) organizations and their political activity. Some of this has been discussed publicly already. But I thought it would make sense to do just a couple of minutes on what we did, what we didn't do, and where we are today on the grouping of advocacy organizations in our determination letter inventory.

I will start with a summary. As you know, the number of c4 applications increased significantly starting after 2010. In particular, we saw a large increase in the volume of applications from organizations that appeared to be engaged or planning to engage in advocacy activities. At that time, we did not have good enough procedures or guidance in place to effectively work these cases. We also have the factual difficulty of separating politics from education in these cases -- it's not always clear. Complicating matters is the sensitivity of these cases. Before I get into more detail, let me say that the IRS should have done a better job of handling the review of the c4 applications. We made mistakes, for which we apologize. But these mistakes were not due to any political or partisan reason. They were made because of missteps in our process and insufficient sensitivity to the implications of some of our decisions. We believe we have fixed these issues, and our entire team will do a much better job going forward in this area. And I want to stress that our team - all career civil servants -- will continue to do their work in a fair, non-partisan manner.

So let me start again and provide more detail. Centralizing advocacy cases for review in the determination letter process made sense. Some of the ways we centralized did not make sense. But we have taken actions to fix the errors. What we did here, along with other mistakes that were made along the way, resulted in some cases being in inventory far longer than they should have.

Our front-line people in Cincinnati -- who do the reviews -- took steps to coordinate the handling of the uptick in cases to ensure consistency. We take this approach in areas where we want to promote consistency. Cases involving credit counseling are the best example of this sort of situation.

Here's where a problem occurred. In centralizing the cases in Cincinnati, my review team placed too much reliance on the particular name of an organization; in this case, relying on names in organization titles like "tea party" or "patriot," rather than looking deeper into the facts to determine the level of activity under the c4 guidelines. Our Inspector General is looking at this situation, but I believe and the IRS leadership team believe this to be an error -- not a political vendetta. The error was of a mistaken desire for too much efficiency on the applications without sufficient sensitivity to the situation.

We also made some errors in our development letters, asking for more than was needed. You may recall the publicity around donor lists. That resulted from insufficient

guidance being provided to our people working these cases. There was also an issue about whether we could do a guidesheet for these cases, an effort that took too long before we realized the diversity of the cases prevented success on such a document.

Now, we have remedied this situation -- both systemically for the IRS and for the taxpayers who were impacted. I think we have done a good job of turning the situation around to help prevent this from occurring again.

Let me walk you through the steps we have taken.

Systemically, decisions with respect to the centralized collection of cases must be made at a higher level. So what happened here will not happen again.

With respect to the specific c4 cases in inventory, we took a number of steps to move things along. First, we had a team review the cases to determine the necessary scope of our review. Now make no mistake, some need that review, some have or had endorsements in public materials, for example. But many did not.

We worked to move the inventory. We closed those cases that were clear and are working on those that are less certain.

With respect to what we agree may have been overbroad requests for information, we engaged in a process of an active back and forth with the taxpayer. With respect to donor names, we informed organizations that if they could provide information requested in an alternative manner, we would work with them. In cases in which the donor names were not used in making the determination, the donor information was expunged from the file.

We now have a process where each revenue agent assigned these cases works in coordination with a specific technical expert.

And we have made significant progress on these cases. Of the nearly 300 c4 advocacy cases, we have approved more than 120 to date. We have had more than 30 (?) withdrawals. And obviously some cases take longer than others depending on the issues raised, including the level of political activity compared with social welfare activity. Let me make another important point that shouldn't be lost in all of this. We remain committed to making sure that we properly review determinations where there are questions. We hope to wrap the remaining cases up relatively soon.

So I wanted to raise this situation today with you. You and I know the IRS does make mistakes. And I also think you agree that our track record shows that our decisions are based on the law -- not political affiliation. When we do make mistakes, we need to acknowledge it and work toward a better result. We also need to put in place safeguards to ensure the errors do not happen again. I think we have tried to do that here.

These cases will help us, along with the self-declarer questionnaire, to better understand the state of play on political activities in today's environment, the gaps in

guidance, and where we need to head into the future.

DECLASSIFIED



## **Recent section 501(c)(4) activity**

### **Legal requirements:**

- The law allows section 501(c)(4) organizations to hold themselves out as tax-exempt or to apply for IRS recognition as tax-exempt.
- An organization determined by the IRS to be tax-exempt can rely on that determination if their exempt status is ever questioned, so long as the organization has not deviated from the organizational structure and operational activities set forth in its application materials.
- All section 501(c)(4) organizations must file Form 990-series annual information returns.
- To qualify under section 501(c)(4), organizations must be primarily engaged in the promotion of social welfare, not organized or operated for profit, and the net earnings of which do not inure to the benefit of any private shareholder or individual.
- The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.
- The regulations do not impose a complete ban on political activity by section 501(c)(4) organizations. A section 501(c)(4) social welfare organization can engage in some political activities as long as it is primarily engaged in activities that promote social welfare. Whether an organization meets the requirements of section 501(c)(4) depends upon all of the facts and circumstances of the particular applicant, and no one factor is determinative.
- The organization has the burden of proving that it meets the particular requirements of section 501(c)(4) through information in its application materials.

### **Background:**

- For about the past five years [alternative verbiage: From FY 2008 through June 30th of FY 2012], EO observed an increase in the number of section 501(c)(4) determination applications filed. [EO, do we have any data here?]
- EO took steps to coordinate the handling of the cases to ensure consistency. As sometimes happens, however, coordination efforts resulted in some cases being in inventory for a longer time than expected.
- In early 2012, after development letters were sent to some applicant organizations, issues with respect to these cases were brought to the attention of EO management, who requested a status of the inventory.

- After receiving the inventory status, EO management determined that a more refined approach was warranted to ensure more timely and consistent handling of the cases. EO management put together a team of highly experienced technical experts to work with the revenue agents in Cincinnati handling the cases.
- EO now has a process where each revenue agent assigned these cases works in coordination with a specific technical expert assigned to assist the agent. On section 501(c)(3) and section 501(c)(4) cases where there appears to be potential political intervention, the EO staff member processing the application consults with his or her assigned technical expert on a real-time basis as to whether the facts raise issues of significant potential political intervention, and as to what information is needed to fully develop those issues.
- We have made significant progress on these cases to date.
  - 320 total advocacy cases
    - 97 (c)(3) cases
    - 223 (c)(4) cases
  - More than 55 approvals have been granted to date [7 c3s and 51 c4s + 15 withdrawals]
  - Is it correct that there have not been any denials yet? What about the emerge cases?
  - For many cases updated information requests have been sent to focus on the specific legal issues in question. We are in process of an active back and forth with organizations in those cases where there are questions as to whether the legal requirements for tax exemption are satisfied.

**Disclosure of donor names:**

- There are instances in which donor names are relevant in the course of the determination process. There is no legal basis for redacting such names from the application file if the information is used in making the determination on the application.
- We informed organizations that if they could provide information requested in an alternative manner, they should contact their agent and we would work with them.
- EO Determinations staff did ask for donor names from some applicants for c4 status. In cases in which the donor names were not used in making the determination, the donor information was expunged from the file.



- Do we have a sense of numbers here?

### EO Workplan

- Includes two separate projects that could be relevant here (exact language pasted below)
  - 501(c)(4), (5) and (6) self-declarers - These groups – social welfare organizations; labor, agricultural and horticultural groups; and business leagues, such as a chamber of commerce – can declare themselves tax-exempt without seeking a determination from the IRS. EO will review organizations to ensure that they have classified themselves correctly and that they are complying with applicable rules. In FY 2012, EO will send a comprehensive questionnaire to organizations based on Form 990 filings to assess compliance in this area.
  - Political activity - As in any election year, EO will continue its work to enforce the rules relating to political campaigns and campaign expenditures. In FY 2012, EO will combine what it has learned from past projects on political activities with new information gleaned from the redesigned Form 990 to focus its examination resources on serious allegations of impermissible political intervention. As in the past, information from outside sources about political campaign intervention will be reviewed by a committee of career civil servants. In addition, other potential violations identified through risk modeling of Form 990 data also will be sent to the committee for evaluation. The committee will focus on identifying the cases to refer for examination. EO will further refine its risk models based on the results of examinations. EO will also ensure reporting and payment compliance with section 527(f).

### Other issues:

- Response times -- Normal timeline for responding to requests for additional information per IRM is 21 days. We have provided all organizations more time to respond and told them to contact us if they needed additional time.
- TIGTA – looking at consistency in identifying and reviewing applications for tax-exempt status involving political advocacy issues - opening letter June 22, 2012
- BOLO – procedures modified May 17, 2012 to require all changes to receive approval up to level of the Director, EO Determinations.

Obtained by Judicial Watch, Inc. via FOIA  
**TEGE Division Sensitive Case Report**  
(revised January 2007)

<b>CASE NAME:</b> (1) [REDACTED] NR; 6103 (501(c)(3) applicant), (2) [REDACTED] 6103 6103 (501(c)(4) applicant), (3) [REDACTED] NR; 6103 (501(c)(3) applicant)  <b>TIN/EIN:</b> [REDACTED] NR; 6103 <b>POA:</b> [REDACTED] NR; 6103	<b>TAX PERIODS:</b> 2009 and forward  <b>EARLIEST STATUTE DATE:</b>
<b>FUNCTION REPORTING:</b> EO RA  <b>POD:</b> Washington, D.C.	<input type="checkbox"/> <b>INITIAL REPORT</b> <input type="checkbox"/> <b>FOLLOW-UP REPORT</b> <input type="checkbox"/> <b>FINAL REPORT</b>
<b>SENSITIVE CASE CRITERIA:</b> <input checked="" type="checkbox"/> Likely to attract media or Congressional attention <input type="checkbox"/> Unique or novel issue <input type="checkbox"/> Affects large number of taxpayers <input type="checkbox"/> Potentially involves large dollars (\$10M or greater) <input type="checkbox"/> Other (explain in Case Summary)	
<b>FORM TYPE(S):</b> (1) Form 1023. (2) Form 1024	<b>START DATE:</b> 04/02/2010
<b>POTENTIAL DOLLARS INVOLVED (IF &gt; \$10M) :</b> Unknown	<b>CRIMINAL REFERRAL? Unknown IF YES, WHEN?</b>  <b>Freeze Code TC 914 ( Yes or No)</b>
<b>CASE OR ISSUE SUMMARY:</b> The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The "tea party" organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding three applications from organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and approximately twenty-two applications from organizations which have applied for recognition of exemption under section 501(c)(4) as social welfare organizations. Two organizations that we believe may be "tea party" organizations already have been recognized as exempt under section 501(c)(4). EOT has not seen the case files, but are requesting copies of them. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.	
<b>CURRENT SIGNIFICANT ACTIONS ON CASE:</b> Organization (1) – [REDACTED] NR; 6103 Organization (2) – a second development letter is being drafted and will be ready by 10/14/10. Organization (3) – [REDACTED] NR; 6103 Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).	
<b>SIGNIFICANT NEXT STEPS, IF ANY:</b> Send Organization (2) development letter by 10/14/10. [REDACTED] NR [REDACTED]	<b>ESTIMATED CLOSURE DATE:</b> December 31, 2010
<b>BARRIERS TO RESOLUTION, IF ANY:</b> Concerns whether the organizations are involved in political activities.	

**Please note:** This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

JW1559-042305

**TEGE Division Sensitive Case Report**  
(revised January 2007)

<b>SUBMITTED BY:</b> Carter C. Hull, SE:T:EO:RA:T:2	<b>MANAGER:</b> RONALD SHOEMAKER, SE:T:EO:RA:T:2
<b>DATE:</b> September 22, 2010	

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JW1559-042306

Obtained by Judicial Watch, Inc. via FOIA  
**TEGE Division Sensitive Case Report**  
(revised January 2007)

<b>CASE NAME:</b> (1) <span style="background-color: black; color: white;">NR; 6103</span> (501(c)(3) applicant), (2) <span style="background-color: black; color: white;">6103</span> <span style="background-color: black; color: white;">6103</span> (501(c)(4) applicant), (3) <span style="background-color: black; color: white;">NR; 6103</span> (501(c)(3) applicant)  <b>TIN/EIN:</b> <span style="background-color: black; color: white;">NR; 6103</span> <b>POA:</b> <span style="background-color: black; color: white;">NR; 6103</span>	<b>TAX PERIODS:</b> 2009 and forward  <b>EARLIEST STATUTE DATE:</b>
<b>FUNCTION REPORTING:</b> EO RA  <b>POD:</b> Washington, D.C.	<input type="checkbox"/> <b>INITIAL REPORT</b> <input type="checkbox"/> <b>FOLLOW-UP REPORT</b> <input type="checkbox"/> <b>FINAL REPORT</b>
<b>SENSITIVE CASE CRITERIA:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input checked="" type="checkbox"/> Likely to attract media or Congressional attention  <input type="checkbox"/> Unique or novel issue  <input type="checkbox"/> Affects large number of taxpayers </div> <div style="width: 48%;"> <input type="checkbox"/> Potentially involves large dollars (\$10M or greater)  <input type="checkbox"/> Other (explain in Case Summary) </div> </div>	
<b>FORM TYPE(S):</b> (1) Form 1023. (2) Form 1024	<b>START DATE:</b> 04/02/2010
<b>POTENTIAL DOLLARS INVOLVED (IF &gt; \$10M) :</b> Unknown	<b>CRIMINAL REFERRAL? Unknown IF YES, WHEN?</b>  <b>Freeze Code TC 914 ( Yes or No)</b>
<b>CASE OR ISSUE SUMMARY:</b> The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The "tea party" organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding three applications from organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and approximately twenty-two applications from organizations which have applied for recognition of exemption under section 501(c)(4) as social welfare organizations. Two organizations that we believe may be "tea party" organizations already have been recognized as exempt under section 501(c)(4). EOT has not seen the case files, but are requesting copies of them. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.	
<b>CURRENT SIGNIFICANT ACTIONS ON CASE:</b> Organization (1) – <span style="background-color: black; color: white;">NR; 6103</span> Organization (2) – a second development letter is being drafted and will be ready by 10/14/10. Organization (3) – <span style="background-color: black; color: white;">NR; 6103</span> Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).	
<b>SIGNIFICANT NEXT STEPS, IF ANY:</b> Send Organization (2) development letter by 10/14/10. <span style="background-color: black; color: white;">NR</span>	<b>ESTIMATED CLOSURE DATE:</b> December 31, 2010
<b>BARRIERS TO RESOLUTION, IF ANY:</b> Concerns whether the organizations are involved in political activities.	

**Please note:** This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

JW1559-042307



**TEGE Division Sensitive Case Report**  
(revised January 2007)

<b>SUBMITTED BY:</b> Carter C. Hull, SE:T:EO:RA:T:2	<b>MANAGER:</b> RONALD SHOEMAKER, SE:T:EO:RA:T:2
<b>DATE:</b> September 22, 2010	

**Please note:** This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

JW1559-042308



Obtained by Judicial Watch, Inc. via FOIA  
**TEGE Division Sensitive Case Report**  
(revised January 2007)

<b>CASE NAME:</b> (1) [REDACTED] NR; 6103 (501(c)(3) applicant), (2) [REDACTED] 6103 6103 (501(c)(4) applicant), (3) [REDACTED] NR; 6103 (501(c)(3) applicant)  <b>TIN/EIN:</b> [REDACTED] NR; 6103 <b>POA:</b> [REDACTED] NR; 6103	<b>TAX PERIODS:</b> 2009 and forward  <b>EARLIEST STATUTE DATE:</b>
<b>FUNCTION REPORTING:</b> EO RA  <b>POD:</b> Washington, D.C.	<input type="checkbox"/> <b>INITIAL REPORT</b> <input type="checkbox"/> <b>FOLLOW-UP REPORT</b> <input type="checkbox"/> <b>FINAL REPORT</b>
<b>SENSITIVE CASE CRITERIA:</b> <input checked="" type="checkbox"/> Likely to attract media or Congressional attention <input type="checkbox"/> Unique or novel issue <input type="checkbox"/> Affects large number of taxpayers <input type="checkbox"/> Potentially involves large dollars (\$10M or greater) <input type="checkbox"/> Other (explain in Case Summary)	
<b>FORM TYPE(S):</b> (1) Form 1023. (2) Form 1024	<b>START DATE:</b> 04/02/2010
<b>POTENTIAL DOLLARS INVOLVED (IF &gt; \$10M) :</b> Unknown	<b>CRIMINAL REFERRAL? Unknown IF YES, WHEN?</b>  <b>Freeze Code TC 914 ( Yes or No)</b>
<b>CASE OR ISSUE SUMMARY:</b> The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The "tea party" organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding three applications from organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and approximately twenty-two applications from organizations which have applied for recognition of exemption under section 501(c)(4) as social welfare organizations. Two organizations that we believe may be "tea party" organizations already have been recognized as exempt under section 501(c)(4). EOT has not seen the case files, but are requesting copies of them. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.	
<b>CURRENT SIGNIFICANT ACTIONS ON CASE:</b> Organization (1) – [REDACTED] NR; 6103 Organization (2) – a second development letter is being drafted and will be ready by 11/14/10. Organization (3) – [REDACTED] NR; 6103 [REDACTED] Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).	
<b>SIGNIFICANT NEXT STEPS, IF ANY:</b> Send Organization (2) development letter by 11/14/10. [REDACTED] NR [REDACTED]	<b>ESTIMATED CLOSURE DATE:</b> March 31, 2011
<b>BARRIERS TO RESOLUTION, IF ANY:</b> Concerns whether the organizations are involved in political activities.	

**Please note:** This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

JW1559-042309

**TEGE Division Sensitive Case Report**  
(revised January 2007)

<b>SUBMITTED BY:</b> Carter C. Hull, SE:T:EO:RA:T:2	<b>MANAGER:</b> RONALD SHOEMAKER, SE:T:EO:RA:T:2
<b>DATE:</b> October 27, 2010	

**Please note:** This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

JW1559-042310

Obtained by Judicial Watch, Inc. via FOIA  
**TEGE Division Sensitive Case Report**  
(revised January 2007)

<b>CASE NAME:</b> (1) <span style="background-color: black; color: white;">NR; 6103</span> (501(c)(3) applicant), (2) <span style="background-color: black; color: white;">6103</span> <span style="background-color: black; color: white;">6103</span> (501(c)(4) applicant), (3) <span style="background-color: black; color: white;">NR; 6103</span> (501(c)(3) applicant)  <b>TIN/EIN:</b> <span style="background-color: black; color: white;">NR; 6103</span> <b>POA:</b> <span style="background-color: black; color: white;">NR; 6103</span>	<b>TAX PERIODS:</b> 2009 and forward  <b>EARLIEST STATUTE DATE:</b>
<b>FUNCTION REPORTING:</b> EO RA  <b>POD:</b> Washington, D.C.	<input type="checkbox"/> <b>INITIAL REPORT</b> <input type="checkbox"/> <b>FOLLOW-UP REPORT</b> <input type="checkbox"/> <b>FINAL REPORT</b>
<b>SENSITIVE CASE CRITERIA:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input checked="" type="checkbox"/> Likely to attract media or Congressional attention  <input type="checkbox"/> Unique or novel issue  <input type="checkbox"/> Affects large number of taxpayers </div> <div style="width: 48%;"> <input type="checkbox"/> Potentially involves large dollars (\$10M or greater)  <input type="checkbox"/> Other (explain in Case Summary) </div> </div>	
<b>FORM TYPE(S):</b> (1) Form 1023. (2) Form 1024	<b>START DATE:</b> 04/02/2010
<b>POTENTIAL DOLLARS INVOLVED (IF &gt; \$10M) :</b> Unknown	<b>CRIMINAL REFERRAL? Unknown IF YES, WHEN?</b>  <b>Freeze Code TC 914 ( Yes or No)</b>
<b>CASE OR ISSUE SUMMARY:</b> The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The "tea party" organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding three applications from organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and approximately twenty-two applications from organizations which have applied for recognition of exemption under section 501(c)(4) as social welfare organizations. Two organizations that we believe may be "tea party" organizations already have been recognized as exempt under section 501(c)(4). EOT has not seen the case files, but are requesting copies of them. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.	
<b>CURRENT SIGNIFICANT ACTIONS ON CASE:</b> Organization (1) – <span style="background-color: black; color: white;">NR; 6103</span> Organization (2) – a second development letter is being drafted and will be ready by 10/14/10. Organization (3) – <span style="background-color: black; color: white;">NR; 6103</span> Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).	
<b>SIGNIFICANT NEXT STEPS, IF ANY:</b> Send Organization (2) development letter by 10/14/10. <span style="background-color: black; color: white;">NR</span>	<b>ESTIMATED CLOSURE DATE:</b> December 31, 2010
<b>BARRIERS TO RESOLUTION, IF ANY:</b> Concerns whether the organizations are involved in political activities.	

**Please note:** This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

JW1559-042311

**TEGE Division Sensitive Case Report**  
(revised January 2007)

<b>SUBMITTED BY:</b> Carter C. Hull, SE:T:EO:RA:T:2	<b>MANAGER:</b> RONALD SHOEMAKER, SE:T:EO:RA:T:2
<b>DATE:</b> September 22, 2010	

**Please note:** This Word document is protected to enable the drop-down, text and check boxes. The cells will expand to accommodate text.

JW1559-042312

*non-responsive; (b)(3)/6103 Non-c4 Sensitive Case Report*



*non-responsive; (b)(3)/6103; non-c4 Sensitive Case Report*

*non-responsive; (b)(3)/6103 Non-c4, non-application, Sensitive Case Report*

*non-responsive; (b)(3)/6103; non-C4, non-application, Sensitive Case Report*

*non-responsive; (b)(3)/6103 Non-c4 Sensitive Case Report*

*non-responsive; (b)(3)/6103 ; Non-c4 Sensitive Case Report*



*non-responsive; (b)(3)/6103 Non-c4 Sensitive Case Report*

*non-responsive; (b)(3)/6103 Non-c4 Sensitive Case Report*

*non-responsive; (b)(3)/6103; Non-c4 Sensitive Case Report*

*non-responsive; (b)(3)/6103 Non-c4 Sensitive Case Report*

*non-responsive; (b)(3)/6103 Non-c4 Sensitive Case Report*



*non-responsive; (b)(3)/6103; Non-c4 Sensitive Case Report*

*non-responsive; (b)(3)/6103 Non-c4 Sensitive Case Report*

*non-responsive; (b)(3)/6103;t Non-c4 Sensitive Case Report*

*non-responsive; (b)(3)/6103 Non-c4 Sensitive Case Report*

*non-responsive; (b)(3)/6103; Non-c4 Sensitive Case Report*



BOLO Iteration History

TEGE EOD

04/30/2012

BOLO Distribution Spread Sheet	Issue Name	Issue Description	Issue Number	Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Opened or closed)
01/25/12	Current Political Issues	Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, Social economic reform / movement. <b>Note: typical advocacy type issues that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria unless they are also involved in activities described above.</b>	EI-1	x	Forward case to Group 7822. Stephen Seok is the coordinator.	Open
07/27/11	Advocacy Orgs	Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4).	EI-1	x	Forward case to Group 7822. Ron Bell is coordinating cases with EO Tech-Justin Lowe.	Open
07/11/11	Advocacy Orgs	Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4).	EI-1	x	Forward case to Group 7822. Ron Bell is coordinating cases with EO Tech-Chip Hull.	Open

BOLO Iteration History

TEGE EOD

04/30/2012

02/02/11	Tea Party	Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) or 501(c)(4).	El-1	x	Forward case to Group 7822. Ron Bell (coordinator). Cases are being coordinated with EO Tech- Chip Hull.	Open
11/16/10	Tea Party	These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4).	El-1	x	Any cases should be sent to Group 7822. Ron Bell is coordinating. These cases are currently being coordinated with EOT.	Open
08/12/10	Tea Party	These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4).	El-1	x	Any cases should be sent to Group 7822. Liz Hofacre is coordinating. These cases are currently being coordinated with EOT.	Open

Pre BOLO Spread Sheet	Issue Name	Issue Description	Issue Number	Alerts (Yes and number)	Disposition of Emerging Issue	Current Status (Opened or Closed)
07/27/10	Tea Party	These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4).	El-1	x	Any cases should be sent to Group 7825. Liz Hofacre is coordinating. These cases are currently being coordinated with EOT.	Open

BOLO Iteration History

TEGE EOD

04/30/2012

Pre BOLO Spread Sheet	Issue Description		Issue Number	Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Opened or Closed)
05/06/10	Tea Parites		2010-1		Coordinate with group 7825	Opened

BOLO Iteration History

TEGE EOD

04/30/2012

Revisions made  
by:

Coordination  
between Steve  
Bowling  
(manager),  
Ron Bell,  
Stephen Seok,  
and Sherri  
Royce all in  
Group 7822.  
Also, solicited  
input from Jon  
Waddell  
(manager).

Same as prior.  
Only change  
was contact  
person in D.C.  
made by Ron  
Bell  
(coordinator).

Steve Bowling  
(manager) and  
Ron Bell  
(coordinator)  
based on  
language  
provided by  
EO Technical.

BOLO Iteration History

TEGE EOD

04/30/2012

Same as prior.  
Only change  
was contact  
persons made  
by Ron Bell  
(coordinator).

Same as prior.  
Only change  
was contact  
persons made  
by Ron Bell  
(coordinator).

Same as prior.  
Only change  
was group  
7825 to 7822  
made by Liz  
Hofacre  
(coordinator).

Liz Hofacre  
(coordinator)  
prepared and  
Joseph Herr  
(manager)  
reviewed.



BOLO Iteration History

TEGE EOD

04/30/2012

Coordination  
between  
Joseph Herr  
(manager) and  
Liz Hofacre  
(coordinator).

## **Advocacy Organizations Guide Sheet**

Many different types of exempt organizations engage in advocacy in compliance with the applicable tax laws. However, it can be challenging to distinguish between permissible and impermissible types of advocacy; analyzing cases involving these issues is extremely fact-intensive.

This guide sheet aids agents working these cases in differentiating between types of advocacy, reminds them of the advocacy rules pertaining to various categories of exempt organizations, and provides a checklist of facts to gather and indicators of various types of advocacy.

### **PART 1: THREE TYPES OF ADVOCACY:**

This guide sheet breaks down the broad concept of advocacy into three categories: political campaign intervention, lobbying, and general advocacy. They are defined as follows.

#### **1) Political Campaign Intervention:**

An organization engages in political campaign intervention when it participates or intervenes in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. This includes attempts to influence political campaigns through both direct and indirect support of, or opposition to, a candidate.

#### **2) Lobbying:**

An organization engages in lobbying, or legislative activities, when it attempts to influence specific legislation by directly contacting members of a legislative body (federal, state, or local), or encouraging the public to contact those members, regarding that legislation. An organization also engages in lobbying when it encourages the public to take a position on a referendum. Lobbying is distinguished from political campaign intervention because lobbying does not involve attempts to influence the election of candidates for public office.

#### **3) General Advocacy:**

An organization engages in general advocacy when it attempts to (1) influence public opinion on issues germane to the organization's exempt purposes, (2) influence non-legislative governing bodies (e.g., the executive branch, regulatory agencies), or (3) encourage voter participation through get out the vote drives, voter guides, and candidate debates in a nonpartisan, neutral manner. General advocacy generally includes all other types of advocacy other than political campaign activity and lobbying.

## **Part 2: TYPES OF ADVOCACY ORGANIZATIONS:**

The organizations that most commonly engage in advocacy are 501(c)(3), (4), (5), and (6) organizations and 527 organizations. Below are the rules governing which types of advocacy these organizations can engage in, along with a chart summarizing that information.

### **1) IRC 501(c)(3) organizations:**

- Organizations described in 501(c)(3) are organized and operated exclusively for charitable, religious, educational, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.
- They can engage in an insubstantial amount of lobbying.
- They are absolutely prohibited from engaging in any type of political campaign intervention.
- They can engage in an unlimited amount of general advocacy as long as it is educational.

### **2) IRC 501(c)(4) organizations:**

- Social welfare organizations described in IRC 501(c)(4) are organized and operated exclusively for the promotion of social welfare, which involves promoting the common good and general welfare of people in the community.
- They can not be operated for profit.
- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(4) purposes; therefore political campaign activity, along with all other non-(c)(4) activities, cannot make up an organization's primary activities.
- They can engage in lobbying as their primary activity if their legislative activities are related to their specific exempt purposes.
- They can engage in an unlimited amount of general educational advocacy as long as the activities are related to their exempt purposes.

### **3) IRC 501(c)(5) organizations:**

- Organizations described in IRC 501(c)(5) must be organized and operated for the purpose of bettering the conditions of those engaged in labor, agricultural, or horticultural pursuits.
- They can engage in unlimited general advocacy.
- They can engage in unlimited lobbying, so long as the lobbying is conducted with regard to issues that are related to their exempt purpose.

- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(5) purposes; therefore political campaign activity, along with all other non-(c)(5) activities, cannot make up an organization's primary activities.

**4) IRC 501(c)(6) organizations:**

- Business league organizations described in 501(c)(6) are associations of persons with a common business interest and their purposes must be to promote this common interest.
- They can not conduct a regular trade or business for profit.
- They can engage in unlimited general advocacy.
- They can engage in unlimited lobbying, so long as the lobbying is on issues related to their exempt purpose.
- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(6) purposes; therefore political campaign activity, along with all other non-(c)(6) activities, cannot make up the organization's primary activity.

**5) IRC 527 organizations:**

- Political organizations described in 527 are organized and operated for the primary purpose of engaging in political campaign intervention, including influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.
- They can engage in an unlimited amount of political campaign intervention.
- They can engage in lobbying, but would be taxed on that activity.
- They can engage in general advocacy, but would be taxed on that activity.

	IRC 501(c)(3)	IRC 501(c)(4), (c)(5), and (c)(6)	IRC 527
Receive tax-deductible charitable contributions	YES	NO	NO
Engage in political campaign intervention	NO	LIMITED; Must Not Constitute Primary Activity Of Organization	YES
Engage in lobbying	LIMITED;	YES;	LIMITED



<b>(i.e. legislative activity)</b>	<b>Must Not Be Substantial</b>	<b>Unlimited Amount If In Furtherance of Exempt Purposes</b>	
<b>Engage in general public advocacy not related to legislation or the election of candidates</b>	<b>YES; Permitted As An Educational Activity</b>	<b>YES; Unlimited Amount If In Furtherance of Exempt Purposes</b>	<b>LIMITED</b>

### **Part 3: ADVOCACY INDICATORS:**

Distinguishing between types of advocacy requires knowledge of all the pertinent facts and circumstances. Therefore, careful and full development of a case is often required to gather very specific facts. The following are facts about an organization's activities that can be helpful in distinguishing between different types of advocacy:

- What does the organization consider to be its exempt purpose(s)?
  - How much time is devoted to each purpose?
  - How many financial resources are devoted to each purpose?
  - In what order of importance does the organization consider its exempt purpose? From most important to least important?
- What are the sources of the organization's income?
- Does the organization engage in fundraising activities? If so, what are the specific details, including:
  - Copies of all solicitations the organization has made regarding fundraising, including fundraising that occurs in an election year and non-election year.
  - Copies of all documents related to the organization's fundraising events, including pamphlets, flyers, brochures, webpage solicitations.
  - How much of the organization's budget is spent on fundraising? Determine the sources of fundraising expenses.
- How does the organization use its income? Are there detailed break-downs of these expenses?
- How many employees does the organization have? How many volunteers?
  - Are employees full-time, part-time, or seasonal? Explain.
  - If employees are part-time, when did/do they work?
  - If employees are seasonal, during what season (months) did/do they work?
- How many employees and volunteers are/were devoted to each activity of the organization throughout the year?
- How many and what sort of resources are devoted to volunteer activities?
- Does the organization conduct educational events, discussion groups or similar events? If so, what are the specific details, including:
  - Copies of all materials distributed with regards to the event.
  - When have the events taken place or plan to take place?
  - How much of the organization's resources and budget are devoted to these activities? What is the breakdown of expenses?



- Does the organization publish or distribute materials or conduct other communications that are prepared by or reviewed by another organization?
- Is the organization associated with any other IRC 501(c)(3), 501(c)(4) or 527 organizations? If so, describe in detail the nature of the relationship(s).
  - Does the organization work with those organization(s) regularly? Describe the nature of the contacts.
  - Do you share employees, volunteers, resources, office space, etc. with the organization(s)?
- Does the organization conduct candidate forums or other events at which candidates for public office are invited to speak? If so, what are the details, including the nature of the forums, the candidates invited to participate, the candidates that did participate, the issues discussed, the time and location of the event.
  - Are there copies of all materials distributed regarding the forum and provided at the forum, including any internet material discussing or advertising the forum?
- Have any candidates for public office spoken at a function of the organization? If so, what are the names of the candidates, the functions at which they spoke, any materials distributed or published with regard to their appearance and the event, any video or audio recordings of the event, and a transcript of any speeches given by the candidate(s)?
- Does the organization, or has it ever, conducted voter education activities, including voter registration drives, get out the vote drives, or publish or distribute voter guides? If so:
  - What is the location, date and time of the events.
  - Who on the organization's behalf has or will conduct the voter registration or get out the vote drives?
  - How many resources (funds/employees/volunteers) are devoted to the activity?
  - Are there copies of all materials published or distributed regarding the activities, including copies of any voter guides?
- Does the organization engage in business dealings with any candidate(s) for public office or an organization associated with the candidate, such as renting office space or providing access to a membership list? If so, what is the relationship in detail and are there any contracts or other agreements documenting the business relationship?
- Does the organization attempt to influence the outcome of specific legislation?
  - Are there copies of all communications, pamphlets, advertisements, and other materials distributed by the organization regarding the legislation?
  - Does the organization conduct media advertisements lobbying for or against legislation? Are there copies of any radio, television, or internet advertisements relating to the organization's lobbying activities?
  - Does the organization directly or indirectly communicate with members of legislative bodies? If so, determine the amount and nature of the communication.

Below are indicators used when determining whether an IRC 501(c)(3), IRC 501(c)(4), (5) or (c)(6), or IRC 527 organization is engaging in (1) political campaign intervention, (2) lobbying (legislative activities), or (3) general advocacy.

## Section I: Political Campaign Intervention

The following are indicators of political campaign intervention:

		Yes	No
A.	<p>Is there a "candidate" for "public office?" This is an individual who:</p> <ul style="list-style-type: none"> <li>• Offers himself, or</li> <li>• Is proposed by others</li> <li>• As a contestant for elective public office, whether national, state, or local public office.</li> </ul> <p>An individual who has not yet announced an intent to seek election to public office may still be considered to have offered himself or herself as a candidate for office. Has the individual taken sufficient steps prior to announcing an intent to seek election, so that he or she may be considered to have offered himself or herself as a candidate for public office?</p> <p>Have others proposed the individual as a candidate for public office, even if the individual has announced an intention of not seeking election to the office? Some action must be taken to make one a candidate, but the action need not be taken by the candidate or require his consent. This would include statements in opposition to a candidate for office, even before that candidate has necessarily declared themselves as a contestant for office.</p>		
B.	<p>Is the candidate seeking an office to which he or she must be elected, as opposed to appointed? The political campaign intervention prohibition applies only to campaigns for offices to which a candidate must be elected. Factors indicating an elective public office include:</p> <ul style="list-style-type: none"> <li>• The position was created by statute</li> <li>• The position is continuous</li> <li>• The position is not contractual</li> <li>• The position is for a fixed term of office</li> <li>• The office requires an oath of office</li> </ul>		
C.	<p>Does the organization publish and/or distribute written or printed statements, including communications made on the internet, in favor of or against a candidate for public office? This includes material prepared by the organization itself or by other organizations or individuals. Do materials distributed by the organization encourage members to vote for or against a candidate?</p>		
	Has the organization criticized or expressed support for a candidate on their website or through links to another website?		
	Has the organization made oral statements in support of or in opposition		

	to a candidate for public office?		
	<p>Does the organization encourage individuals to vote for or against a particular candidate?</p> <p>Organizations are not prohibited from speaking about moral, social, or economic issues during election periods. However, consider the facts and circumstances to determine whether the organization is surreptitiously intervening in a political campaign under the pretext of speaking to moral, social or economic issues by tying its message to the election in a manner that expresses a preference for a candidate or candidate.</p>		
	<p>Does the organization reference a candidate by use of "code words" or other references to identify a candidate, such as "Republican," "Democrat," "pro-life," "pro-choice," etc.?</p> <ul style="list-style-type: none"> <li>• Are such references coupled with reasonably overt indications that the organization supports or opposes a particular candidate or candidates in an election?</li> <li>• Does the communication contain a relatively clear directive, based on the facts and circumstances, that enables the recipient to understand the organization's position on a candidate or candidate?</li> </ul>		
	Has the organization established or does it operate a political action committee (PAC)?		
	Has the organization made contributions to a political action committee (PAC)?		
	Does the organization provide or solicit money or other support for a candidate or a political organization?		
	Does the organization place signs on its property supporting or opposing a candidate?		
	Does the organization rate candidates, even on a nonpartisan basis?		
	Have organization leaders made comments in an official publication of the organization or at official functions of the organization indicating support for or opposition to a candidate?		
	Does the organization conduct business dealings in a manner favoring a candidate or candidates, such as by renting facilities at different rates or providing/denying access to its membership list?		
D.	<p><b>Personal Endorsements:</b> Organization leaders may endorse or oppose a candidate in their personal capacity, and not in their official capacity. The following are indicators that the organization leader is speaking in his or her personal capacity and not in their official capacity:</p> <ul style="list-style-type: none"> <li>• Do the organization leader's statements appear in a publication that is not an official publication of the organization?</li> <li>• Is the ad or publication paid for by the individual himself or herself, and not by the organization?</li> <li>• Is the organization leader's title and affiliation with the organization used for identification purposes only, and not to</li> </ul>		



	indicate support by the organization?		
E.	<p><b>Candidate Forums:</b> The presentation of public forums for candidates to speak or debate is not in and of itself prohibited political campaign intervention, but may be a permissible method of educating the public (See Rev. Rul. 66-256; Rev. Rul. 74-574; Rev. Rul. 86-95). All the facts and circumstances must be considered and the presence or absence of one factor is not determinative. Consider the following factors when determining whether the forum is operated in a manner that may constitute prohibited campaign intervention or a permissible educational event:</p> <ul style="list-style-type: none"> <li>• Does the organization operate the forum in a manner indicating bias or preference for one candidate or candidates over others, such as through biased questioning?</li> <li>• Has the organization indicated support for or opposition to a candidate (e.g., such as when the candidate is introduced)?</li> <li>• Does the organization invite only candidates who share the same position as the organization to participate?</li> <li>• Does the organization provide an equal opportunity for all candidates to participate?</li> <li>• Does the organization provide equal amounts of time for each candidate to answer questions and express their views?</li> <li>• Are questions prepared and presented by a nonpartisan, independent panel or moderator?</li> <li>• Does the moderator comment on questions or otherwise make comments that imply approval or disapproval of a candidate?</li> <li>• Does the organization make statements that the views expressed are those of the candidates and not of the organization, and/or that the organization does not endorse any candidate or viewpoint?</li> <li>• Do the topics discussed cover a broad range of issues that are of interest to the public?</li> <li>• Are the candidates asked to agree or disagree with positions, agendas, platforms, or statements of the organization, indicating prohibited campaign intervention?</li> </ul>		
F.	<p><b>Candidate Appearances:</b> Has a candidate spoken at an official function of the organization in his or her personal capacity or capacity as a political candidate? Depending on the facts and circumstances an organization may invite political candidates to speak at its events without jeopardizing its tax-exempt status (See Rev. Rul. 2007-41). When determining if prohibited political campaign intervention occurred, consider the following:</p> <ul style="list-style-type: none"> <li>• Was the candidate invited to speak at the organization's event in his or her capacity as a political candidate?</li> <li>• Did the organization provide an equal opportunity to participate to political candidates seeking the same office? (Consider the nature of the event, such as if the organization invites one</li> </ul>		

	<p>candidate to speak at a well attended event but invites an opposing candidate to speak at a sparsely attended event. This could constitute prohibited campaign intervention even if the manner of presentation for both speakers is otherwise neutral.)</p> <ul style="list-style-type: none"> <li>• Did the organization indicate support for or opposition to the candidate (including during candidate introductions, communications concerning the candidate's attendance, including any materials distributed during the event)?</li> <li>• Did any political fundraising occur?</li> </ul>		
G.	<p><b>Did the candidate appear or speak at an organization event in a <u>non-candidate capacity</u>?</b> (See Rev. Rul. 2007-41) The candidate's presence at a public event, such as a lecture, concert, or worship service does not by itself indicate the organization is engaged in prohibited political campaign intervention. The following factors should be considered when determining if prohibited political intervention occurred:</p> <ul style="list-style-type: none"> <li>• Is the candidate publicly recognized by the organization or a representative of the organization during the event as a candidate for public office?</li> <li>• Did the organization clearly indicate the capacity in which the candidate is appearing and does not mention the individual's political candidacy or the upcoming election in any communications announcing the candidate's attendance at the event?</li> <li>• Is the individual chosen to speak solely for reasons other than his or her candidacy, such as their status as a public figure aside from being a political candidate, the individual currently holds or previously held a public office, is considered an expert in a non-political field, is a celebrity, or has led a distinguished military, legal or public service career.</li> <li>• Has any campaign activity occurred in connection with the candidate's attendance?</li> </ul>		
H.	<p><b>Voter Guides:</b> Certain "voter education" activities conducted in a non-partisan manner may not constitute prohibited political campaign activity, but may be permissible educational activity. The following are indicators that a voter guide constitutes prohibited political campaign activity, and not permissible educational activity:</p> <ul style="list-style-type: none"> <li>• Are incumbents identified as candidates for re-election?</li> <li>• Are incumbents' positions compared to the positions of other candidates or the organization's position in a biased manner?</li> <li>• Is the voting guide distributed close in time to an election?</li> <li>• Is the voting guide primarily concerned with a narrow range of issues of importance to the organization (e.g. such as land conservation or abortion) as opposed to reporting on all legislation voted on by the candidates or of importance to the electorate?</li> </ul>		



	<ul style="list-style-type: none"> <li>• Is the voting guide widely distributed among the electorate during an election campaign as opposed to the organization's membership?</li> <li>• Does the voting guide include only the voting records of candidates for office?</li> <li>• Does the voting guide include the voting records of candidates in a partisan manner, such as by ranking them according to whether their vote aligns with the organization's position on the issue?</li> <li>• Does the voting guide contain editorial comments by the organization?</li> <li>• Does the voting guide contain express or implied approval or disapproval of a candidate's voting record?</li> </ul>		
I.	<p><b>Candidate Questionnaires:</b> Depending on the facts and circumstances a candidate questionnaire published by an organization may constitute permissible educational activity as opposed to prohibited political campaign intervention. The following are indicators that the organization's questionnaires constitute prohibited campaign intervention:</p> <ul style="list-style-type: none"> <li>• Does the candidate questionnaire contain editorial comments by the organization?</li> <li>• Does the candidate questionnaire include only issues of importance to the organization itself and not to the general public?</li> <li>• Does the questionnaire contain express or implied approval or disapproval of candidate responses?</li> </ul>		

## Section II: Lobbying

The following factors are indicative of lobbying (i.e. legislative activities):

		Yes	No
A.	<p>Is the organization attempting to influence legislation or a legislative proposal?</p> <ul style="list-style-type: none"> <li>• Legislation includes acts, bills, resolutions, referendums, initiatives, legislative confirmation of an appointive office, constitutional amendments by Congress, state legislatures, local councils or similar governing bodies or by the public in a referendum, initiative, constitutional amendment or similar procedure.</li> <li>• Lobbying does not include attempts to influence (1) regulations or (2) administrative matters.</li> </ul>		
B.	<p>Is there "action" being taken with reference to the legislation?</p> <ul style="list-style-type: none"> <li>• Action includes introduction, amendment, enactment, defeat, or repeal by legislative bodies or the public.</li> </ul>		

C.	<p>Does the organization engage in “direct lobbying?”</p> <ul style="list-style-type: none"> <li>Is the organization trying to influence legislation by directly contacting members or employees of a legislative body?</li> <li>Does the organization communicate with government officials or employees who can affect legislation?</li> <li>Do the communications refer to specific legislation?</li> <li>Do the communications reflect the organization’s specific views on legislation?</li> <li>Does the organization advocate a position on a specific act, bill, or resolution?</li> </ul>		
D.	<p>Does the organization engage in “indirect” or “grassroots” lobbying:</p> <ul style="list-style-type: none"> <li>Does the organization attempt to influence legislation by influencing the public’s opinion on specific legislation?</li> <li>Does the communication refer to specific legislation?</li> <li>Does the communication reflect a view or position on the legislation?</li> <li>Does the communication to the public include a “call to action” such as providing the address for the legislature, using a petition or tear-off postcard to communicate with the legislature or specifically identifying a legislator who will be voting on the proposed legislation and his or her position on it, or encouraging the public to contact members of a legislative body for purposes of supporting, opposing or proposing legislation?</li> </ul>		

### Section III: General Advocacy

The following are indicators of general advocacy:

		Yes	No
A.	<ul style="list-style-type: none"> <li>Is the organization attempting to influence public opinion on issues, rather than attempting to influence the election of candidates for public office or specific legislation?</li> <li>Is the organization attempting to influence non-legislative governing bodies (e.g., the executive branch, regulators)?</li> <li>Is the organization engaging in nonpartisan, neutral voter educational activities? These may include get out the vote drives, encouraging voter registration, encouraging voter participation, candidate debates and forums, and the distribution of voter guides if conducted in a nonpartisan and neutral manner. (Refer to the subheads above for criteria when considering whether these voter education activities are conducted in a nonpartisan manner.)</li> </ul>		
B.	<p>Does the organization engage in “educational” activities? (See Rev. Proc. 86-43). The term “educational” relates to:</p> <ul style="list-style-type: none"> <li>The instruction or training of an individual for the purpose of</li> </ul>		

	<ul style="list-style-type: none"> <li>improving or developing his capabilities, or</li> <li>The instruction of the public on subjects useful to the individual and beneficial to the community.</li> </ul>		
	<p>Is the organization advocating a particular position or viewpoint? If "Yes" to the following, the activity may qualify as permissible educational activity:</p> <ul style="list-style-type: none"> <li>Does the organization present a sufficiently full and fair exposition of the pertinent facts that aid the listener or reader in the learning process?</li> <li>Does the organization provide a factual background for the viewpoint or position being advocated?</li> </ul>		
C.	<p>The organization's presentations should avoid the following factors in order to be considered educational:</p> <ul style="list-style-type: none"> <li>Do the organization's presentations avoid expressing conclusions more on the basis of strong emotional feelings than of objective evaluations?</li> <li>Does the organization avoid presenting viewpoints or positions unsupported by facts and this is a significant portion of the organization's communications?</li> <li>Does the organization avoid presenting facts purporting to support its viewpoints or position made in a distorted manner?</li> <li>Does the organization avoid making substantial use of inflammatory and/or disparaging terms?</li> </ul>		

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**From:** Paz Holly O  
**Sent:** Thursday, May 24, 2012 1:51 PM  
**To:** Marks Nancy J  
**Subject:** FW: get first advocacy case out tomorrow?

Of the 6 agreed favorable by Quality - one has (b)(3)/6... as POA. I know we initially talked about doing [REDACTED] cases as a bucket but I don't think that is feasible.

---

**From:** Light Sharon P  
**Sent:** Thursday, May 24, 2012 12:42 PM  
**To:** Paz Holly O; Thomas Cindy M  
**Subject:** RE: get first advocacy case out tomorrow?

It appears that none had donor names. And at least one has [REDACTED] as the PoA.

I've given the files to Cindy. I'm working off my spreadsheet where we try to catch that info.

---

**From:** Paz Holly O  
**Sent:** Thursday, May 24, 2012 12:39 PM  
**To:** Light Sharon P; Thomas Cindy M  
**Subject:** Re: get first advocacy case out tomorrow?

Did any of those 6 give us the donor names? If so, we need to deal with that before those go out - **probably another addendum saying we are returning that info (Disclosure has agreed we can treat it like something the tp sent in by mistake and return it).**

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Sent from my BlackBerry Wireless Device

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**From:** Light Sharon P  
**Sent:** Thursday, May 24, 2012 12:28 PM  
**To:** Paz Holly O; Thomas Cindy M  
**Subject:** RE: get first advocacy case out tomorrow?

Holly -- Quality has now agreed on six cases. I'm sure some of them don't have development letters outstanding. But keep in mind that someone still has to do whatever needs to be done before they are closed (articles, etc.). We only did the c/4 review. We can pass the cases on to Cindy. She's next door in a meeting. I'll give her the six. She'll have to respond to your question about mailing by tomorrow.

---

**From:** Paz Holly O  
**Sent:** Thursday, May 24, 2012 11:46 AM  
**To:** Thomas Cindy M  
**Cc:** Light Sharon P  
**Subject:** get first advocacy case out tomorrow?  
**Importance:** High

Cindy,



We're meeting to give Steve an update on the advocacy cases at 12:30 today. I think we have the phone call script and favorable letter nearly hammered out. Question - if we get you the script and letter today, could the one case that was reviewed by Quality be called by Jodi or Faye (or someone else if need be as I realize it is the holiday weekend) and mailed the letter by COB tomorrow?

Sharon, I am assuming the case Quality looked at has an outstanding development letter that was not responded to. If that is not the case, please let me know because we would not need a phone call then.

Thanks!



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**From:** Marks Nancy J  
**Sent:** Wednesday, August 29, 2012 1:38 PM  
**To:** Paz Holly O  
**Subject:** FW: TIGTA document request

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**From:** Marks Nancy J  
**Sent:** Thursday, May 17, 2012 5:46 PM  
**To:** Kindell Judith E; Lerner Lois G; Light Sharon P; Paz Holly O; Thomas Cindy M  
**Subject:** RE: potential revised BOLO language

that was my thinking as well

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**From:** Kindell Judith E  
**Sent:** Thursday, May 17, 2012 5:43 PM  
**To:** Lerner Lois G; Marks Nancy J; Light Sharon P; Paz Holly O; Thomas Cindy M  
**Subject:** RE: potential revised BOLO language

I see the rationale for both - but we could argue that we are looking at those that appear to have significant private benefit to determine whether it is excess

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**From:** Lerner Lois G  
**Sent:** Thursday, May 17, 2012 5:41 PM  
**To:** Marks Nancy J; Light Sharon P; Kindell Judith E; Paz Holly O; Thomas Cindy M  
**Subject:** RE: potential revised BOLO language

I made the same comment but Holly pointed out that for private benefit--the standard is excess. So, whereas we can say you need significant political activity to look because we are looking at what the primary activity is--I'm not sure we can use other than the standard to describe the private benefit--thoughts?

*Lois G. Lerner*  
Director of Exempt Organizations

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**From:** Marks Nancy J  
**Sent:** Thursday, May 17, 2012 5:23 PM  
**To:** Light Sharon P; Kindell Judith E; Paz Holly O; Lerner Lois G; Thomas Cindy M  
**Subject:** RE: potential revised BOLO language

I think Sharon is right significant is a more helpful guideline although excess is not wrong.

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**From:** Light Sharon P  
**Sent:** Thursday, May 17, 2012 5:11 PM

**To:** Kindell Judith E; Paz Holly O; Lerner Lois G; Marks Nancy J; Thomas Cindy M  
**Subject:** RE: potential revised BOLO language

I might drop out "excess." I think a significant amount of private benefit makes more sense.

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**From:** Kindell Judith E  
**Sent:** Thursday, May 17, 2012 5:01 PM  
**To:** Paz Holly O; Lerner Lois G; Marks Nancy J; Light Sharon P; Thomas Cindy M  
**Subject:** RE: potential revised BOLO language

Looks fine to me

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**From:** Paz Holly O  
**Sent:** Thursday, May 17, 2012 4:59 PM  
**To:** Lerner Lois G; Marks Nancy J; Kindell Judith E; Light Sharon P; Thomas Cindy M  
**Subject:** RE: potential revised BOLO language

I would like your thoughts on the language below. I would like this language to replace the current advocacy org language on the BOLO as well as the separate references to ACORN successors and Occupy groups.

501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention or excess private benefit to organizations or individuals. Note: typical advocacy type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria.

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**From:** Marks Nancy J  
**Sent:** Wednesday, August 29, 2012 1:38 PM  
**To:** Paz Holly O  
**Subject:** FW: TIGTA Document Request

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**From:** Marks Nancy J  
**Sent:** Thursday, May 17, 2012 5:23 PM  
**To:** Light Sharon P; Kindell Judith E; Paz Holly O; Lerner Lois G; Thomas Cindy M  
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## Increase in (c)(3)/(c)(4) Advocacy Org. Applications

### Background:

- EOD Screening has identified an increase in the number of (c)(3) and (c)(4) applications where organizations are advocating on issues related to government spending, taxes and similar matters. Often there is possible political intervention or excessive lobbying.
- EOD Screening identified this type of case as an emerging issue and began sending cases to a specific group if they meet any of the following criteria:
  - "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 by advocacy/lobbying to "make America a better place to live"
  - Statements in the case file criticize how the country is being run
- Over 100 cases have been identified so far, a mix of (c)(3)s and (c)(4)s. Before this was identified as an emerging issue, two (c)(4) applications were approved.
- Two sample cases were transferred to EOT, a (c)(3) and a (c)(4).
  - The (c)(4) stated it will conduct advocacy and political intervention, but political intervention will be 20% or less of activities. A proposed favorable letter has been sent to Counsel for review.
  - The (c)(3) stated it will conduct "insubstantial" political intervention and it has ties to politically active (c)(4)s and 527s. A proposed denial is being revised by TLS to incorporate the org.'s response to the most recent development letter.
- EOT is assisting EOD by providing technical advice (limited review of application files and editing of development letters).

### EOD Request:

- EOD requests guidance in working these cases in order to promote uniform handling and resolution of issues.

### Options for Next Steps:

- Assign cases for full development to EOD agents experienced with cases involving possible political intervention. EOT provides guidance when EOD agents have specific questions.
- EOT composes a list of issues or political/lobbying indicators to look for when investigating potential political intervention and excessive lobbying, such as reviewing website content, getting copies of educational and fundraising materials, and close scrutiny of expenditures.
- Establish a formal process similar to that used in healthcare screening where EOT reviews each application on TEDS and highlights issues for development.
- Transfer cases to EOT to be worked.
- Include pattern paragraphs on the political intervention restrictions in all favorable letters.
- Refer the organizations that were granted exemption to the ROO for follow-up.

### Cautions:

- These cases and issues receive significant media and congressional attention.
- The determinations process is representational, therefore it is extremely difficult to establish that an organization will intervene in political campaigns at that stage.



1) In your Form 1023 application, you provided the fliers of two types of activities (Constitution education and essay project and workshops on the Constitution). Provide the following information for all the events you have held from inception to the present:

- a) The time, location, and content schedule of each event
- b) A copy of the handouts you provided to the audience
- c) Identify the education and workshop materials that instructors used
- d) The names and credentials of the instructors
- e) If speeches or forums were conducted in the event, provide detailed contents of the speeches or forums, names of the speakers or panels, and their credentials. If any speakers or panel members were paid, provide the amount paid for each person. If not, please indicate that they volunteered to conduct the event.
- f) The names of persons from your organization and the amount of time they spent on the event. Indicate the name and amount of time they spent on the event. Indicate the name and amount of compensation that was paid to each person. If no one was paid, indicate this event was conducted by volunteers to each person.
- g) Indicate the percentage of time and resources you spent on these activities in relation to 100% of all your activities.

Note: You do not need to submit any materials that you already provided with your Form 1023 application. See the attached. They are the ones you already submitted.

2) Provide the following information for all the events you will conduct for 2012 and 2013:

- a) The time, location, and content schedule of each event
- b) Identify handouts you provided to the audience
- c) Identify workshop materials that instructors will use
- d) The names and credentials of the instructors
- e) If speeches or forums will be conducted in the event, provide detailed contents of the speeches or forums, names of the speakers or panels, and their credentials. If any speakers or panel members will be paid, provide the amount will be paid for each person. If not, please indicate they volunteered to conduct the event.
- f) The names of persons from your organization and the amount of time they will spend on the event. Indicate the name and amount of time they will spend on the event. Indicate the name and amount of compensation that will be paid to each person. If no one will be paid, indicate this event will be conducted by volunteers to each person.
- g) Indicate the percentage of time and resources you will spend on these activities in relation to 100% of all your activities.

3) Provide the following information for your web and internet related activities:



- a) Copies of your current web and internet pages. If you are a membership organization, please include all the pages that are accessible only to your members, .
- b) Indicate the percentage of time and resources you spend on these activities in relation to 100% of all your activities.
- c) Expense amounts incurred for these activities for 2010 and 2011.
- d) Expense amounts to be incurred for these activities for 2012 and 2013.

4) Provide the following for your publishing activities:

- a) Copies of all the publications and/or advertising materials that you have distributed or will distribute.
- b) Indicate the percentage of time and resources you spend on these activities in relation to 100% of all your activities.
- c) Expense amounts incurred for these activities for 2010 and 2011
- d) Expense amounts to be incurred on these activities for 2012 and 2013

5) Have you conducted or will you conduct rallies or exhibitions for or against any public policies, legislations, public officers, political candidates, or like kinds? Provide the following for all the events you have conducted and will conduct for 2012 and 2013:

- a) The time, location, and content schedule of each rally or exhibition
- b) Provide copies of handouts you provided or will provide to the public.
- c) The names of persons from your organization and the amount of time they have spent or will spend on the event. Indicate the name and amount of time they spent on the event. Indicate the name and amount of compensation paid or will be paid to each person. If you did not pay or will not pay anyone, then, indicated the event was or will be conducted by volunteers.
- d) Indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.
- e) Expense amounts incurred for these activities for 2010 and 2011
- f) Expense amounts to be incurred for these activities for 2012 and 2013

If not, please confirm by answering "No" to this question.

6) Have you conducted or will you conduct candidate forums or other events at which candidates running for public offices are invited to speak? If so, provide the following details and nature of the forum including:

- a) The names of candidates invited to participate
- b) the names of the candidates who did participate

- c) The issues that were discussed
- d) The time and location of the event
- e) copies of all handouts provided and distributed at the forum, including any internet or advertising material discussed or used at the forum.
- f) Indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

- 7) Have any candidates running for public office spoken or will they speak at a function of your organization?

- a) If so, provide the names of the candidates, the functions at which they spoke, any materials distributed or published with regard to their appearance and the event, any video or audio recordings of the event, and a transcript of any speeches given by the candidate(s).
- b) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

- 8) Have you distributed or will you distribute materials or conduct other communications that are prepared by another organization or person? If so, provide the following:

- a) Copies of materials and contents of communications
- b) When and where the distribution have been conducted or will be conducted?
- c) Who has distributed or will distribute the materials?
- d) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

- 9) Will you, or have you ever, conducted voter education activities, including voter registration drives, get out to vote drives, or publish or distribute voter guides? If so, provide the following:

- a) What is the location, date and time of the events?
- b) Who on the organization's behalf have conducted or will conduct the voter registration or get out to vote drives?
- c) Provide copies of all materials published or distributed regarding the activities, including copies of any voter guides.
- d) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

- 10) Have you engaged or will you engage in business dealings with any candidate(s) for public office or an organization associated with the candidate, such as renting office space or providing access to a membership list?

If so, describe the relationship in detail and copies of any contracts or other agreements documenting the business relationship.

If not, please confirm by answering "No" to this question.

- 11) Have you attempted or will you attempt to influence the outcome of specific legislation? If so, provide the following:

- a) Provide copies of all communications, pamphlets, advertisements, and other materials distributed by the organization regarding the legislation.
- b) Provide copies of any radio, television, or internet advertisements relating to your lobbying activities
- c) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

- 12) Do you directly or indirectly communicate with members of legislative bodies? If so, provide copies of the written communications and contents of other form of communications. Please include the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

- 13) Are you associated with any other IRC 501(c)(3), 501(c)(4) or 527 organizations? If so, provide the following:

- a) Provide the name, employer identification number, and address of the organizations
- b) Describe in detail the nature of the relationship(s).
- c) Do you work with those organization(s) regularly? Describe the nature of the contacts.
- d) List shared employees, volunteers, resources, office space, etc. with the organization(s).
- e) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If not, please confirm by answering "No" to this question.

- 14) Provide the following for your fundraising activities:

- a) Copies of all solicitations the organization has made regarding fundraising, including fundraising that occurs in an election year and non-election year.
- b) Copies of all documents related to the organization's fundraising events, including pamphlets, flyers, brochures, and webpage solicitations.
- c) How much of your organization's budget is spent on fundraising?
- d) What are the sources of the fundraising expenses?
- e) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

15) If you have conducted or will conduct any activities other than the ones we have already cited, provide answers for the following questions regarding past, present and future activities. If you have not conducted and will not conduct any other activities, please confirm by answering "No" to this question.

- a) What does the activity/service entail?
- b) Who conducts the activity/service?
- c) When and where is the activity/service conducted?
- d) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 100% of all your activities.

If you have not conducted or will not conduct any activities other than the ones we have already cited, please confirm by answering "No" to this question.

16) Please provide the following information for your board of directors and officers:

- a) Provide all copies of your corporate minutes from inception to the present.
- b) Provide the titles, duties, work hours, and compensation amounts of your board members, officers, and employees. If they only work for a certain time yearly, bi-yearly, or quad-yearly, please provide the periods they had (have) worked and will work. Please identify your volunteers.
- c) If you have a board member or officer who has run or will run for a public office, please describe fully. If none, please confirm by answering "None" to this question.

17) Are you a membership organization? If so, provide the following for your membership:

- a) How many members do you have currently?
- b) What does the memberships consist of? Are they mostly individuals? What is the percentage of the organizational members as they are part of the whole membership?
- c) Provide member application/registration form
- d) Provide membership agreement and rules that governs members.



- e) Provide a membership fee schedule.
- f) What are the membership requirements?
- g) What services and benefits do you provide especially for members only?
- h) What are the roles and duties of your members?
- i) Provide copies of your website that your members can only access.

18) Provide the following information for the income you received and raised for the years from inception to the present. Also, provide the same information for the income you expect to receive and raise for 2012, 2013, and 2014.

a) Donations, contributions, and grant income for each year which includes the following Information:

- The names of the donors, contributors, and grantors. If the donor, contributor, or grantor has run or will run for a public office, identify the office. If not, please confirm by answering this question "No".
- The amounts of each of the donations, contributions, and grants and the dates you received them.
- How did you use these donations, contributions, and grants? Provide the details.

If you did not receive or do not expect to receive any donation, contribution, and grant income, please confirm by answering this question "None received" and/or "None expected".

- b) The amounts of membership income received for each year. If you did not receive or do not expect to receive any membership income, please confirm by answering this question "None received" and/or "None expected".
- c) The amounts of fundraising income received for each year. If you did not receive or do not expect to receive any fundraising income, please confirm by answering this question "None received" and/or "None expected".
- d) The amounts of any other incomes received for each year. If you did not receive or do not expect to receive any other incomes, please confirm by answering this question "None received" and/or "None expected".

NOTE: Please do not attach tax returns or ledgers to respond to the above questions.

19) Provide the following information for the expenses you incurred for the years from inception to the present. Also, provide the same information for the expenses you expect to incur for 2012, 2013, and 2014.

a) Donation, contribution, and grant expenses for each year which includes the following Information:



7

- The names of the donees, recipients, and grantees. If the donee, recipient, or grantee has run or will run for a public office, identify the office. If not, please confirm by answering this question "No".
- The amounts of each of the donations, contributions, and grants and the dates you donated, contributed, or granted them.
- The amounts of each of the donations, contributions, and grants and the dates you expect to donate, contribute, or grant them.
- Provide the reasons for issuing the donations, contributions, and grants.

If you did not issue or do not expect to issue receive any donations, contributions, and grants, please confirm by answering this question "None to be provided".

b) Compensation, salary, wage and reimbursement expenses for each year with the following information:

- The names of the payees. If the payee has run or will run for a public office, identify the office. If not, please confirm by answering this question "No".
- The amounts of each payment and the dates you made or expect to make each payment.
- The services the payee provided in return for the payment.
- Provide the reasons for issuing the donations, contributions, and grants?

c) The lists and amounts of any other expenses for each year.

NOTE: Please do not attach tax returns or ledgers to respond to the above questions.

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1. Submit copies of emails you sent to educate members about political issues and describe in detail how you encourage members to voice their opinions.
2. Describe in detail your proposed mailings regarding political issues. State whether these mailings are sent only to your members, visitors to your website, or general mass mailings.
3. Provide copies of your web pages.
4. Submit copies of materials from Facebook, Meetup and Twitter.
5. Provide resumes for your board members.

6. You indicated that you are hosting "Meet and greets" and town hall meetings. Therefore, provide copies of literature used to promote these events and a list of candidates and/or elected officials who attended and their political affiliation. Also, provide copies of materials distributed at the event.
7. Explain the criteria you used when selecting individuals for your "Meet and greets".
8. Provide copies of the printed agenda from your meetings and educational events for the past year.
9. Describe in detail your educational events, including topics that you cover, any particular motivational activities, and copies of any publications presented.
10. Provide copies of contracts and agreements that you have as well copies of agreements that you plan to enter in to.
11. Describe in detail your Advocacy Training, and provide copies of any publications concerning such training.
12. Give detailed examples on how you will educate the public concerning key legislation and the positions of political candidates and elected officials on that legislation.
13. Provide a list of speakers and their qualifications for the events you have held in the last year.
14. Provide copies of board meeting minutes since your inception
15. You indicated that you have organized public awareness events including debates, forums and issued related seminars and rallies. Complete the following concerning these events:
  - a. Provide a specific list of events including who participated and the location of the event.
  - b. Provide copies of promotional materials used for each of your events.
  - c. Provide copies of literature handed out at these events.

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1. Provide a detailed breakdown of your expenses.
2. Provide copies of all Board meeting minutes to date.

3. You state that you are the "[REDACTED] 6103" of AAA Council and that you are a [REDACTED] 6103 throughout State. However, you have not explained in detail what you mean by "[REDACTED] 6103" and "[REDACTED] 6103". Provide the following information:
- Describe in detail specifically what activities you engage in as an "[REDACTED] 6103" of the AAA Council.
  - Provide copies of any and all materials related to being the "[REDACTED] 6103" of the AAA Council, including but not limited to any documents, brochures or other resources you have provided to the AAA Council.
  - Explain in detail what you mean by "[REDACTED] 6103" and describe in detail the activities you undertake in this regard and state to what member groups or other organizations you have provided such services.
4. Provide a detailed description of any and all political campaign and/or election activity that you have engaged in to date. In addition, provide the following:
- Copies of any and all materials you have published or distributed, in print, on-line or otherwise, expressing support or opposition to a candidate for public office.
  - Copies of any and all materials you have distributed with regards to any political campaign to date.
5. You have indicated that your services include the planning, facilitating, and executing of educational events for BBB Party.
- State whether you have planned, facilitated and/or executed any educational events for BBB Party or any other organization. If so, explain in detail.
  - Provide a detailed explanation of the types of educational activities that you engage in or have engaged in to date.
  - Describe in detail the content of the educational events that you provide or have provided including copies of any and all materials related to these and any other events, including materials advertising the event, distributed at the event, or otherwise.
  - Provide a detailed explanation of any other recipients of such educational activities.
  - Explain who within your organization or otherwise undertakes these educational activities, organizes events and programs, and provides the educational content.

6. In your response to our **Date** letter, you indicated that you had not and would not engage in any type of voter education activities, including candidate forums, get out the vote drives, or voter registration. However, you indicated that you will provide “ 6103 6103 ”.
- a. With regards to your purpose of educating on the process of 6103 6103 state whether this is your only activity. If no, describe in detail what other activities you engage in.
- b. Provide a detailed explanation of how you educate and who you educate on the process of 6103 6103 including whether you educate individuals on 6103 6103 in any manner.
- c. Provide copies of any and all materials to date that you have published or distributed in any manner related to your educational activities and your activities related to educating on the process of 6103 6103 6103 .
7. You indicated that you seek to centralize the accounting functions of member groups by providing a central tax-deductible donation vehicle for educational opportunities.
- a. To date, state what the status of this activity is.
- b. Explain in detail what activities you are engaged in or will engage in to undertake this function.
- c. Explain who the “member groups” are that you are referring to.
- d. Explain why organizations would seek to solicit donations from you as opposed to seeking contributions from the general public for their educational activities?
8. You indicated in your Form 1023, Part **Z**, question **Y**, that you will “raise funds to be utilized under a grant process for other organizations. These organizations will apply for grants to complete educational activities with their current organization.” With regards to this activity:
- a. To date, state whether you have raised funds for other organizations. If so, provide a detailed description of the organization and/or individuals that have provided funds, the amount of the funds provided, and if any of the funds have been utilized, including a detailed description of what the funds were utilized for.
- b. To date, state whether you have made any grants to other organizations. If so, provide a description of the organization, the amount of money granted, a copy of their grant application, and any other related documents.
- c. If you have not made any grants to date, state whether you are currently considering any grant applications. If so, provide a detailed description of the



organization and the activities for which they are seeking grant money, and the amount of the grant requested.

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1. Submit your completed financial data for 2010, financial data for 2011 to date, and proposed budgets for the remainder of 2011 and 2012. If you have filed Form 990, Return of Organization Exempt From Income Tax (or any other tax return), for years 2009 or 2010, submit a copy of any such returns.
2. Provide a detailed breakdown of your expenses.
3. Provide a detailed narrative of your activities dating from your letter dated June 8, 2010, including a break down of:
  - d. The amount of time your members and/or volunteers devoted to each activity.
  - e. The amount of financial resources devoted to each activity.
4. In your Form 1024, you indicate that your financial support would be from contributions and sales of merchandise. Submit copies of all solicitations you have made regarding fundraising, copies of all documents relating to your fundraising events (including pamphlets, flyers, brochures, and webpage solicitations), and a statement detailing how much of your budget is spent on fundraising, and the source of your fundraising expenses.
  - f. Regarding your sales of merchandise, provide a detailed list of the items you sell or plan to sell.
5. In your answer to Question 15 on your Form 1024 (whether you have spent or plan to spend any money attempting to influence the selection, nomination, election, or appointment of any person to any Federal, state, or local public office or to an office in a political organization) you stated: "No monies have been spent in the past, but an approximate 20% of (your) budget will be set aside for future considerations." Describe in detail:
  - g. Any and all planned expenditures of money you have set aside for this purpose.
  - h. Any and all expenditures you have made.
6. Regarding your Advocacy Training, you sent us a statement of your goal, your objectives to achieve the goal, Patriot Commitments, **aaa** Team Policy Statement, and team descriptions.
  - i. Describe in detail any actual training of individuals you perform with regard to the various action teams, including what the training entails, as opposed to informing volunteers of opportunities to participate.
  - j. Provide any and all materials distributed to individuals who participate in the Advocacy Training.



7. You state that a major objective of the CCC Team mission is to inform volunteers of opportunities and to equip them to actively participate in the political process, such as volunteering to help at a Tea Party Rally.

k. Describe in detail what "opportunities" you are referring to and how you inform volunteers.

l. Describe in detail how you equip members of the aaa to participate in the political process

m. Explain in detail how members participate in the political process including but not limited to what type of participation this entails.

8. In describing your Event Rallies you stated that you hosted a question and answer forum with the GOP Primary Candidates for Governor of the state, and that not all GOP candidates attended. You stated that since there was only one candidate in the Democratic primary, there was no comparison to be made in the primary.

n. Describe in detail the GOP Event Rally, including questions asked, and state the reasons you did not have a candidate rally for the lone Democratic candidate.

o. Describe the reasons you needed a majority of the candidates to schedule a forum for the Candidates for Lt. Gov. in the Democratic primary.

p. Provide copies of any materials distributed during the event or related to the event such as materials advertising the event.

9. Provide a copy of each publication of your newsletter, AAA, since April 29, 2010 (except Issue 1, Number 1; Issue 2, Number 5; and Issue 2, Number 7).

10. Provide a copy of each publication of BBB (except Volume 1, No. 8, submitted with your application).

11. In The DDD, Issue 1, Number 1, dated 6103, 2010, you state that the mission of the FFF

6103. In the same issue, you stated on page 3 that your action teams will enable you to achieve your principal goal:

"6103." In addition, you state that you will "6103"

q. Describe in detail your activities to attain this goal, and how you achieve such purpose.

r. Provide your definition of "6103" and explain in detail how you will effectuate 6103.

12. In The bbb, Issue 2, Number 7, dated Date, in GGG on page 9, you stated: "6103

6103

13

6103

- s. Describe in detail how you effectuated your "6103" and submit copies of the 10 questions posed to the candidates and their replies.
- t. Submit copies of the pamphlets you printed, explain how they were distributed, and when they were distributed in relation to the election.

13. The letter you published in DDD, Issue A, Number A, dated Date, states on page 6...:

6103

." State the reasons for the list, where it was published, and when and how it was distributed.

- 14. State whether you engage in business dealings with any candidate(s) for public office or an organization associated with the candidate, such as renting office space or providing access to a membership list. If so, describe in relationship in detail, including any contracts or other agreements documenting the business relationship.
- 15. Describe in detail your relationship to the OOO School.
- 16. Provide a copy of the board of directors' meeting minutes from formation to date.
- 17. Provide copies of any other materials, including but not limited to program guides, rules, regulations, and guidelines that will assist us in better understanding you and your activities.

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**From:** Marks Nancy J  
**Sent:** Tuesday, March 27, 2012 4:26 PM  
**To:** Grant Joseph H  
**Subject:** RE: :: Referral to TIGTA on (c)(4)

call is probably not on but I can try to reach her on this, If I miss her tonight we will both be with Steve on Thursday and can work this on the side--Steve will defer to our best judgement--I think we can make the call on your return on Friday.

---

**From:** Grant Joseph H  
**Sent:** Tuesday, March 27, 2012 2:59 PM  
**To:** Marks Nancy J  
**Subject:** Re: :: Referral to TIGTA on (c)(4)

Nan,

This may already have been decided by now, but, for my part, I think it would be a good idea to have TIGTA review this. I, of course, would want to have Sarah's input. If it is still an open question we could take it up on our evening call today. Is the call on?

I hope all is well.

Thanks - Joseph

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Sent from my BlackBerry Wireless Handheld

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**From:** Marks Nancy J  
**Sent:** Monday, March 26, 2012 10:17 AM  
**To:** Grant Joseph H  
**Subject:** FW: :: Referral to TIGTA on (c)(4)

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**Sent:** Monday, March 26, 2012 10:03 AM  
**To:** Grant Joseph H; Medina Moises C; Daly Richard M; Marks Nancy J; Zarin Roberta B; Lerner Lois G; Marx Dawn R  
**Cc:** Fish David L; Paz Holly O; Lowe Justin; Megosh Andy; Kindell Judith E; Light Sharon P  
**Subject:** :: Referral to TIGTA on (c)(4)

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## Conservative Legal Foundation Calls for Investigation of EO Division

March 23, 2012

Treasury Inspector General for Tax Administration  
P.O. Box 589  
Ben Franklin Station  
Washington, DC 20044-0589

Re: REQUEST FOR INVESTIGATION INTO IRS AGENCY MISCONDUCT

To Whom It May Concern:

Landmark Legal Foundation ("Landmark") requests an immediate investigation into possible misconduct by the Internal Revenue Service's Exempt Organization (EO) Division that calls into question the integrity of federal tax administration and IRS programs.

Recent media reports indicate that the EO Division is using inappropriate and intimidating investigation tactics in the administration of applications for exempt status submitted by organizations associated with the Tea Party movement. (Exhibit A, Perry Chiaramonte, "Numerous Tea Party chapters claim IRS attempts to sabotage nonprofit status," FoxNews.com, <http://www.foxnews.com/politics/2012/02/28/nurmerous-tea-party-chapters-claim-irs-attempting-to-sabotage-non-profit-status/print#> (February 28, 2012)). Reports indicate that as many as 20 groups are being targeting for improper treatment. (Exhibit B, "IRS Accused of 'Intimidation Campaign' Against Tea Party," CNSNews.com, <http://cnsnews.com/news/article/irs-accused-intimidation-campaign-against-tea-party-groups> (March 7, 2012)).

The information demanded in many cases goes far beyond the appropriate level of inquiry regarding the religious, charitable and/or educational activities of a tax-exempt entity. The inquiries are not relevant to these permitted activities. Inquiries extend to organizational policy positions and priorities, personal and political affiliations, and associations of staff, board members and even family members of staff and board members. (Exhibit A). In at least one reported incident, the IRS requested an organization's relationship with a private individual who does not have any relationship with the applicant or with any political candidate or organization. (Exhibit C, Justin Binik-Thomas, "Why is the IRS asking Tea Party groups if they know me?", Washington Examiner, (<http://washingtonexaminer.com/2012/03/why-irs-asking-tea-party-groups-if-they-know-me/377566>) (March 16, 2012)).

Specific examples of improper inquiries from one IRS investigation include, but are not limited to, questions seeking:

5. List each past or present board member, officer, key employee and members of their families who:
  - a) Has served on the board of another organization.
  - b) Was, is or plans to be a candidate for public office. Indicate the nature of each candidacy.
  - c) Has previously conducted similar activities for another entity.
  - d) Has previously submitted an application for tax-exempt status.

8. Please provide the following regarding your merchandise sales:
  - a) A vendor list. Indicate if the vendor is a related party.
  - b) A list of items sold.
  - c) Your cost for each item.
  - d) The selling price of each item.

13. Fully describe your youth outreach program with the local school district.
14. Provide information regarding the Butler County Teen Age Republicans and your relationship.
16. Provide a list of all issues that are important to your organization. Indicate your position regarding each issue.
25. It appears you have received training (EmpowerU). Provide the following for all persons or organizations that have provided educational services to you:
  - a) The name of the person or organization.
  - b) A full description of the services provided.
  - c) The political affiliation of the person or organization.
  - d) A copy of the educational material used.
26. Provide details regarding your relationship with Justin Bink-Thomas (sic).
34. Has your organization engaged in any activities with the news media? If so, please describe those activities in further detail and, if available, provide copies of articles printed or transcripts of items aired because of that activity. News media activity may include the following:
  - a) Newspaper advertisements
  - b) Press releases
  - c) Interviews with news media
  - d) Letters to the editor
  - e) Op-ed pieces

(Exhibit D, March 1, 2012 IRS Letter, [http://binikthomas.com/sunshine/IRS\\_Redact.pdf](http://binikthomas.com/sunshine/IRS_Redact.pdf)).

This level of inquiry goes well beyond the scope of the Form 1023 application for exempt status and appears to be improper. As you are aware, to qualify as a tax-exempt organization under 501(c)(3), the organization must prove that it is both organized and operated exclusively for tax-exempt purposes. Treas. Reg. Sec. 1.501(c)(3)-1(d)(1)(i)(a). To meet the organizational test, it must show that its Articles of Incorporation do not authorize it to undertake any non-exempt activity. 26 U.S.C. Sec. 501(c)(3)-1(b)(i)(iii). To meet the operational test, the organization must show that it operates exclusively for exempt purposes, that it has no substantial non-exempt purpose, and that no benefits inure from it to private individuals. Treas. Reg. Sec. 1.501(c)(3)-1(c). Any inquiry by the Service should be limited to determining whether an applicant satisfies both the "organizational" and "operation" tests. The questions presented herein go well beyond making such a determination.

Moreover, inquiries about personal associations and political viewpoints are not only inappropriate, but impinge upon constitutionally-protected freedoms of speech and association. Although the Internal Revenue Code has limited the tax exemption subsidy of 501(c)(3) organizations to groups that do not participate in political activity, the Service must still tread lightly when dealing with fundamental constitutional rights. Inquiring about the positions a prospective organization adopts on various policy issues serves no valid purpose if the organization does not engage in political activity. Such inquiries appear to be designed only to intimidate the applicants. As it has been upheld repeatedly by the Supreme Court, the government cannot regulate political speech with laws that chill permissible speech. Finally, reports that Tea Party-related organizations are being singled out for the IRS's intrusive inquiries raises serious questions about the propriety of the personnel involved in the evaluation of tax exemption applications.

Landmark Legal Foundation respectfully requests an immediate and thorough investigation to determine whether IRS employees are acting improperly in the evaluation of exempt status applications. This investigation also must determine whether the relevant IRS employees are acting at the direction of politically motivated



superiors.

Sincerely,

/s/ Mark R. Levin  
Landmark Legal Foundation  
The Ronald Reagan Legal Center  
3100 Broadway - Suite 1210  
Kansas City, Missouri 64111

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