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THE INTERNAL REVENUE SERVICE'S PROCESSING OF 501(c)(3) AND 501(c)(4) APPLICATIONS FOR TAX-EXEMPT STATUS SUBMITTED BY "POLITICAL ADVOCACY" ORGANIZATIONS FROM 2010–2013

COMMITTEE ON FINANCE
UNITED STATES SENATE

BIPARTISAN INVESTIGATIVE REPORT AS SUBMITTED BY CHAIRMAN HATCH AND RANKING MEMBER WYDEN

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April 17, 2012

Hon. Douglas H. Shulman
Commissioner
Internal Revenue Service
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1111 Constitution Avenue, N.W.
Washington, DC 20224

Lois Lerner
Director of the Exempt Organizations Division
Internal Revenue Service
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Washington, DC 20224

Re: Secret donations to "social welfare " organizations making campaign expenditures

Dear Commissioner Shulman and Director Lerner:

Democracy 21 and the Campaign Legal Center again call on the IRS to investigate and take appropriate enforcement action against Crossroads GPS regarding its claimed status as a section 501(c)(4) tax-exempt "social welfare" organization.

We also again call on the IRS to similarly investigate and take appropriate enforcement action against Priorities USA, American Action Network and Americans Elect, other organizations which we believe are improperly claiming status under section 501(c)(4).

It appears clear that Crossroads GPS is engaging in substantial spending to influence elections and is accordingly not eligible for section 501(c)(4) tax status under existing tax law and court interpretations of the law. It is also appears clear that Crossroads GPS is raising numerous secret million dollar and multi-million dollar donations to fund these expenditures.

In an article dated April 13, 2012 (copy enclosed), *The Washington Post* reported that Crossroads GPS received a secret donation of $10 million dollars to be used to make expenditures to attack President Obama's campaign for reelection.

According to the report:

> An anonymous donor has given $10 million to run ads attacking President Obama and his policies, escalating the money race that is defining the 2012 presidential campaign. And in the new, freewheeling environment of independent political giving, the identity of this donor, like many others, is likely to remain a permanent mystery.
>
> The donation went to Crossroads GPS, the conservative nonprofit group founded with support of political operative Karl Rove, which also reported another donor giving at least $10 million over the past two years, according to draft tax returns released by the organization.
>
> The group would not identify the donors, who could be individuals, groups or corporations, and under tax and campaign laws, is not required to disclose them.[1]

The new $10 million secret contribution to Crossroads GPS to run attack ads against President Obama as he runs for re-election is a stark illustration of the problem caused by groups engaged in campaign spending claiming eligibility as "social welfare" organizations under section 501(c)(4).

The report in *The Washington Post* stated that Crossroads GPS and its affiliated Super PAC, American Crossroads, together plan to spend an estimated $300 million in the 2012 elections. The expenditures by these two affiliated groups clearly appear to be for one overriding purpose: to elect and defeat candidates.

The *Washington Post* article also shows the huge size of the contributions from secret donors that are being used to finance campaign-related expenditures:

> The tax returns show that Crossroads GPS has collected the vast majority of its donations from the super-rich. The forms show that nearly 90 percent of its contributions through the end of 2011 had come from as few as two dozen donors, each giving $1 million or more.

In prior letters sent to you on October 5, 2010, September 28, 2011, December 14, 2011 and March 9, 2012, our organizations have called on the IRS to investigate and take appropriate enforcement action against Crossroads GPS and other similarly situated organizations improperly claiming tax-exempt status as section 501(c)(4) "social welfare" organizations.

In our earlier letters, we noted that the overriding purpose of these groups is to influence elections and that the groups are spending substantial amounts to do so. These groups appear to be spending far more to intervene and participate in campaigns than the law and court interpretations allow "social welfare" organizations to spend for such purposes.

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[1] T.W. Farnum, "Mystery donor gives $10 million to Crossroads GPS group to run anti-Obama ads," *The Washington Post* (April 13, 2012).

It is apparent that these groups are claiming section 501(c)(4) tax status in order to keep secret from the American people the donors financing their campaign-related expenditures. If these organizations are not eligible for tax status under section 501(c)(4), then they are improperly using the tax laws to shield their donors from public disclosure and improperly using secret contributions to influence the 2012 national elections.

As we have previously noted, it appears that the overriding purpose of Crossroads GPS is to influence elections. The ads run by Crossroads GPS are campaign-related under IRS standards. The standards provide that ads do not have to contain express advocacy in order to be treated as intervention and participation in campaigns for purposes of determining eligibility for tax-exempt status as a section 501(c)(4) organization.

As we have stated in our previous letters, we are deeply concerned about the failure of the IRS to take any public steps to show that the agency is prepared to enforce the tax laws applicable to section 501(c)(4) "social welfare" groups.

The ongoing harm to the public from the agency's failure to act is that section 501(c)(4) groups are being used as vehicles to raise and spend secret contributions on a massive scale to influence the 2012 elections.

Unless the IRS acts, the public interest in transparent campaign finance activities – an interest that was strongly affirmed by the Supreme Court in the *Citizens United* case – will be greatly damaged by the agency allowing groups to misuse the tax laws to hide the identities of wealthy donors giving huge amounts to influence this year's presidential and congressional elections.

Sincerely,

/s/ Gerald Hebert	*/s/ Fred Wertheimer*
J. Gerald Hebert	Fred Wertheimer
Executive Director	President
Campaign Legal Center	Democracy 21

September 27, 2012

Hon. Douglas H. Shulman
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Re: Crossroads GPS

Dear Commissioner Shulman and Director Lerner:

Democracy 21 and the Campaign Legal Center have written to you on multiple occasions seeking an investigation by the IRS into whether four organizations—Crossroads GPS, Priorities USA, American Action Network and Americans Elect—are improperly claiming status as a "social welfare" organizations under section 501(c)(4) of the tax code.

Our first letter challenging the claim by Crossroads GPS to tax-exempt status as a "social welfare" organization was sent to the IRS nearly two years ago, on October 5, 2010. We have subsequently sent eight letters to you regarding Crossroads GPS and the other organizations. (These letters are dated July 27, 2011, September 28, 2011, December 14, 2011, March 9, 2012, March 22, 2012, April 17, 2012, May 24, 2012 and July 23, 2012.)

We believe the facts we have presented to you in our letters make clear that each of these organizations is, to put it simply, a campaign operation—an organization whose overwhelming focus and purpose has been to elect and/or defeat candidates in the 2012 elections. Because the primary purpose of each of these organizations is to participate or intervene in candidate elections, these organizations are not, and should not be permitted to claim status as, "social welfare" organizations under section 501(c)(4).

There is a serious and continuing harm in the failure of the IRS to enforce the law. If these groups were registered as "political organizations" under section 527 of the tax code, they would be required to disclose their donors of $200 or more and the public would be able to scrutinize the sources of money they are using to fund their campaign activities. 26 U.S.C. § 527(j). But as purported "social welfare" organizations, these groups are not required to publicly disclose their donors, and can therefore spend millions of dollars on efforts to influence the 2012 elections while hiding their donors from the American people.

In recent letters to the IRS, Senator Carl Levin (D-MI) has raised appropriate concerns about the agency's lack of enforcement of the rules governing section 501(c)(4) status. As Senator Levin pertinently noted, "I find it unacceptable that the IRS appears to be passively standing by while organizations that hold themselves out to be 'social welfare' organizations clearly ignore the tax code with no apparent consequences."[1]

We strongly agree.

The purpose of this letter is to provide additional information to document that Crossroads GPS is an organization with an overriding purpose to influence candidate elections, and is accordingly not entitled to tax-exempt status as a section 501(c)(4) "social welfare" organization. In addition, this letter raises as a second ground for denying tax-exempt status the fact that Crossroads GPS also fails to meet the applicable legal test under the "private benefit" doctrine because it serves private political interests, not public "social welfare" interests.

Crossroads GPS reported in its Form 990s filed with the IRS for 2010 and 2011 that it received 24 separate donations of $1 million or more in 2010 and 2011—the largest being two single donations of $10 million. But the organization did not disclose the identity of any of these donors. As one published report stated, "In its first 18 months, Crossroads GPS raised $67 million of its total $77 million from as few as 16 rich donors."[2] Undoubtedly, Crossroads GPS has received more such contributions this year.

There is little question that these million dollar donors are funding the campaign ads being sponsored by Crossroads GPS, yet the identity of these donors is hidden from the public by the fact that they have funneled their money through a group improperly claiming status under section 501(c)(4). This is an abuse of the tax laws, in service of evading the bedrock principle that money spent to influence federal elections should be subject to public disclosure.

The evidence we have presented to the IRS shows that Crossroads GPS is being operated "for the substantial nonexempt purpose of benefiting the private interests of Republican Party entities and candidates." *See American Campaign Academy v. Commissioner,* 92 T.C. 1053 (1989). Under these circumstances, Crossroads GPS is not entitled to section 501(c)(4) tax-

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1 Letter of August 31, 2012 from Senator Carl Levin to The Honorable Daniel H. Shulman, Commissioner, Internal Revenue Service.

2 S.V. Date, "Rove's Crossroads GPS Gets Explicit In Anti-Obama Air War," *NPR* (Sept. 12, 2012).

exempt status under the "private benefit" doctrine because it is an organization created and operated to serve private political interests, not public "social welfare" purposes.

Crossroads GPS and its sister Super PAC organization, American Crossroads, were established in the summer of 2010, and were conceived and founded by Karl Rove and Ed Gillespie. Crossroads GPS was created shortly after American Crossroads in order for donors to be able to provide funds anonymously to influence federal elections.

Karl Rove is the leading Republican Party political operative in the country. Rove was the chief political adviser to President George W. Bush for his eight years in office.

Ed Gillespie was named a counselor to the Romney campaign in April 2012 and serves as a senior adviser for the Romney presidential campaign. Gillespie is a former Chairman of the Republican National Committee and served as a counselor to President George W. Bush in 2007 and 2008. In 2010, Gillespie was named chairman of the Republican State Leadership Committee, which helps elect state attorneys general, lieutenant governors, secretaries of state and house and senate candidates across the country.

The evidence clearly indicates that Crossroads GPS (along with American Crossroads) was founded by Rove and Gillespie to carry out their private political interests in electing Republicans and defeating Democrats, and not to engage in public "social welfare" activities. The organization's operations have furthered these private political interests.

Karl Rove recently confirmed publicly that Crossroads GPS is a political operation and that its activities are intended to elect Republicans and defeat Democrats. In an op-ed article published in *The Wall Street Journal* (August 1, 2012) (emphasis added), Rove said:

> Roughly $111 million of Mr. Obama's ad blitz was paid for by his campaign; outside groups chipped in just over $20 million. The Romney campaign spent only $42 million over the same period in response, with $107.4 million more in ads attacking Mr. Obama's policies or boosting Mr. Romney coming from outside groups (with Crossroads GPS, a group I helped found, providing over half).

Rove thus stated that in response to an "ad blitz" by President Obama's reelection campaign and supportive Democratic outside groups, Crossroads GPS spent more than $53 million on ads "attacking Mr. Obama's policies or boosting Mr. Romney." This blunt statement by Rove unmasks the fact that Crossroads GPS is a campaign operation and makes clear that the ads run by Crossroads GPS about Obama and Romney are campaign ads.

This unambiguously partisan political activity clearly falls within the standard set forth by the IRS in a ruling denying section 501(c)(4) tax-exempt status to an organization that was "not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole." Final Determination Letter, Number 201128032 (April 4, 2011).

In that matter, the IRS concluded that "an organization which conducts its educational activities to benefit a political party and its candidates serves private interests. And . . . an organization that primarily serves private interests fails to qualify for exemption under section 501(c)(4)." *Id.* at 6 (citing *American Campaign Academy*). The IRS concluded in that matter:

> In summary, you are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

Id.; *see also* Determination Letter 201221028 (March 2, 2012) ("Educational activities undertaken to provide a partisan benefit are considered to serve private interests, rather than the common good."); Determination Letter, Number 201224034 (March 21, 2012) (same).

The information we are submitting here, as well as the information we have submitted in our past letters to the IRS, also shows that the overriding, if not exclusive, purpose of Crossroads GPS is to influence candidate elections and that it is engaged primarily in campaign activities. Under these circumstances, Crossroads GPS does not have a primary purpose of conducting "social welfare" activities and is therefore not entitled to tax-exempt status as a section 501(c)(4) organization.

There can be no doubt that Crossroads GPS is engaging in massive spending on television ads that have the purpose and effect of influencing the 2012 elections, and thereby constitute participation or intervention in the campaign.

The apparent basis for the claim by Crossroads GPS that it is entitled to tax status as a "social welfare" organization is its assertion that its ads are "issue" ads, not campaign ads, because the ads do not contain "express advocacy."[3] As one recent press report stated, "For

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[3] Ironically, Crossroads GPS did switch to "express advocacy" ads for a short period in order to avoid disclosure of its donors under the campaign finance laws. In a March 2012 ruling, a federal district court invalidated an FEC regulation which limited disclosure of donors to groups that make "electioneering communications" (*i.e.*, ads that are proximate in time to an election but do not contain express advocacy). This ruling required donor disclosure by groups sponsoring electioneering communications, but not for independent expenditures (*i.e.*, ads that do contain express advocacy and are subject to a different FEC disclosure regulation). In order to avoid disclosure once its ads were within the electioneering communications time frame, Crossroads GPS and other section 501(c)(4) groups began adding express advocacy to their ads in early September, so those ads became independent expenditures rather than electioneering communications. K. Doyle, "D.C. Circuit Revives FEC Rule Allowing Political Ad Sponsors to Avoid Disclosure," *BNA Money and Politics Report* (Sept. 19, 2012) ("One paradoxical result was that groups previously sponsoring 'issue ads' began sponsoring messages that explicitly call for votes for or against candidates. The reporting rules for such 'independent expenditure' messages were not affected by the Van Hollen litigation and continued to allow ad sponsors to keep donors secret. The groups switching from electioneering communications to independent expenditures include such high-profile, GOP-leaning organizations as U.S. Chamber of Commerce, Americans for Prosperity, and Crossroads GPS. . . ."). The Court of Appeals for the D. C. Circuit reversed the district

months, the tax-exempt Crossroads GPS has argued that its anti-Obama ads were merely issue ads and not political ads."[4] The same story stated, "Crossroads GPS spent more than $50 million on ads attacking President Obama this spring and summer. But its officers do not believe those count as political activity because they did not tell viewers to vote against Obama." *Id.* (emphasis added).

As noted above, however, Karl Rove has publicly confirmed that more than $53 million in ads run by Crossroads GPS are campaign ads run in response to President Obama's "ad blitz."

Furthermore, it is a flat misstatement of the law to claim that ads are "issue" ads, and not campaign ads, simply because the ads do not contain "express advocacy." The IRS has made clear in rulings that "express advocacy" is not required for a group's spending to count as intervention or participation in a campaign for purposes of assessing a group's eligibility for exempt status under section 501(c)(4). A recent report by the Congressional Research Service summarized the law as it applies to 501(c)(4) organizations:

> Clearly, any advertisement that expressly endorses or opposes a candidate is campaign activity. It is also clear that there is no rule that campaign intervention occurs only when an organization expressly advocates for or against a candidate.[5]

Instead, the IRS has set forth in two Revenue Rulings the "facts and circumstances" that the agency takes into consideration in determining whether an ad constitutes intervention or participation in a campaign, even if the ad does not contain "express advocacy."

Revenue Ruling 2004-6, 2004-1 C.B. 328, explains that, because section 501(c)(4) public policy advocacy "may involve discussion of the positions of public officials who are candidates for public office, a public policy advocacy communication may constitute an exempt function (a political activity) within the meaning of § 527(e)(2)." Rev. Rul. 2004-6 at 1. The Ruling states:

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

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court ruling earlier this month. *Center for Individual Freedom v. Van Hollen*, ___ F.3d ___, 2012 WL 4075293 (D.C. Cir. Sept. 18, 2012) *reversing Van Hollen v. FEC*, 851 F.Supp. 2d 69 (D.D.C. 2012).

[4] S.V. Date, "Rove's Crossroads GPS Gets Explicit In Anti-Obama Air War," *NPR* (Sept. 12, 2012).

[5] E. Lunder, "R42684: Political Ads: Issue Advocacy or Campaign Activity Under the Tax Code," *Congressional Research Service* (Aug. 29, 2012).

to be considered to determine whether the expenditure is for an exempt function under § 527(e)(2).

Id. (emphasis added)

Rev. Rul. 2004-6 lists six factors that "tend to show" that an advertisement is "exempt function" political campaign activity, and five competing factors that "tend to show" that an advertisement is not. Rev. Rul. 2004-6 at 3-4. These factors are not in themselves dispositive. In the end, the regulations require a determination to be made based on "the facts and circumstances" of each advertisement.

The "factors that tend to show that an advocacy communication on a public policy issue is for an exempt function (political activity) under § 527(e)(2)" include the following:

a) The communication identifies a candidate for public office;

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

c) The communication targets voters in a particular election;

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

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

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

Rev. Rul. 2004-6 at 3.

The "factors that tend to show that an advocacy communication on a public policy issue is not for an exempt function under § 527(e)(2)" include the following:

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

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

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

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

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

Id.

Similarly, in Rev. Rul. 2007-41, 2007-1 C.B. 1421, the IRS stated that "[w]hether an organization is participating or intervening, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office depends upon all of the facts and circumstances of each case." Rev. Rul. 2007-41 at 2. With regard to campaign ads, the Revenue Ruling states:

> Even if a statement does not expressly tell an audience to vote for or against a specific candidate, an organization delivering the statement is at risk of violating the political campaign intervention prohibition if there is any message favoring or opposing a candidate. . . . All the facts and circumstances need to be considered to determine if the advocacy is political campaign intervention.

Id. at 6 (emphasis added). According to the Revenue Ruling, the factors relevant to this determination include:

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

Id. The Revenue Ruling notes, "A communication is particularly at risk of political campaign intervention when it makes reference to candidates or voting in a specific upcoming election." *Id.* at 7.

Under established IRS rulings, and with regard to the requirement that the group be primarily engaged in "social welfare activities," the agency needs to examine the body of ads run by Crossroads GPS this year, to apply the standards laid out in the pertinent IRS Revenue Rulings, and to determine whether the ads run by Crossroads GPS constitute intervention or participation in candidate elections. Once the IRS has determined the extent to which Crossroads GPS has engaged in spending for ads to intervene or participate in candidate elections, the agency can then determine whether such campaign activities constitute its "primary purpose," in violation of the permissible standard for "social welfare" organizations.

In order to assist the IRS in its task of determining the extent of non-social welfare activities being engaged in by Crossroads GPS, we have enclosed a transcript of each ad that has been aired by Crossroads GPS from January 1, 2012 through September 24, 2012. We believe that a review of these ads, and the circumstances related to where and when they have been run, will demonstrate that under the applicable IRS standards, these ads constitute intervention and participation in candidate elections.

For example, an ad entitled "Suffered," that was run by Crossroads GPS on July 23, 2012, states:

> Narrator: America has suffered three years of crushing unemployment. Remember this: Obama: "We'll create nearly half a million jobs by investing in clean energy." Narrator: What really happened? Billions wasted on failed investments. Thousands of Americans lost jobs. While stimulus money went to companies that created jobs overseas. Paid for by the $4 billion Obama has added to our debt every day. Tell President Obama, for real job growth, cut the debt. Support the New Majority Agenda at newmajorityagenda.org.

This ad identifies President Obama and expresses strong disapproval for his positions on jobs and stimulus, two issues that distinguish the candidates in the election. This ad was run in this campaign season and was not related to any identified non-electoral event. Given these facts and circumstances, there is little doubt that this ad would constitute candidate campaign intervention and participation under the standards set forth in the Revenue Rulings discussed above.

The same is true for all of the other ads run by Crossroads GPS this year. For instance, an ad entitled "Basketball," which began running on May 22, 2012, states:

> Woman: "I always loved watching the kids play basketball. I still do, even though things have changed. It's funny, they can't find jobs to get their careers started and I can't afford to retire and now we are all living together again. I supported President Obama because he spoke so beautifully. He promised

> change, but things changed for the worse. Obama started spending like our credit cards have no limits. His health care law made health insurance even more expensive. We've had stimulus and bailouts. Obama added over $16,000 in debts for every American. How will my kids pay that off when they can't even find jobs? Now, Obama wants more spending and taxes. That won't fix things. I had so many hopes. Cutting taxes and debt and creating jobs. That's the change we need. Tell President Obama to cut the job killing debt and support the new majority agenda at newmajorityagenda.org.

This ad, as well, identifies and criticizes President Obama on issues that are central to the presidential election—the health care law, the stimulus and the national debt. There is little doubt that this ad would constitute candidate campaign intervention under applicable IRS standards.

Almost all of the ads run by Crossroads GPS, furthermore, have been run in presidential battleground states and/or states involving contested Senate races. In a number of cases, the Crossroads GPS ads mention both President Obama and a Senate candidate in states that are both a presidential battleground state and a state with a contested Senate race.

Thus, for example, 47 of the 60 ads mention Obama and a Senate candidate, or just the Senate candidate. They include: eight ads that mention Virginia Democratic Senate candidate Tim Kaine, seven ads that mention Montana Democratic Senator Jon Tester, seven ads that mention Nevada Democratic Senate candidate, Representative Shelley Berkley, six ads that mention North Dakota Senate candidate Heidi Heitkamp, six ads that mention Ohio Democratic Senator Sherrod Brown, five ads that mention Missouri Democratic Senator Claire McCaskill, three ads that mention Wisconsin Senate Democratic candidate, Representative Tammy Baldwin, two ads that mentions Indiana Democratic Senate candidate, Joe Donnelly, two ads that mention New Mexico Democratic Senate candidate, Representative Martin Heinrich and one ad that mentions Florida Democratic Senator Bill Nelson.

The Senate races in Montana, Virginia, North Dakota, Nevada, Missouri, Ohio, Wisconsin, New Mexico, Florida and Indiana—the states where the Crossroads GPS ads mentioning Senate candidates have run—are all races that have been considered "in play" during the 2012 elections and have been viewed as key races in determining whether the Republicans can take control of the Senate in 2013.

The transcripts of the ads have been obtained by us from YouTube where Crossroads GPS posts its ads. We do not know how often each of these ads has run, but the IRS can and should obtain that information as part of reviewing the activities of Crossroads GPS to determine whether the group is eligible for section 501(c)(4) tax status.

We urge the IRS to review each of the attached ads, and to apply the agency's standards to determine whether the ads constitute candidate campaign intervention. If you find, as we believe you must, that all, or the overwhelming majority, of these ads are campaign ads, then the inescapable conclusion is that the primary purpose of Crossroads GPS is to participate or intervene in the 2012 elections. As such, its claim to status as a "social welfare" organization

under section 501(c)(4) is not in compliance with the tax laws. Similarly, the IRS should find that the "private benefit" doctrine disqualifies Crossroads GPS for tax-exempt status under section 501(c)(4).

The IRS should act expeditiously in examining these ads, in denying Crossroads GPS tax-exempt status and in imposing appropriate penalties on the organization. The IRS should also act expeditiously in addressing the information we have presented in our prior letters with regard to Priorities USA, American Action Network and Americans Elect, and similarly should deny tax exempt status to those groups and impose appropriate penalties.

Crossroads GPS is engaged in a massive scheme to serve as a black box conduit to mask the sources of tens of millions of dollars flowing into the 2012 elections. We believe that Crossroads GPS is blatantly abusing the non-profit tax laws to do so.

It is the responsibility of the IRS to stop this abuse. We urge you to do so promptly.

Sincerely,

/s/ Gerald Hebert	*/s/ Fred Wertheimer*
J. Gerald Hebert	Fred Wertheimer
Executive Director	President
Campaign Legal Center	Democracy 21

December 3, 2012

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Re: Political Activities by section 501(c)(4) organizations

Dear Acting Commissioner Miller and Director Lerner:

The IRS last week released its 2012-2013 Priority Guidance Plan (Nov. 19, 2012), which "contains 317 projects that are priorities for allocation of the resources of our offices during the twelve-month period from July 2012 through June 2013 (the plan year)."

Inexplicably, however, nowhere on this list of 317 agency "priorities," which includes a list of 13 priorities specifically relating to exempt organizations, is there any mention of a project to revise and clarify the rules dealing with political activities by section 501(c)(4) groups.

There simply is no basis for the IRS to ignore, as it apparently has done, the widespread abuses that occurred in the 2012 election by groups claiming section 501(c)(4) tax-exempt status and the role that the IRS's flawed regulations played in contributing to these abuses.

An estimated $400 million in secret contributions were laundered into the 2012 elections through section 501(c) organizations. A large portion of these funds was spent by groups improperly claiming tax-exempt status as section 501(c)(4) "social welfare" organizations in order to hide the identities of their donors from the American people.

In the absence of any action by the IRS to address this problem, even greater abuses of the tax laws are expected to occur in future elections by groups improperly claiming to be "social welfare" organizations. The failure of the IRS to act on this matter is doing great harm to the American people and to their fundamental right to know who is providing the money to influence their votes.

Democracy 21 and the Campaign Legal Center wrote to the IRS on ten occasions during 2011 and 2012 to request the agency to investigate and take action on serious abuses of the tax laws by groups that were improperly claiming tax-exempt status under section 501(c)(4).

These groups had an overriding purpose to influence federal elections and engaged in campaign activities that failed to meet the eligibility requirements of section 501(c)(4) and court interpretations of the law.

On July 27, 2011, we submitted a petition for rulemaking in which we requested the IRS to initiate a proceeding to clarify and bring into compliance with the law the IRS regulations that govern campaign activity by groups claiming status as "social welfare" organizations.

On July 17, 2012, almost one year later, we received a letter from Ms. Lerner which acknowledged that "the IRS is aware of the current public interest in this issue," recognized that the existing regulations were more than a half-century old and stated that the IRS would "consider proposed changes in this area."

It is an indefensible abdication of responsibility for the IRS, after stating in the July 17, 2012 letter to us that the agency would "consider proposed changes in this area," to fail to include the section 501(c)(4) regulations dealing with political activity on the agency's Priority Guidance Plan.[1]

Since "social welfare" organizations are not required to disclose their donors to the public, such groups can serve as vehicles for secretly injecting huge contributions into federal elections. Just one such group claiming status as a "social welfare" organization – Karl Rove's Crossroads GPS – spent $70 million on electioneering communications and independent expenditures in the 2012 campaign.

Not one of the sources of the $70 million spent by Crossroads GPS was disclosed to the public.

As we have previously demonstrated in our letters to the IRS, Crossroads GPS does not meet the eligibility requirements for a 501(c)(4) "social welfare" organization. Rather, it is a campaign organization whose primary purpose in 2012 was to elect Republican candidates.

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[1] We note that at page 37 of the Guidance, the IRS states that in January 2013 it will publish a "Revenue Procedure updating procedures for issuing determination letters and rulings on the exempt status of organizations under §§501 and 521." Since this proposed publication will address only "procedures for issuing determination letters," it does not appear to have relevance to the standards an organization must satisfy in order to qualify for exempt status under section 501(c)(4). The fact that this proposed publication is not listed in the portion of the Guidance document that relates to substantive rules for exempt organizations (pp. 10-11) also supports the view that this will be a non-substantive issuance.

Crossroads GPS is similar to a number of other groups masquerading as "social welfare" organizations that operated in the 2012 elections to support candidates of both parties. The contributions spent by these groups for campaign activities were shielded from public disclosure because of their claim for exemption under section 501(c)(4).

Our previous letters to the IRS also challenged the eligibility of Priorities USA, a group formed to support the re-election of President Obama, American Action Network and Americans Elect to receive tax-exempt status under section 501(c)(4).

It is a matter of urgent public importance for the IRS to move promptly to fix its rules.

The existing flawed regulations are playing a key role in the massive amounts of secret money being spent in federal elections by groups that are improperly claiming status as "social welfare" organizations. This large-scale abuse of the tax laws to hide political donors is contrary to the Internal Revenue Code, to court interpretations of the Code and to the longstanding national policy of transparency for campaign finance contributions and expenditures.

Prompt and effective action by the IRS to address this matter is essential to prevent a repeat in 2014 of campaign operatives using phony "social welfare" organizations as conduits to inject secret money into federal campaigns and thereby to frustrate the public's right to know the sources of money spent to influence our elections.

In that light, the refusal of the IRS even to list the regulations governing eligibility for section 501(c)(4) tax-exempt status in its Priority Guidance Plan for 2012-2013 is indefensible, unacceptable and in direct conflict with the interests of the American people.

The November 19 Guidance states that the IRS will periodically update its work plan "to reflect additional items that have become priorities. . . ."

We strongly urge you to add the section 501(c)(4) regulations to the agency's regulatory priorities and to take timely and effective steps to address the fundamental flaws in these regulations prior to the 2014 campaign. The IRS must ensure that the widespread abuses of laundering secret money into federal elections through section 501(c)(4) organizations does not repeat itself in the future, to the great detriment of the American people and our democracy.

We request a meeting with you as soon as possible to discuss our concerns and the urgent need for a rulemaking proceeding to address the problems that exist.

Sincerely,

/s/ Gerald Hebert	*/s/ Fred Wertheimer*
J. Gerald Hebert	Fred Wertheimer
Executive Director	President
Campaign Legal Center	Democracy 21

January 2, 2013

Steven T. Miller
Acting Commissioner
Internal Revenue Service
Room 3000 IR
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Washington, DC 20224

Lois Lerner
Director of the Exempt Organizations Division
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

Re: Application for section 501(c)(4) status by Crossroads GPS

Dear Acting Commissioner Miller and Director Lerner:

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

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

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

We have written to you on a number of occasions in the past two years regarding the enormous sums of money spent by Crossroads GPS to influence the 2010 and 2012 federal

elections. In those letters, we have challenged the organization's eligibility for section 501(c)(4) tax-exempt status.

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

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

The $70 million in campaign expenditures attributed to Crossroads GPS consists overwhelmingly of ads reported to the Federal Election Commission as "independent expenditures," *i.e.*, ads that contain "express advocacy."

As we have discussed at length in our prior correspondence with you, the IRS uses a different test to define activity that constitutes intervention or participation in elections, and additional ads by Crossroads GPS that may not be subject to reporting to the FEC may nonetheless fall well within the test used by the IRS to determine what constitutes campaign spending by a tax-exempt group.

In continuing any ongoing review of the application submitted by Crossroads GPS for status as a section 501(c)(4) organization, we believe it is essential that you not accept at face value either the obviously self-serving statement on its application that Crossroad GPS's campaign spending will not constitute its "primary purpose" or any self-serving claims by the organization that communications were "issue ads."

The IRS should closely scrutinize the spending that Crossroads GPS engaged in during the 2012 campaign. This includes both the spending that was reported to the FEC as "independent expenditures" because it included "express advocacy," and any other spending on communications that may well have constituted intervention or participation in campaigns under IRS rules, even if the ads did not contain "express advocacy."

In particular, we strongly urge you not to accept at face value any claim by Crossroads GPS that any or all of its ads that mention federal candidates and did not contain express advocacy were "public education ads" or "issue ads." These ads, and the context in which they were run, must be reviewed by the IRS to determine whether in fact any or all of the ads constituted ads to intervene or participate in elections, within the IRS definition of that standard. *E.g.,* Revenue Ruling 2004-6, 2004-1 C.B. 328.

In our letter to you of September 27, 2012, we submitted transcripts of the ads run by Crossroads GPS from January 1, 2012 through September 24, 2012. We urged the IRS to review each of these ads, and to apply the agency's standards to determine whether the ads constituted intervention or participation in campaigns. We again urge you to conduct such a review.

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

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

Crossroads GPS itself reported on its Form 990s filed with the IRS for 2010 and 2011 that it received 23 separate donations of $1 million or more in 2010 and 2011 – including two contributions of $10 million each. But Crossroads GPS used its claim to section 501(c)(4) tax-exempt status as the basis for not publicly disclosing the identity of any of these million-dollar and multi-million dollar donors. It is very likely the case that the organization received additional seven- or eight-figure donations in 2012.

It is also very likely that some, if not most, of the undisclosed contributions raised by Crossroads GPS were spent for campaign ads to influence the 2012 elections. Thus, the tactic of directing campaign money through the form of an entity claiming to be a "social welfare" organization has enabled tens of millions of dollars of "dark" money to be spent to influence federal elections.

It is the responsibility and obligation of the IRS to stop this kind of abuse of the tax laws. It is imperative that the IRS closely and critically review the assertions made by Crossroads GPS in its application for tax-exempt status, and in its tax returns, in light of its massive, campaign spending in the 2012 federal elections.

Crossroads GPS served as little more than a campaign operation in 2012. Crossroads GPS has no business being treated as a "social welfare" organization and the IRS should deny its application for tax-exempt status as a section 501(c)(4) organization.

Sincerely,

/s/ Gerald Hebert	*/s/ Fred Wertheimer*
J. Gerald Hebert	Fred Wertheimer
Executive Director	President
Campaign Legal Center	Democracy 21

January 16, 2013

Steven T. Miller
Acting Commissioner
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Lois Lerner
Director of the Exempt Organizations Division
Internal Revenue Service
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Washington, DC 20224

Re: Application for section 501(c)(4) status by American Tradition Partnership

Dear Acting Commissioner Miller and Director Lerner:

Democracy 21 and the Campaign Legal Center are writing to request the IRS to conduct an investigation into whether American Tradition Partnership (ATP), formerly known as Western Tradition Partnership (WTP), obtained its section 501(c)(4) tax-exempt status based on false information submitted to the IRS.

According to published reports, the apparently false information included misrepresentations made to the IRS by WRP in urging expedited approval of its application and misrepresentations in its application to the IRS, asserting that it would not participate or intervene in elections.

WTP submitted its Form 1024, Application for Recognition of Exemption under Section 501(a), to the IRS on July 21, 2008. A copy of the application is publicly available.

According to a news report by *ProPublica* and *Frontline,* WTP submitted a letter to the IRS on September 29, 2008, while their IRS application was still pending, requesting that the IRS expedite processing of its application.[1] According to the *ProPublica/Frontline* report, the

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[1] Kim Barker, ProPublica, and Rick Young and Emma Schwartz, Frontline, "Did the Dark Money Group that Spurred a Landmark Ruling Mislead the IRS?" *ProPublica and Frontline*, Oct. 22, 2012, <http://www.propublica.org/article/did-the-dark-money-group-that-spurred-a-landmark-ruling-mislead-the-irs>.

request for expedition stated that Jacob Jabs, who was described as the organization's "primary donor," had promised to make a $300,000 donation to the group, but only if WTP received recognition from the IRS for tax-exempt status by September 29, 2008. *Id.*

The letter further said, however, that Jabs had extended his deadline, and said he "will give us the grant if we receive our tax exempt status by October 15, 2008. If we have not received our tax exempt status by this date, Mr. Jabs has assured us that he will no longer contribute said amount and instead will direct his donation to other organizations." *Id.*

According to the *ProPublica/Frontline* report, the IRS responded to WTP the next day, September 30, 2008, and said that the request for expedited consideration would be granted. Tax-exempt status as a section 501(c)(4) "social welfare" organization was granted to WTP two days later on October 2, 2008. *Id.*

According to a report published by *ProPublica* and *Frontline* on October 30 2012, Jabs has subsequently said "he had never pledged money to the group, and never even been in contract with them until press stories appeared naming him."[2] The *ProPublica/Frontline* report states:

> "I think they just grabbed my name out of a hat to forward their agenda," Jabs told us. "I know nothing about the group, never heard of them, never have heard of them until the last few days, and I did not, absolutely did not, commit $300,000 to start this company." (Jabs also spoke with the Bozeman Daily Chronicle, again denying any connection to the group.)

According to *ProPublica* and *Frontline,* a subsequent release of WTP's bank records as a result of state court litigation in Montana "show[ed] no money came in from the man WTP claimed as its primary donor when it asked the IRS to expedite the approval of its application."[3]

Assuming the *ProPublica/Frontline* reports are correct, the IRS apparently agreed to expedited processing of WTP's application for tax-exempt status that resulted in its approval, based on apparent material fraudulent information that WTP provided to the IRS and that WTP had to know was false.

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[2] Kim Barker, ProPublica, and Rick Young and Emma Schwartz, Frontline, "More Evidence Key Dark Money Group May Have Misled IRS," *ProPublica and Frontline* , Oct. 30, 2012, <http://www.propublica.org/article/more-evidence-key-dark-money-group-may-have-misled-irs>.

[3] Kim Barker, ProPublica, and Rick Young and Emma Schwartz, Frontline, "Dark Money Group's Donors Revealed," *ProPublica and Frontline*, Nov. 5, 2012, <http://www.propublica.org/article/dark-money-groups-donors-revealed>.

On these grounds alone, the section 501(c)(4) tax-exempt status of WTP should be revoked and the IRS should consider what, if any, other actions it should take against WTP. The IRS should also forward any relevant information in this case to the Department of Justice so the Department can determine what, if any, action it should take against WTP for apparently submitting material false information to a federal agency in order to obtain action by the agency.

Furthermore, according to its initial application for tax-exempt status, WTP stated that "[t]he organization will not directly or indirectly participate or intervene on behalf of or in opposition to a candidate for public office." Application at 2. It reiterated its intention to engage in no campaign related activities in response to a separate question on page 4 of the application.

However, according to a report by *ProPublica* and *Frontline* published on October 22, 2012, shortly before WTP submitted its IRS application in 2008, the organization "and a related political committee sent out fliers weighing in on candidates for Montana state office" in the days before the Republican primary in the state.[4]

ProPublica and *Frontline* reported that "the group sponsored mailers that criticized politicians in the 2008 Republican primary."[5] According to the *ProPublica/Frontline* report, WTP has continued to participate or intervene in campaigns, in contravention of the representation it made to the IRS that it would engage in no campaign activity:

> Western Tradition Partnership is now known as American Tradition Partnership. So far this election season [in 2012], the group has advocated for candidates in Montana's Republican primary, putting out a press release announcing that 12 of those candidates won.[6]

Furthermore, according to *ProPublica* and *Frontline*, WTP "raised money specifically by telling people and corporations that they could give unlimited amounts in secret" to be spent to influence elections:

> "The only thing we plan on reporting is our success to contributors like you who can see the benefits of a program like this," said one document, a 2010 election briefing to read to potential donors. "You can just sit back on election night and see what a difference you've made."[7]

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[4] Kim Barker, ProPublica, and Rick Young and Emma Schwartz, Frontline, "Did the Dark Money Group that Spurred a Landmark Ruling Mislead the IRS?" *ProPublica and Frontline*, Oct. 22, 2012, <http://www.propublica.org/article/did-the-dark-money-group-that-spurred-a-landmark-ruling-mislead-the-irs>.

[5] Kim Barker, ProPublica, and Rick Young and Emma Schwartz, Frontline, "More Evidence Key Dark Money Group May Have Misled IRS," *Pro Publica and Frontline,* Oct. 30, 2012, <http://www.propublica.org/article/more-evidence-key-dark-money-group-may-have-misled-irs>.

[6] *Id.*

[7] Kim Barker, ProPublica, and Rick Young and Emma Schwartz, Frontline, "Documents Found in Meth House Bare Inner Workings of Dark Money Group," *ProPublica and Frontline*, Oct. 29, 2012,

The reported campaign activities by WTP and its successor, ATP, raise serious questions about whether WTP knowingly misrepresented its planned activities to the IRS in its initial application for tax-exempt status and whether it continued this misrepresentation over the years. This matter also warrants an investigation by the IRS to determine whether the organization's tax-exempt status should be revoked on these grounds and what, if any, other action should be taken against the organization.

The *ProPublica/Frontline* reports also raise serious questions about whether WTP has as its primary purpose intervening and participating in campaigns and is improperly claiming tax-exempt status in order to serve as a vehicle for secret contributions to be injected into state and federal elections. The IRS should also investigate this matter to determine what, if any, action should be taken against WTP based on these circumstances.

The IRS is responsible for enforcing the tax laws and preventing the tax laws from being misused to keep secret from the American people the sources of money spent to influence elections.

We strongly urge the IRS to investigate WTP/ATP and to take appropriate action against the organization for any violations of the tax laws and other federal laws that may have occurred.

Sincerely,

/s/ Gerald Hebert

J. Gerald Hebert
Executive Director
Campaign Legal Center

/s/ Fred Wertheimer

Fred Wertheimer
President
Democracy 21

<http://www.propublica.org/article/documents-found-in-meth-house-bare-inner-workings-of-dark-money-group>.

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2012 Democratic Party Platform

September 3, 2012

Moving America Forward
2012 Democratic National Platform

Moving America Forward

Four years ago, Democrats, independents, and many Republicans came together as Americans to move our country forward. We were in the midst of the greatest economic crisis since the Great Depression, the previous administration had put two wars on our nation's credit card, and the American Dream had slipped out of reach for too many.

Today, our economy is growing again, al-Qaeda is weaker than at any point since 9/11, and our manufacturing sector is growing for the first time in more than a decade. But there is more we need to do, and so we come together again to continue what we started. We gather to reclaim the basic bargain that built the largest middle class and the most prosperous nation on Earth - the simple principle that in America, hard work should pay off, responsibility should be rewarded, and each one of us should be able to go as far as our talent and drive take us.

This election is not simply a choice between two candidates or two political parties, but between two fundamentally different paths for our country and our families.

We Democrats offer America the opportunity to move our country forward by creating an economy built to last and built from the middle out. Mitt Romney and the Republican Party have a drastically different vision. They still believe the best way to grow the economy is from the top down - the same approach that benefited the wealthy few but crashed the economy and crushed the middle class.

Democrats see a young country continually made stronger by the greatest diversity of talent and ingenuity in the world, and a nation of people drawn to our shores from every corner of the globe. We believe America can succeed because the American people have never failed and there is nothing that together we cannot accomplish.

Reclaiming the economic security of the middle class is the challenge we must overcome today. That begins by restoring the basic values that made our country great, and restoring for everyone who works hard and plays by the rules the opportunity to find a job that pays the bills, turn an idea into a profitable business, care for your family, afford a home you call your own and health care you can count on, retire with dignity and respect, and, most of all, give your children the kind of education that allows them to dream even bigger and go even further than you ever imagined.

This has to be our North Star - an economy that's built not from the top down, but from a growing middle class, and that provides ladders of opportunity for those working hard to join the middle class.

This is not another trivial political argument. It's the defining issue of our time and at the core of the American Dream. And now we stand at a make-or-break moment, and are faced with a choice between moving forward and failing back.

The Republican Party has turned its back on the middle class Americans who built this country. Our opponents believe we should go back to the top-down economic policies of the last decade. They think that if we simply eliminate protections for families and consumers, let Wall Street write its own rules again, and cut taxes for the wealthiest, the market will solve all our problems on its own. They argue that if we help corporations and wealthy investors maximize their profits by whatever means necessary, whether through layoffs or outsourcing, it will automatically translate into jobs and prosperity that benefits us all. They would repeal health reform, turn Medicare into a voucher program, and follow the same path of fiscal irresponsibility of the past administration - giving trillions of dollars in tax cuts weighted towards millionaires and billionaires while sticking the middle class with the bill. But we've tried their policies - and we've all suffered when they failed.

It is not enough to go back to where the country was before the crisis. We must rebuild a strong foundation that ensures it never happens again.

Democrats know that America prospers when we're all in it together. We see an America where everyone has a fair shot, does their fair share, and plays by the same rules. We see an America that out-educates, out-builds, and out-innovates the rest of the world.

We see an America with greater economic security and opportunity, driven by education, energy, innovation and infrastructure, and a tax code that helps to create American jobs and bring down the debt in a balanced way. We believe in deficit reduction not by placing the burden on the middle class and the poor, but by cutting out programs we can't afford and asking the wealthiest to again contribute their fair share.

These values are why we enacted historic health care reform that provides economic security for families and enacted sweeping financial reform legislation that will prevent the recklessness that cost so many their jobs, homes, and savings. They're why we rescued the auto industry and revived our manufacturing supply chain. They're why we helped American families who are working multiple jobs and struggling to pay the bills save a little extra money through tax cuts, lower health care costs, and affordable student loans.

They're why we fought to reclaim the value of treating all Americans with dignity and respect. And they're why President Barack Obama has ended one war and is responsibly drawing down another. They're why we're restoring our alliances and image around the world and pursuing a foreign policy that's

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But there is more to be done. We knew that renewing the American Dream wouldn't be easy - we knew it would take more than one year, or one term, or even one president.

The problems we're facing right now have been more than a decade in the making. We are the party of inclusion and respect differences of perspective and belief. And so, even when we disagree, we work together to move this country forward. But what is holding our nation back is a stalemate in Washington between two fundamentally different views of which direction America should take.

We must keep moving forward and doing the hard work of rebuilding a strong economy by betting on the American worker and investing in a growing middle class. We need a government that stands up for the hopes, values, and interests of working people, and gives everyone willing to work hard the chance to make the most of their God-given potential.

Rebuilding Middle Class Security

We've come a long way since 2008. The President took office in the middle of the worst economic downturn since the Great Depression; that month 800,000 Americans lost their jobs - more than in any single month in the previous 60 years. On Day One, he took immediate action to stop the free fall and put Americans back to work. In the midst of the crisis, President Obama knew what Democrats have always known: that American workers are tougher than tough times. Since early 2010, the private sector has created 4.5 million jobs, and American manufacturing is growing for the first time since the 1990s.

The President knew from the start that to rebuild true middle class security, we can't just cut our way to prosperity. We must out-educate, out-innovate, and out-build the world. We need an economy that creates the jobs of the future and makes things the rest of the world buys - not one built on outsourcing, loopholes, or risky financial deals that jeopardize everyone, especially the middle class.

We've already made historic progress. States have more flexibility to raise standards and reform schools, more students are receiving grants and scholarships, and young adults can stay on their parents' health insurance plans as they finish their education and enter the workforce. More working families than ever before have received tax cuts, and fuel-efficiency standards are doubling. The President cracked down on Wall Street recklessness and abuses by health insurance, credit card, and mortgage companies.

Our work is far from done. A crisis this deep didn't happen overnight and it won't be solved overnight. Too many parents sit around their kitchen tables at night after they've put their kids to bed, worrying about how they will make a mortgage payment or pay the rent, or how they will put their children through college. We now stand at a make-or-break moment for families, and America faces a clear choice in this election: move forward toward a nation built from the middle class out where everyone has the chance to get ahead, or go back to the same failed ideas that created the crisis in the first place.

The Republicans in Congress and Mitt Romney have a very different idea about where they want to take this country. To pay for their trillions in additional tax cuts weighted towards millionaires and billionaires, they'll raise taxes on the middle class and gut our investments in education, research and technology, and new roads, bridges, and airports. They'll end Medicare as we know it. They want to let Wall Street write its own rules again and allow insurance companies to once again deny health care to working families. Their troubling and familiar economic scheme doubles down on the same bad ideas of the last decade while arguing that, somehow, this time, they'll lead to a different result. We can't afford to go back or abandon the change we've fought so hard for. We have to move forward.

Putting Americans Back to Work

When President Obama took office, the economy was in the deepest economic crisis since the Great Depression. His Recovery Act represented the largest education investment since President Johnson, the largest infrastructure investment since President Eisenhower, the single largest clean energy investment ever, and the broadest tax cut in American history. It helped keep teachers, police officers, nurses, and firefighters on the job. It ensured that as we re-built our country, we bought American-made iron, steel, and manufactured goods wherever feasible, consistent with our international obligations. It helped the President stop the bleeding and reverse the free fall.

But just as the recession was not created overnight, we knew it would take time to recover from the crisis - and more needs to be done. Last September, President Obama put forward the American Jobs Act to provide an immediate boost to the economy and strengthen the recovery. We have already enacted key parts of the American Jobs Act - payroll tax relief, tax credits for businesses that hire veterans, and an extension of unemployment insurance that also included reforms like work-sharing, a "Bridge to Work" to help the long-term unemployed reconnect with the labor force, and support for unemployed workers looking to become entrepreneurs. But Republicans in Congress blocked other provisions that independent analysis said could create one million jobs.

Even as President Obama remains committed to working with both parties, he and his cabinet pursued a series of executive actions to help spark economic growth and job creation, including expanding access to refinancing for families who have stayed current on their mortgages, challenging Community Health Centers to hire veterans, accelerating permitting for transportation projects, cutting waste and reducing improper payments, and enabling student loan borrowers to cap their payments at a percentage of income.

That's why President Obama and the Democratic Party have cut taxes on American workers and businesses and made sweeping reforms to the unemployment system to help get people back to work.

And we continue to fight for measures that would strengthen the recovery and create jobs now, including keeping teachers and first responders on the job, putting construction workers back to work by investing in our roads, bridges, schools, and water supply, helping families refinance their mortgages and save hundreds of dollars a month, cutting taxes for small businesses that invest and hire, and putting veterans back to work. That's why we continue to fight for relief for the long-term unemployed, including a ban on hiring discrimination against the unemployed and a reformed and expanded universal worker training proposal to provide more training and job search assistance to all displaced workers regardless of how they lost their job. The President's plan includes many measures that have long had bipartisan support.

The Middle Class Bargain

Middle Class Tax Cuts. President Obama and Democrats in Congress cut taxes for every working family, putting more money in the pockets of Americans who need it most. A typical family has saved $3,600 during his first term. Now he's fighting to stop middle class families and those aspiring to join the middle class from seeing their taxes go up and to extend key tax relief for working families and those paying for college, while asking the wealthiest and corporations to pay their fair share. That is why we will always vigorously oppose the type of tax reform supported by Mitt Romney, which independent experts have found would require raising taxes on typical families with children by at least $2,000 if it were paid for. At the same time, Mitt Romney's plan would cut taxes for those making over $3 million by an average of $250,000 and would create incentives that will lead to hundreds of thousands of jobs going overseas at the expense of American workers.

Health Care. We believe accessible, affordable, high quality health care is part of the American promise, that Americans should have the security that comes with good health care, and that no one should go broke because they get sick. Over the determined opposition of Republicans, we enacted landmark

reforms that are already helping millions of Americans, and more benefits will come soon.

As a result of our efforts, today, young Americans entering the workforce can stay on their parents' plans. Insurers can no longer refuse to cover kids with pre-existing medical conditions. Insurance companies will no longer be able to arbitrarily cap and cancel coverage, or charge women more simply because of their gender. People with private insurance are getting preventive services like cancer screenings, annual well-woman visits, and FDA-approved contraception with no out-of-pocket costs. We've established new Offices of Minority Health, and are helping state Medicaid programs fund home and community-based services. Small businesses are receiving tax credits to help them cover their workers, and businesses and families are receiving rebates from insurers who overcharged them.

Soon, working families will finally have the security of knowing they won't lose health care or be forced into bankruptcy if a family member gets sick or loses their job. And soon, insurance companies will no longer be able to deny coverage based on pre-existing conditions. Medicaid will cover more working families. Those who don't get insurance at work will be able to shop in new exchanges and will be eligible for new tax credits. As a result, all Americans will have access to health care. We heard powerful testimony before the platform drafting committee about the difference it will make in Americans' lives when, for the first time, 30 million of our fellow citizens finally gain health insurance.

Mitt Romney and the Republican Party would repeal health reform. They are more concerned with playing politics than supporting families in this country. No law is perfect and Democrats stand willing to work with anyone to improve the law where necessary, but we are committed to moving forward. We will continue to stand up to Republicans working to take away the benefits and protections that are already helping millions of Americans every day. We refuse to go back to the days when health insurance companies had unchecked power to cancel your health policy, deny you coverage, or charge women more than men.

At the same time, the Affordable Care Act is not the end of efforts to improve health care for all Americans. Democrats will continue to fight for a strong health care workforce with an emphasis on primary care. We remain committed to eliminating disparities in health and will continue to make sure families have access to mental health and substance abuse services. We will strengthen Medicaid and oppose efforts to block grant the program, slash its funding, and leave millions more without health insurance. We will continue to invest in our public health infrastructure - ensuring that we are able to respond to emergencies and support community-based efforts to prevent disease. The Recovery Act and the health reform law made historic investments in Community Health Centers, and Democrats will continue to support these valuable institutions. We Democrats have increased overall funding to combat HIV/AIDS to record levels and will continue our nation's fight against HIV/AIDS. President Obama established the first-ever comprehensive National HIV/AIDS Strategy for responding to the domestic epidemic, which calls for reducing HIV incidence, increasing access to care, optimizing health outcomes, and reducing HIV-related health disparities. This is an evidence-based plan that is guided by science and seeks to direct resources to the communities at greatest risk, including gay men, black and Latino Americans, substance users, and others at high risk of infection. And we will continue to support America's groundbreaking biomedical researchers in their lifesaving work.

"My life was saved by the Affordable Care Act. I have a family history of breast cancer, and when I heard on the news that the health care law was going to make sure I could get a mammogram without any copay, I breathed a sigh of relief. I knew I'd be able to keep on schedule and stay up to date on my breast cancer screenings. Then I had a mammogram and found out I had a small tumor. Luckily, we caught it very early and I'm doing fine." - Judith Smith

Stabilizing the Housing Market and Hard-Hit Communities. For more than a decade, irresponsible lenders tricked buyers into signing subprime loans while too many homeowners got in over their heads by buying homes they couldn't afford. But when the housing bubble burst, it hurt everyone, including responsible homeowners who played by the rules, but saw their home values decline and their neighbors' houses sit vacant. The housing market's dramatic collapse did more than punish millions of innocent Americans; it also triggered the economy's downward spiral into recession.

President Obama took swift action to stabilize a housing market in crisis, helping five million families restructure their loans to help them stay in their homes, making it easier for families to refinance their mortgages and save hundreds of dollars a month, and giving tax credits to first-time home buyers. He also cracked down on fraudulent mortgage lenders and other abuses that contributed to the housing crisis. Democrats have held the largest financial institutions accountable by requiring them to provide relief for homeowners still struggling to pay their mortgages and to change practices that took advantage of homeowners. Democrats also understand the importance of helping communities fight back against the foreclosures that threaten entire neighborhoods, which is why the President proposed to expand the successful neighborhood stabilization efforts in his American Jobs Act.

Too many people still owe more on their homes than they are worth. That is why Democrats are fighting to give every responsible homeowner the chance to refinance their home, spurring investment in communities that have been hit hardest by foreclosure, and taking whatever steps we can to avoid more foreclosures. The President remains committed to creating an economy that's built to last, where home ownership is an achievable dream for all Americans.

Social Security and Medicare. We believe every American deserves a secure, healthy, and dignified retirement. America's seniors have earned their Medicare and Social Security through a lifetime of hard work and personal responsibility. President Obama is committed to preserving that promise for this and future generations.

During their working years, Americans contribute to Social Security in exchange for a promise that they will receive an income in retirement. Unlike those in the other party, we will find a solution to protect Social Security for future generations. We will block Republican efforts to subject Americans' guaranteed retirement income to the whims of the stock market through privatization. We reject approaches that insist that cutting benefits is the only answer. President Obama will also make it easier for Americans to save on their own for retirement and prepare for unforeseen expenses by participating in retirement accounts at work.

The Republican budget plan would end Medicare as we know it. Democrats adamantly oppose any efforts to privatize or voucherize Medicare; unlike our opponents we will not ask seniors to pay thousands of dollars more every year while they watch the value of their Medicare benefits evaporate. Democrats believe that Medicare is a sacred compact with our seniors. Nearly 50 million older Americans and Americans with disabilities rely on Medicare each year, and the new health care law makes Medicare stronger by adding new benefits, fighting fraud, and improving care for patients. And, over 10 years, the law will save the average Medicare beneficiary $4,200. President Obama is already leading the most successful crackdown on health care fraud ever, having already recovered $10 billion from health care scams. We will build on those reforms, not eliminate Medicare's guarantees. The health care law is closing the gap in prescription drug coverage known as the "doughnut hole." More than five million seniors have already saved money - an average of $600 last year - and the doughnut hole will be closed for good by 2020.

In short, Democrats believe that Social Security and Medicare must be kept strung for seniors, people with disabilities, and future generations. Our opponents have shown a shocking willingness to gut these programs to pay for tax cuts for the wealthiest, and we fundamentally reject that approach.

An Economy that Out-Educates the World and Offers Greater Access to Higher Education and Technical Training. Democrats believe that getting an education is the surest path to the middle class, giving all students the opportunity to fulfill their dreams and contribute to our economy and democracy. Public education is one of our critical democratic institutions. We are committed to ensuring that every child in America has access to a world-class public education so we can out-educate the world and make sure America has the world's highest proportion of college graduates by 2020. This requires excellence at every level of our education system, from early learning through post-secondary education. It means we must close the achievement gap in America's schools and ensure that in every neighborhood in the country, children can benefit from high-quality educational opportunities.

This is why we have helped states and territories develop comprehensive plans to raise standards and improve instruction in their early learning programs and invested in expanding and reforming Head Start.

President Obama and the Democrats are committed to working with states and communities so they have the flexibility and resources they need to improve elementary and secondary education in a way that works best for students. To that end, the President challenged and encouraged states to raise their standards so students graduate ready for college or career and can succeed in a dynamic global economy. Forty-six states responded, leading groundbreaking reforms that will deliver better education to millions of American students. Too many students, particularly students of color and disadvantaged students, drop out of our schools, and Democrats know we must address the dropout crisis with the urgency it deserves. The Democratic Party understands the importance of turning around struggling public schools. We will continue to strengthen all our schools and work to expand public school options for low-income youth, including magnet schools, charter schools, teacher-led schools, and career academies.

Because there is no substitute for a great teacher at the head of a classroom, the President helped school districts save more than 400,000 educator jobs.

We Democrats honor our nation's teachers, who do a heroic job for their students every day. If we want high-quality education for all our kids, we must listen to the people who are on the front lines. The President has laid out a plan to prevent more teacher layoffs while attracting and rewarding great teachers. This includes raising standards for the programs that prepare our teachers, recognizing and rewarding good teaching, and retaining good teachers. We also believe in carefully crafted evaluation systems that give struggling teachers a chance to succeed and protect due process if another teacher has to be put in the classroom. We also recognize there is no substitute for a parent's involvement in their child's education.

To help keep college within reach for every student, Democrats took on banks to reform our student loan program, saving more than $60 billion by removing the banks acting as middlemen so we can better and more directly invest in students. To make college affordable for students of all backgrounds and confront the loan burden our students shoulder, we doubled our investment in Pell Grant scholarships and created the American Opportunity Tax Credit worth up to $10,000 over four years of college, and we're creating avenues for students to manage their federal student loans so that their payments can be only 10 percent of what they make each month. President Obama has pledged to encourage colleges to keep their costs down by reducing federal aid for those that do not, investing in colleges that keep tuition affordable and provide good value, doubling the number of work-study jobs available to students, and continuing to ensure that students have access to federal loans with reasonable interest rates. We invested more than $2.5 billion in savings from reforming our student loan system to strengthen our nation's Historically Black Colleges and Universities, Hispanic-Serving Institutions, Tribal Colleges and Universities, Alaska, Hawaiian Native Institutions, Asian American and Pacific Islander Institutions, and other Minority Serving Institutions. These schools play an important role in creating a diverse workforce, educating new teachers, and producing the next generation of STEM workers.

We Democrats also recognize the economic opportunities created by our nation's community colleges. That is why the President has invested in community colleges and called for additional partnerships between businesses and community colleges to train two million workers with the skills they need for good jobs waiting to be filled, and to support business-labor apprenticeship programs that provide skills and opportunity to thousands of Americans. The President also proposed to double key investments in science to educate the next generation of scientists and engineers, encourage private sector innovation, and prepare at least 100,000 math and science teachers over the next decade. And to make this country a destination for global talent and ingenuity, we won't deport deserving young people who are Americans in every way but on paper, and we will work to make it possible for foreign students earning advanced degrees in science, technology, engineering, and mathematics to stay and help create jobs here at home.

Mitt Romney has a radically different vision. He says we need fewer teachers, cops, and firefighters - good middle class jobs - even after losing hundreds of thousands of such jobs during the recession and at a time when state, local, and territorial governments are still shedding these jobs. He supports dramatic cuts to Head Start and the Pell Grant program. Tuition at public colleges has soared over the last decade and students are graduating with more and more debt; but Mitt Romney thinks students should "shop around" for the "least education they can afford." And he supports the radical House Republican budget that would cut financial aid for more than one million students while giving tax cuts to the rich. We Democrats have focused on making sure that taxpayer dollars support high-quality education programs, but Mitt Romney is a staunch supporter of expensive, for-profit schools - schools that often leave students buried in debt and without the skills for quality jobs and that prey on our servicemembers and veterans.

"I work full-time during the day, and I attend Florida International University at night as a part-time student. I'm working towards a degree in Public Administration. If it wasn't for financial aid, I wouldn't be able to pursue my dream. Like so many people, I would have to put my education on hold. Because of President Obama, I don't have to make this sacrifice. By doubling Pell Grants and enacting college tax credits, he's standing up for students and helping to make college more affordable and accessible." - Maytee Lopez

"As a math teacher, my job is to enter into my classroom each day and get my students excited about the world around them. I know that by sharing the fundamentals of math with my students, I am providing the critical tools they need to create their own success, and President Obama understands that a quality STEM education is critical to my students and to the economy of the future. That's why he is challenging our country to support the work I do, and train more teachers like me." - Hannah Pultz

Cutting Waste, Reducing the Deficit, Asking All to Pay Their Fair Share

After the previous administration put two wars and tax cuts weighted towards the wealthy on the nation's credit card, and in the wake of the worst recession since the Great Depression, Democrats took decisive steps to restore fiscal responsibility to Washington. We reinstated the tough pay-as-you-go budget rules of the 1990s so that all permanent new spending and tax cuts must now be offset by savings or revenue increases. President Obama has already signed into law $2 trillion in spending reductions as part of a balanced plan to reduce our deficits by over $4 trillion over the next decade while taking immediate steps to strengthen the economy now. This approach includes tough spending cuts that will bring annual domestic spending to its lowest level as a share of the economy in 50 years, while still allowing us to make investments that benefit the middle class now and reduce our deficit over a decade.

We are committed to defeating efforts that would return us to the failed economic policies of the past, in which tax relief for the wealthy explodes the deficit and asks the middle class to shoulder that burden.

To help spur economic growth, President Obama and the Democratic Party cut taxes for every working family - providing $3,600 in tax relief to the typical family over the President's first term in office - and we are committed to extending the middle class tax cuts for the 98 percent of American families who make less than $250,000 a year, and we will not raise taxes on them.

In order to reduce the deficit while still making the investments we need in education, research, infrastructure, and clean energy, the President has asked for the wealthiest taxpayers to pay their fair share. We have to cut what we don't need in order to make room for the things we do need to grow our economy. We support allowing the Bush tax cuts for the wealthiest to expire and closing loopholes and deductions for the largest corporations and the highest-earning taxpayers. We are committed to reforming our tax code so that it is fairer and simpler, creating a tax code that lives up to the Buffett Rule so no millionaire pays a smaller share of his or her income in taxes than middle class families do. We are also committed to reforming the corporate tax code to lower tax rates for companies in the United States, with additional relief for those locating manufacturing and research and development on our shores, while closing loopholes and reducing incentives for corporations to shift jobs overseas.

The Republican Party has a different vision—instead of asking everyone to do their fair share and making investments we need for an economy built to

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last, they would slash taxes for corporations and the wealthiest Americans, let Wall Street once again write its own rules, and balance the budget on the backs of the middle class. Romney and Congressional Republicans share the same, distorted view of the economy and support the same, lopsided budget. Romney would roll back the tax relief Democrats provided to working families and college students, and would require massive new taxes on the middle class to pay for his $5 trillion tax plan that primarily benefits the wealthy.

The Democratic Party opposes efforts to give additional tax cuts to the wealthiest Americans at the expense of the middle class and investments in our future.

Economy Built to Last

All-of-the-Above Energy Policy. In the last four years, President Obama and the Democratic Party have taken concrete steps to make us more energy independent. We've supported nearly 225,000 clean energy jobs and Americans are importing less oil, breathing cleaner air, and saving money on energy costs. Historic investments in clean energy technologies have helped double the electricity we get from wind and solar. New emissions and fuel efficiency standards for American cars are reducing our oil use, saving consumers at the pump, and putting Americans back to work. Our dependence on foreign oil is now at a 16-year low, and a new era of cheap, abundant natural gas is helping to bring jobs and industry back to the United States.

We can move towards a sustainable energy-independent future if we harness all of America's great natural resources. That means an all-of-the-above approach to developing America's many energy resources, including wind, solar, biofuels, geothermal, hydropower, nuclear, oil, clean coal, and natural gas. President Obama has encouraged innovation to reach his goal of generating 80 percent of our electricity from clean energy sources by 2035. Democrats support making America the world's leader in building a clean energy economy by extending clean energy incentives that support American businesses and American jobs in communities across the country. It's not enough to invent clean energy technologies here; we want to make them here and sell them around the world. We can further cut our reliance on oil with increased energy efficiency in buildings, industry, and homes, and through the promotion of advanced vehicles, fuel economy standards, and the greater use of natural gas in transportation. Harnessing our natural gas resources needs to be done in a safe and responsible manner, which is why the Obama administration has proposed a number of safeguards to protect against water contamination and air pollution. We will continue to advocate for the use of this clean fossil fuel, while ensuring that public and environmental health and workers' safety are protected. We support more infrastructure investment to speed the transition to cleaner fuels in the transportation sector. And we are expediting the approval process to build out critical oil and gas lines essential to transporting our energy for consumers. Building a clean energy future means that new exploration and production needs to be approached safely and responsibly. Democrats are committed to balancing environmental protection with development, and that means preserving sensitive public lands from exploration, like the Arctic National Wildlife Refuge, Pacific West Coast, Gulf of Maine, and other irreplaceable national landscapes.

We are saving consumers money on their energy bills - both at home and at the pump - but Republican energy policy is full of empty rhetoric and bad ideas that would make their Big Oil donors even richer at the expense of the middle class. Republicans would keep giving billions of taxpayer dollars a year to profitable oil companies and increase costs on consumers. Democrats will fight to cut tax subsidies for Big Oil while promoting job growth in the clean energy sector, so we can cut the deficit and increase jobs and growth in America.

Out-Building and Out-Innovating the Rest of the World. The American people will make a clear choice. They can vote for Republicans who opposed saving the auto industry, who favor a tax code that would actually encourage outsourcing, and whose plans would gut investments in federally financed labs and universities that build new American industries. Or they can elect Democrats who bet on the American worker, will reward those who create private-sector jobs here in America, and make the investments that strengthen the middle class.

Betting on American Manufacturing and the American Automobile Industry. Thanks to President Obama's recovery program, American manufacturers are creating jobs for the first time since the 1990s, including more than 500,000 jobs since the beginning of 2010. Instead of cutting jobs or shipping them abroad, many American companies are now "insourcing," or bringing overseas jobs back home.

President Obama and the Democrats boldly rescued America's auto industry, saving more than one million jobs, preventing the collapse of the industry's supply chain, and shoring up countless communities, while revitalizing the backbone of America's manufacturing sector.

Mitt Romney thought the government's action would destroy the auto industry; he and Republican leaders opposed the support President Obama extended to rescue an iconic industry.

All three of America's biggest auto manufacturers - Chrysler, GM, and Ford - are stronger today because of President Obama's decisive leadership. GM and Chrysler have repaid their outstanding loans years ahead of schedule, new American cars are inspiring pride, and the auto industry added more than 200,000 jobs in the last three years.

At the same time, President Obama forged an agreement with American carmakers to nearly double fuel efficiency standards in the coming years, changes that will save a typical car owner more than $8,000 in fuel costs over the life of their vehicle and reduce American consumers' fuel costs by almost $2 trillion.

Today American carmakers and auto workers are helping to drive a stronger recovery. The Democratic Party supports a broad-based strategy to further strengthen an American renaissance in manufacturing, with tax relief for clean energy manufacturing, incentives to create advanced vehicles in the United States, more research, and a network of manufacturing innovation hubs.

"In early 2009, the auto industry was collapsing. Our plant shut down and I was laid off. And, like so many of us, I was scared. But then President Obama bet on the American worker and rescued America's auto industry, and it's paying off for our economy and our country. The plant opened its doors again, so I got my job - and my pride - back. That's a great American comeback story." - Ina Sydney

Insourcing. The Democratic Party believes in insourcing so that America can out-build the rest of the world again. We want to cut tax breaks for companies that are shipping jobs overseas and for special interests, and instead offer tax breaks to companies that are investing right here in the United States of America, betting on American workers who are making American products we sell to the world that are stamped with three proud words: Made in America.

Our strategy is paying off. After decades of watching American companies take jobs to other countries, we're beginning to see entrepreneurs and manufactures make the decision to keep factories and production facilities here in the United States — and even bring jobs back from overseas.

But the Republican Party has nominated a man whose firm invested in companies that were pioneers of outsourcing - and whose plans would actually encourage outsourcing by eliminating all taxes on the foreign profits of U.S. companies.

There is more to do. We Democrats support lowering the corporate tax rate while closing unnecessary loopholes, and lowering rates even further for manufacturers who create good jobs at home. We will give our businesses access to newer roads and airports, and faster railroads and Internet access. We will fight for immediate investments for highways, transit, rail, and aviation and for the creation of a national infrastructure bank to help modernize our infrastructure, put hundreds of thousands of construction workers back on the job, and help businesses grow.

"Back in August 2007, the entire span of the Minneapolis Bridge that crosses the Mississippi river collapsed. Tragically, 13 people were killed and dozens injured. The new Saint Anthony Falls I-35W Bridge was re-opened in September 2008. In my ten years in a steel mill, I've worked alongside my brother

and sister steelworkers, and I'm proud to have produced the 63mm anchor bars that secured the newly rebuilt Minneapolis Bridge to Minnesota. The bridge's collapse and repair shows the importance of our infrastructure and the strength of American steel. I am extremely grateful for President Obama's tireless commitment to repairing our infrastructure and creating good paying manufacturing jobs." - David Hallas, Listening to America *hearing participant*

Out-Building the Rest of the World. We support long-term investments in our infrastructure. Roads, bridges, rail and public transit systems, airports, ports, and sewers are all critical to economic growth, as they enable businesses to grow. That's why President Obama and Democrats in Congress have enacted infrastructure investments that will sustain our Highway Trust Fund and provide states, U.S. territories, and communities with two years of funding to build needed infrastructure. These investments are critical for putting Americans back to work and strengthening America's transportation system to grow our economy. The President has proposed to go substantially further, including a significant up-front investment in our infrastructure followed by sustained increases in investment paid for with part of the savings from winding down our overseas wars, together with reforms that will better leverage government dollars and target significant projects. We will continue to partner with local communities to support their sustainable development.

Out-Innovating the Rest of the World. Democrats support a world-class commitment to science and research so that the next generation of innovators and high-technology manufacturing companies thrive in America. President Obama signed into law changes to help entrepreneurs raise capital and create jobs.

Democrats are committed to preparing math and science teachers and training workers with skills for the future, and doubling funding for key basic research agencies. We support expanding and making permanent the Research and Experimentation Tax Credit. President Obama has charted a new mission for NASA to lead us to a future that builds on America's legacy of innovation and exploration. Democrats reformed the patent system to speed approval of investors' patents and provide alternatives to wasteful litigation.

Democrats know that the United States must preserve our leadership in the Internet economy. We will ensure that America has a 21st century digital infrastructure - robust wired and wireless broadband capability, a smarter electrical grid, and upgraded information technology infrastructure in key sectors such as health care and education. President Obama has committed to ensuring that 98 percent of the country has access to high-speed wireless broadband Internet access. We are finding innovative ways to free up wireless spectrum and are building a state-of-the-art nationwide, interoperable, public safety network. President Obama is strongly committed to protecting an open Internet that fosters investment, innovation, creativity, consumer choice, and free speech, unfettered by censorship or undue violations of privacy.

The administration is vigorously protecting U.S. intellectual property - our technology and creativity - at home and abroad through better enforcement and innovative approaches such as voluntary efforts by all parties to minimize infringement while supporting the free flow of information. Customs seizures of counterfeit drugs are up 600 percent and seizures of fake consumer safety and critical technology have increased nearly 200 percent; the Department of Justice has aggressively prosecuted the illegal overseas transfer of trade secrets. As technology advances, we will continue to work with all stakeholders to protect the security of the nation and its knowledge assets, U.S. intellectual property, the functioning of fair and competitive markets, and the privacy, free expression, and due process rights of Americans.

Standing Up for Workers. When the President took office, the American middle class was under assault. From 2001 to 2007, we had the slowest private-sector job growth in an economic expansion since World War II. The typical family saw its income stall and inequality climb, even as the economy grew. And we had an administration that thought the answer was limiting unions.

Upon taking office, President Obama began the work of restoring an economy built to last that creates good jobs that pay well. Because the President and the Democratic Party believe in the right to organize and in supporting America's workers with strong labor laws, the President rolled back harmful labor policies designed to undermine collective bargaining rights. The President appointed members of the National Labor Relations Board and National Mediation Board who understand the importance of standing up for the rights of workers. He placed his bet on the American worker when he rescued the auto industry. His administration will continue its fight against the exploitative practice of employers fraudulently misclassifying workers as independent contractors or white-collar workers to evade taxes or deny them protections and overtime benefits. As new employment relationships evolve away from the traditional employee-employer model, we need to make sure our labor laws are modernized and keep pace with changes in our economy.

The Republican Party would return us to the failed policies of the last administration, vilifying the American worker, undermining unions, and arguing that everyone should fend for themselves. We oppose the attacks on collective bargaining that Republican governors and state legislatures are mounting in states around the country.

Democrats believe that the right to organize and collectively bargain is a fundamental American value; every American should have a voice on the job and a chance to negotiate for a fair day's pay after a hard day's work. We will continue to fight for the right of all workers to organize and join a union. Unions helped build the greatest middle class the world has ever known. Their work resulted in the 40-hour workweek and weekends, paid leave and pensions, the minimum wage and health insurance, and Social Security and Medicare - the cornerstones of middle class security. We will fight for labor laws that provide a fair process for workers to choose union representation, that facilitate the collective bargaining process, and that strengthen remedies for violations of the law. We will fight for collective bargaining rights for police officers, nurses, firefighters, emergency medical technicians, teachers, and other public sector workers - jobs that are a proven path to the middle class for millions of Americans. We will continue to vigorously oppose "Right to Work" and "paycheck protection" efforts, and so-called "Save our Secret Ballot" measures whenever they are proposed.

We will raise the minimum wage, and index it to inflation. We believe in an America where people looking for work can find good jobs, where hard work pays, and where responsibility is rewarded. Our Occupational Safety and Health Administration will continue to adopt and enforce comprehensive safety standards. The first bill the President signed was the Lilly Ledbetter Fair Pay Act, we are committed to passing the Paycheck Fairness Act, and we will continue to battle Republican opposition to efforts to stop wage discrimination.

"When the auto industry was falling on hard times, the President stepped in to keep it from a total collapse. He also helped some paper workers in St. Paul Minnesota. The Rock-Tenn mill in St. Paul is the largest paper recycler in the state. We have four paper machines the size of football fields, and we make the paper used for corrugated and boxboard boxes. Had the auto industry been allowed to fail, the mill probably would have closed, and 500 people would have lost their jobs. We make the paper for the boxes that Detroit uses to ship its auto parts. If there aren't any auto parts to ship, there isn't a need for boxes." - Bob Ryan, Listening to America *hearing participant*

Helping Small Business. Small businesses employ half of all working Americans, and, over the last two decades, have created two out of three net new jobs. Democrats believe that small businesses are the engine of job growth in America. President Obama signed 18 small-business tax cuts to encourage businesses to hire more workers and make job-creating investments in machinery and equipment and proposed significant additional small business tax relief. He encouraged investment and supported start-ups by allowing businesses to write off the full cost of new equipment and machinery they bought in 2011. Altogether, the President's Small Business Jobs Act accelerated $55 billion in tax relief through 2011. Democrats made it easier for small businesses to access the loans they needed to grow and hire. The President signed into law changes to help entrepreneurs raise capital while maintaining key investor protections. Small businesses are now once again creating jobs. Democrats have helped small businesses provide health insurance to their workers with a tax credit to help pay for the cost of coverage. In 2014, the tax credit will grow and small businesses will be able to pool their purchasing power together to get affordable coverage.

We recognize the importance of small business to women, people of color, tribes, and rural America and will work to help nurture entrepreneurship.

President Obama and the Democratic Party are committed to continue cutting red tape for small businesses, helping them sell their goods around the world and access the capital they need to grow. This includes tax cuts for small businesses that make new investments, hire more workers, or increase wages.

"When President Obama signed the Small Business Jobs Act two years ago, he made sure to guarantee some loans to small businesses. That made it easier for people like me to get the credit needed to make it through the recession. I got a loan from a local community bank and the Small Business Administration, which saved my business. I'm proud that I didn't lay off a single employee. This June, we'll celebrate 40 years in business. When we do, we'll be toasting President Obama. The President looked out for small businesses because he knew that we - the creators of most of the jobs in America - were struggling and in need of help." - Peter Aaron

Opened Markets All Over the World for American Products. President Obama and the Democratic Party know that America has the best workers and businesses in the world. If the playing field is level, Americans will be able to compete against every other country on Earth. Over the last four years, we have made historic progress toward the goal of doubling our exports by 2015. We have taken steps to open new markets to American products, while ensuring that other countries play by the same rules. President Obama signed into law new trade agreements with South Korea, Colombia, and Panama that will support tens of thousands of private-sector jobs, but not before he strengthened these agreements on behalf of American workers and businesses. We remain committed to finding more markets for American-made goods - including using the Trans-Pacific Partnership between the United States and eight countries in the Asia-Pacific, one of the most dynamic regions in the world - while ensuring that workers' rights and environmental standards are upheld, and fighting against unfair trade practices. We expanded and reformed assistance for trade-affected workers, and we demanded renewal of that help alongside new trade agreements.

Both publicly and privately, the President has made clear to the Chinese government that it needs to take steps to appreciate its currency so that America is competing on a level playing field. This administration has doubled the rate of trade cases brought against China by the last administration, and created a new government-wide Interagency Trade Enforcement Center. The President is committed to continuing to fight unfair trade practices that disadvantage American producers and workers, including illegal subsidies, non-tariff barriers, and abuse of worker rights or environmental standards.

America Works When Everyone Plays by the Same Rules

For too long, we've had a financial system that stacked the deck against ordinary Americans. Banks on Wall Street played by different rules than businesses on Main Street and community banks. Without strong enough regulations, families were enticed, and sometimes tricked, into buying homes they couldn't afford. Banks and investors were allowed to package and sell risky mortgages. Huge reckless bets were made with other people's money on the line.

That behavior not only nearly destroyed the financial system, it cost our economy millions of jobs, hurt middle class and poor families, and left taxpayers holding the bill.

For the past three and a half years, President Obama and Democrats around the country have been fighting to bring the country back from this historic economic crisis. We put in place Wall Street reform with smarter, tougher, commonsense rules that will prevent a crisis like that from ever happening again. We know that the free market only works when there are rules of the road to ensure that competition is fair, open, and honest.

Mitt Romney and the Republicans would roll back financial reform and let Wall Street write its own rules again.

The President put in place government reform that has led to the most open, efficient, and accountable government in history. We know that transparent and effective government makes economic sense.

Republicans would continue to allow lobbyists too much sway over lawmakers, leading to gridlock in Washington, an outdated regulatory system, and a tax code riddled with loopholes. The President put in place unprecedented ethics reforms and we're fighting for campaign finance reform. We know that millions of Americans are struggling to get by, and their voices shouldn't be drowned out by millions of dollars in secret special-interest lobbying and advertising.

Mitt Romney's opposition to commonsense campaign finance is nothing less than support for corporate and special-interest takeovers in our elections.

We believe America prospers when everyone, from Main Street to Wall Street, does their fair share and plays by the same rules. We will not back down from making sure an oil company can't take the same reckless actions that led to the kind of oil spill we saw in the Gulf of Mexico two years ago. We will not back down from protecting our kids from toxic mercury pollution, or making sure that our food is safe and our water is clean. We will not back down from ensuring that everyone has a seat at the American table and the opportunity to grab the first rung on the ladder to the middle class.

Wall Street Reform

A strong middle class can only exist in an economy where everyone plays by the same rules, from Wall Street to Main Street. That's why President Obama and Democrats in Congress overcame fierce opposition from the financial industry to pass the most far-reaching Wall Street reform in generations.

The failed policies of the past decade and hands-off approach toward the excesses of the financial industry helped create the deepest economic catastrophe since the Great Depression. In the fall of 2008, when the financial system and economy were on the verge of catastrophic collapse, the last administration put in place the Troubled Asset Relief Program. The Obama administration has ensured that big banks repay these loans with interest, and its rigorous stewardship has brought transparency and accountability to the program. We enacted Wall Street reform to end all future taxpayer-funded bank bailouts.

Today Democrats are holding Wall Street accountable, bringing new transparency to financial markets, and ending taxpayer-funded bank bailouts and the era of "too big to fail." President Obama put in place new rules of the road that refocus the financial sector on getting capital to entrepreneurs and small and mid-sized businesses who create jobs and financing to millions of families who want to buy a home or send their kids to college.

We've created a single consumer watchdog agency whose sole job is looking out for working families by protecting them from deceptive and unfair lending practices of mortgage brokers, payday lenders, debt collectors, and other financial institutions. Democrats are not only fighting to protect consumers from practices that can hurt their pocketbooks and add to their debt, but also working to put an end to practices that helped cause the mortgage crisis.

Mitt Romney and his allies in Congress believe that the best way to grow the economy is from the top down - the same approach that benefited a few, but crashed the economy, hurt the middle class, and contributed to soaring income inequality. They would roll back financial reform and let Wall Street write its own rules again.

21st Century Government: Transparent and Accountable

President Obama and the Democrats are committed to rethinking, reforming, and remaking our government so that it can meet the challenges of our time. We reject the idea that we need to ask people to choose between their jobs and their safety. We reject the argument that says for the economy to grow, we have to roll back protections that ban hidden fees by credit card companies, or rules that keep our kids from being exposed to mercury, or laws that prevent the health insurance industry from shortchanging patients. Rules should be simpler and more flexible, and regulations should be based on

sound science and secure Americans' freedom of choice. In our platform hearing we heard about the importance of a safety net that works, public schools that educate, and government that invests in a strong economy. A 21st century regulatory system must promote economic growth, innovation, and job creation while also protecting public health and welfare.

President Obama proposed a simpler, smarter, and more cost-effective approach to regulation, rather than one riddled with special rules written by lobbyists. Efficient and effective regulations enforce common sense safeguards to protect the American people. That's what we've done in this country for more than a century. It's why our food is safe to eat, our water is safe to drink, and our air is safe to breathe. It's why we put in place consumer protections against hidden fees and penalties by credit card companies and new rules to prevent another financial crisis. That's why the administration launched the Internet Privacy Bill of Rights and encouraged innovative solutions such as a Do Not Track option for consumers. But there's no question that some regulations are outdated, unnecessary, or too costly. That's why President Obama asked all federal agencies to review and streamline outdated regulations, an effort that will save at least $10 billion over five years, and will eliminate tens of millions of hours in annual paperwork burdens. That's why he has approved fewer regulations in the first three years of his presidency than his Republican predecessor did in his. At the same time, those regulations have more than 25 times the net benefits of the previous administration's regulations.

Looking to make our government leaner, smarter, and more consumer-friendly, President Obama has asked Congress to reinstate the authority that past presidents had to reorganize and consolidate government agencies. President Obama has also called for an ambitious, transparent, and unprecedented government-wide review of existing federal regulations to eliminate unnecessary rules. In response, more than two dozen agencies have released plans to streamline existing requirements. Just a small fraction of these initiatives will save billions of dollars in the near future without sacrificing consumer protections, the environment, workplace safety, or health. For too long, overlapping responsibilities among agencies have made it harder, rather than easier, for our small businesses to interact with their government. Where appropriate, we are also committed to working with states and U.S. territories to support innovation in exchange for accountability and results.

We are committed to the most open, efficient, and accountable government in history, and we believe that government is more accountable when it is transparent. This administration was the first to make public the list of visitors to the White House and create a centralized ethics and lobbying database available to the public online. Democrats led the fight to enact the STOCK Act to ban congressional insider trading.

President Obama launched the Open Government Initiative to empower the public - through greater openness and new technologies - to influence the decisions that affect their lives. We are committed to using government as a platform to spur innovation and collaboration. Forums such as Data.gov release more information to the public so that the private sector can pioneer innovative new services.

Lobbying Reform and Campaign Finance Reform

Our political system is under assault by those who believe that special interests should be able to buy whatever they want in our society, including our government. Our opponents have applauded the Supreme Court's decision in *Citizens United* and welcomed the new flow of special interest money with open arms. In stark contrast, we believe we must take immediate action to curb the influence of lobbyists and special interests on our political institutions.

President Obama signed an executive order to establish unprecedented ethics rules so that those who leave the executive branch may not lobby this administration and officials may not accept gifts from lobbyists. We support campaign finance reform, by constitutional amendment if necessary. We support legislation to close loopholes and require greater disclosure of campaign spending. President Obama and the national Democratic Party do not accept contributions from federal lobbyists this cycle. We support requiring groups trying to influence elections to reveal their donors so the public will know who's funding the political ads it sees. President Obama and the Democrats are fighting to reduce the influence of money in politics, and holding Congress to higher conflict-of-interest standards.

Greater Together

As Americans, we are bound together by more than nationality or geography. We are bound by a shared set of ideals and values rooted in the notion that we are greater together; that our collective efforts produce something better than the sum of our individual actions; and that together, rather than divided, we can overcome the greatest challenges that come our way.

The path to restoring middle class security is through the basic values that made our country great. We are a nation that says anyone can make it if you try - no matter who you are, where you come from, or what you look like. We know that America is strongest when everybody has a seat at the table and when the same rules apply to everyone, from Main Street to Wall Street.

Republicans like Mitt Romney want to turn back the clock on the progress we've made, telling people whom they can marry, restricting women's access to birth control coverage, and going back to the same economic policies that benefited the wealthy but crashed our economy. Their narrow vision is of an America where everyone is left to fend for themselves and the powerful can write their own rules. Ours is a vision of a big, compassionate America where everyone who works hard has the chance to get ahead - not just those already at the very top. It's a vision that says everyone gets a fair shot, everyone does their fair share, and everyone engages in fair play. It's a vision that says we prosper when we realize that we are all in it together and stand united as a nation without dividing or excluding people.

Strengthening the American Community

Immigration. Democrats are strongly committed to enacting comprehensive immigration reform that supports our economic goals and reflects our values as both a nation of laws and a nation of immigrants. The story of the United States would not be possible without the generations of immigrants who have strengthened our country and contributed to our economy. Our prosperity depends on an immigration system that reflects our values and meets America's needs. But Americans know that today, our immigration system is badly broken - separating families, undermining honest employers and workers, burdening law enforcement, and leaving millions of people working and living in the shadows.

Democrats know there is broad consensus to repair that system and strengthen our economy, and that the country urgently needs comprehensive immigration reform that brings undocumented immigrants out of the shadows and requires them to get right with the law, learn English, and pay taxes in order to get on a path to earn citizenship. We need an immigration reform that creates a system for allocating visas that meets our economic needs, keeps families together, and enforces the law. But instead of promoting the national interest, Republicans have blocked immigration reform in Congress and used the issue as a political wedge.

Despite the obstacles, President Obama has made important progress in implementing immigration policies that reward hard work and demand personal responsibility. Today, the Southwest border is more secure than at any time in the past 20 years. Unlawful crossings are at a 40-year low, and the Border Patrol is better staffed than at any time in its history. We are continuing to work to hold employers accountable for whom they hire. The Department of Homeland Security is prioritizing the deportation of criminals who endanger our communities over the deportation of immigrants who do not pose a threat, such as children who came here through no fault of their own and are pursuing an education. President Obama's administration has streamlined the process of legal immigration for immediate relatives of U.S. citizens, supporting family reunification as a priority, and has enhanced opportunities for English-language learning and immigrant integration. When states sought to interfere with federal immigration law by passing local measures targeting immigrants, this administration challenged them in court.

President Obama and the Democrats fought for the DREAM Act, legislation ensuring that young people who want to contribute fully to our society and

serve our country are able to become legal residents and ultimately citizens. Although this bill has a long history of bipartisan support, Republicans decided to play politics with it rather than do the right thing. So the Obama administration provided temporary relief for youth who came to the United States as children, through no fault of their own, grow up as Americans and are poised to make a real contribution to our country.

These are not permanent fixes. Only Congress can provide a permanent, comprehensive solution. But these are steps in the right direction. President Obama and the Democratic Party stand for comprehensive immigration reform that intelligently prioritizes our country's security and economic needs, while Mitt Romney and the Republicans have opposed commonsense reforms and pandered to the far right.

"We congratulate President Barack Obama for giving hope to millions of aspiring citizens when he announced the Deferred Action for Childhood Arrivals program. Immigrant youth - who grow up attending our schools, churches, and places of recreation - come to this nation with the same desires and ideals the forefathers had; liberty, justice, and the pursuit of happiness. In order to create immigration policies that reflect our nation's values, lawmakers must work together to protect the rights of all and create a road map that allows immigrants to become full-fledged citizens. With our dreams, work, and talent we can help make America a more just and prosperous country." - Gaby Pacheco, Listening to America *hearing participant*

Families. It's time we stop just talking about family values and start pursuing policies that truly value families. The President and Democrats have cut taxes for every working American family, and expanded the Child Tax Credit and Earned Income Tax Credit. We believe that all parents and caregivers - regardless of gender - need more flexibility and support in the workplace. We support passing the Healthy Families Act, broadening the Family and Medical Leave Act, and partnering with states to move toward paid leave. We have invested in expanding and reforming Head Start and grants to states to raise standards and improve instruction in their early learning programs, and we support expanding the Child and Dependent Care Tax Credit. We must protect our most vulnerable children by supporting our foster care system, adoption programs for all caring parents, grandparents, and caregivers, and protecting children from violence and neglect. We recognize that caring for family members and managing a household is real and valuable work.

President Obama's administration has offered men who want to be good fathers extra support. We have bolstered community and faith-based groups focused on fatherhood, partnered with businesses to offer opportunities for fathers to spend time with their kids at the bowling alley or ballpark, and worked to help deployed dads connect with their children. We all have a stake in forging stronger bonds between fathers and their children.

We support parents and their children as they work to lead healthier lives. With prevention and treatment initiatives on obesity and public health, Democrats are leading the way on supporting healthier, more physically active families and healthy children.

Supporting Troops, Military Families, and Veterans. President Obama and the Democratic Party are committed to keeping the sacred trust we have with our troops, military families, and veterans. These brave men and women and their families have borne the burden of war and have always made our military the best in the world. We will not only continue to support them in the field, but we will also continue to prioritize support for wounded warriors, mental health, and the well-being of our military families and veterans. We will keep working to give our veterans the health care, benefits, education, and job opportunities that they have earned. That's why the President and the Democratic Party supported the Post-9/11 G.I. Bill to provide opportunities for military personnel, veterans, and their families to get a better education. That's why the President is working to ensure returning veterans are able to get good jobs and put their skills to good use at home. That's why the President has launched partnerships with the private sectnr to help veterans transfer their experience into skilled manufacturing jobs, and why the President has proposed a new Veterans Jobs Corps to put veterans to work as first responders. That's why the President signed an executive order making it harder for for-profit colleges to prey on veterans. That's why we enacted the Returning Heroes Tax Credit and the Wounded Warrior Tax Credit to give companies incentives to hire vets. That's why we have committed to ending veterans' homelessness by 2015, and have launched new partnerships with the Departments of Veterans Affairs and Housing and Urban Development and with veterans' organizations to do just that. That's why, because the traumas of war don't always end when our loved ones return home, this administration is continuing to work to meet the mental health needs of our veterans. That's why we will continue to partner with the nation's Veterans Service Organizations and veterans advocacy groups to ensure that every veteran of every generation receives the care and benefits they've earned. That's why we have made it easier for veterans in rural communities to get the care they need. And it is why we have substantially increased funding for the VA, and directed it to eliminate its backlog of claims, hire additional claims processors, and deploy new systems to improve claims processing times.

"Under President Obama, veterans have started to realize the promise of a square deal. PTSD is no longer a dirty word. More veterans are getting their benefits. More veterans are in college. More veterans have more options in finding good jobs. I am one of these veterans. America has finally started to honor its promises to veterans after decades of breaking them." - Senior Airman Benjamin Krause, United States Air Force, Special Operations veteran, Listening to America *hearing participant*

Americans with Disabilities. No one should face discrimination based on disability status. President Obama and the Democratic Party will continue to lead efforts to facilitate the access of Americans with disabilities to the middle class, employment opportunities, and the ability to lead full, productive, and satisfying lives. The administration and the Democratic Party are committed to assisting the approximately 50 million people in this country living with disabilities, assuring their full integration into society.

This administration has committed to hiring 100,000 Americans with disabilities within the federal government by 2015, and has proposed new rules to create employment opportunities with federal contractors. We are committed to expanding access to employment for people with disabilities and removing barriers to work. The Affordable Care Act is opening access to health insurance to Americans with disabilities who were previously excluded because of pre-existing conditions, expanding access to Medicaid, and helping Medicaid to support home- and community-based services to keep people in their communities. Further, the President issued an executive order repealing the restrictions on embryonic stem cell research and signed into law the Christopher and Dana Reeves Paralysis Act, the first piece of comprehensive legislation aimed at improving the lives of Americans living with paralysis. Democrats are committed to ensuring that Americans with disabilities can exercise their right to vote and have access to the polls. We will continue to oppose all efforts to weaken the landmark Americans with Disabilities Act, and we will vigorously enforce laws that prevent discrimination. And the President and the Democratic Party will fiercely oppose the harsh cuts in Medicaid that would inevitably lead to no or significantly less health care for millions of Americans with disabilities, workers with disabilities, and families raising children with autism, Down Syndrome, and other serious disabilities.

Faith. Faith has always been a central part of the American story, and it has been a driving force of progress and justice throughout our history. We know that our nation, our communities, and our lives are made vastly stronger and richer by faith and the countless acts of justice and mercy it inspires. Faith-based organizations will always be critical allies in meeting the challenges that face our nation and our world - from domestic and global poverty, to climate change and human trafficking. People of faith and religious organizations do amazing work in communities across this country and the world, and we believe in lifting up and valuing that good work, and finding ways to support it where possible. We believe in constitutionally sound, evidence-based partnerships with faith-based and other non-profit organizations to serve those in need and advance our shared interests. There is no conflict between supporting faith-based institutions and respecting our Constitution, and a full commitment to both principles is essential for the continued flourishing of both faith and country.

Rural Communities and Agriculture. We are committed to creating a rural economy built to last - one focused on reclaiming the security of the rural middle class by growing the food, fiber, and fuel that the rest of the world buys and restoring the basic values of hard work and fair play that made our country great. By investing in job creation, clean energy, agriculture, and education, Democrats have built a stronger rural economy where future generations can enjoy the rural way of life.

President Obama and Democrats in Congress have worked to extend credit to a record number of small business owners, boosting economic growth in rural America. We support a clean energy economy that is creating jobs and helping lower energy costs in rural America. U.S. biofuel production is at its

highest level in history. We have made historic investments in renewable fuels and expanded markets for them.

We support strengthening rural water, sewer, and broadband infrastructure to make rural businesses more competitive. We have expanded broadband access to nearly seven million rural Americans, including rural businesses, creating new jobs. We have invested in water and wastewater community infrastructure projects, safeguarding the health of 18 million rural residents and creating even more jobs. Democrats will strengthen the American farm safety net by renewing crop disaster relief, maintaining strong crop insurance programs, and creating a permanent disaster relief program. We will improve access to education and health care, especially for rural veterans, and conserve millions of acres of public lands while supporting rural recreation and tourism.

Our vision for rural America stands in stark contrast to our opponents'. Republicans in Congress have introduced a budget that would gut rural economic programs that invest in education, clean energy, infrastructure, and health care, undermining job growth and economic development in rural America. They would severely weaken the farm safety net for family farmers in times of natural disaster and economic hardship.

Agriculture. An agricultural economy built to last is integral to the affordability of our food, the independence of our energy supply, and the security of America's middle class. Democrats support agriculture from the small farms that feed the community to the large farms that feed the world. Under President Obama, American farmers are seeing record farm income, record agricultural exports, and millions of acres enrolled in conservation programs. President Obama has expanded markets for American goods that help support more than a million agriculture jobs here at home. And in the past few years, agriculture has been one of the fastest-growing parts of our economy, creating one out of every 12 American jobs.

Democrats appreciate agriculture's role in securing America's food security and making our country an ambassador of food aid to countries across the world. That's why Democrats support a strong farm safety net, with increased availability of crop insurance and emergency disaster assistance to help farmers and ranchers keep their farms in business after natural disasters and crop loss. Democrats are also planning for a strong agricultural future, and President Obama has proposed increasing funding for research and development to improve agricultural productivity and continue to pursue global food security.

Tribal Sovereignty. American Indian and Alaska Native tribes are sovereign self-governing communities, with a unique government-to-government relationship with the United States. President Obama and Democrats in Congress, working with tribes, have taken unprecedented steps to resolve long-standing conflicts, finally coming to a resolution on litigation - some dating back nearly 100 years - related to management of Indian trust resources, administration of loan programs, and water rights.

The President worked with Democrats to pass the HEARTH Act to promote greater tribal self-determination and create jobs in Indian Country. The Affordable Care Act permanently reauthorized the Indian Health Care Improvement Act to improve care for Native Americans. Democrats enacted the Tribal Law and Order Act, support expansion of the Violence Against Women Act to include greater protection for women on tribal lands, and oppose versions of the Violence Against Women Act that do not include these critical provisions. We will continue to honor our treaty and trust obligations and respect cultural rights, including greater support for American Indian and Alaska Native languages. Democrats support maximizing tribal self-governance, including efforts for self-determination and sovereignty of Native Hawaiians.

Puerto Rico. As President Obama said when he became the first President to visit Puerto Rico and address its people in 50 years, *Boricuas* every day help write the American story. Puerto Ricans have been proud American citizens for almost 100 years. During that time, the people of Puerto Rico have developed strong political, economic, social, and cultural ties to the United States. The political status of Puerto Rico remains an issue of overwhelming importance, but lack of resolution about status has held the island back. It is time for Puerto Rico to take the next step in the history of its status and its relationship to the rest of the United States.

The White House Task Force Report on Puerto Rico has taken important and historic steps regarding status. We commit to moving resolution of the status issue forward with the goal of resolving it expeditiously. If local efforts in Puerto Rico to resolve the status issue do not provide a clear result in the short term, the President should support, and Congress should enact, self-executing legislation that specifies in advance for the people of Puerto Rico a set of clear status options, such as those recommended in the White House Task Force Report on Puerto Rico, which the United States is politically committed to fulfilling.

The economic success of Puerto Rico is intimately linked to a swift resolution of the status question, as well as consistent, focused efforts on improving the lives of the people of Puerto Rico. We have made great progress for Puerto Rico over the past four years, including a sharp, historic increase in Medicaid funding for the people of Puerto Rico and fair and equitable inclusion in the Recovery Act and the Affordable Care Act. Going forward, we will continue working toward fair and equitable participation for Puerto Rico in federal programs. We support increased efforts by the federal government to improve public safety in Puerto Rico and the United States Virgin Islands, with a particular emphasis on efforts to combat drug trafficking and crime throughout our Caribbean border. In addition, consistent with the task force report, we will continue to work on improving Puerto Rico's economic status by promoting job creation, education, health care, clean energy, and economic development on the Island.

Guam, American Samoa, U.S. Virgin Islands and the Commonwealth of the Northern Mariana Islands. We also recognize and honor the contributions and the sacrifices made in service of our country by the Americans living in the territories of Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. We support full self-government and self-determination for the people of the territories, and their right to decide their future status. We will work as partners to the people of Guam on military matters, and take seriously the unique health care challenges that Pacific Island communities face. For all those who live under our flag, we support strong economic development and will work towards fair and equitable treatment under federal programs.

Arts and Culture. Democrats are proud of our support for arts funding and education. We are committed to continuing the policies and programs that have already done so much for our creative arts industry and economy. Investment in the arts strengthens our communities and contributes to our nation's rich cultural heritage. We will continue to support public funding for the National Endowment for the Arts, for the National Endowment for the Humanities, and for programs providing art and music education in primary and secondary schools. The entire nation prospers when we protect and promote the unique and original artistic and cultural contributions of the women and men who create and preserve our nation's heritage.

Protecting Rights and Freedoms

Civil Rights. We believe in an America where everybody gets a fair shot and everybody plays by the same set of rules. At the core of the Democratic Party is the principle that no one should face discrimination on the basis of race, ethnicity, national origin, language, religion, gender, sexual orientation, gender identity, or disability status. Democrats support our civil rights statutes and we have stepped up enforcement of laws that prohibit discrimination in the workplace and other settings. We are committed to protecting all communities from violence. We are committed to ending racial, ethnic, and religious profiling and requiring federal, state, and local enforcement agencies to take steps to eliminate the practice, and we continue to support enforcement of Title VI.

We are committed to equal opportunity for all Americans and to making sure that every American is treated equally under the law. We are committed to ensuring full equality for women: we reaffirm our support for the Equal Rights Amendment, recommit to enforcing Title IX, support the Paycheck Fairness Act, and will urge ratification of the Convention on the Elimination of All Forms of Discrimination Against Women.

We know that putting America back to work is Job One, and we are committed to ensuring that Americans do not face employment discrimination. We

support the Employment Non-Discrimination Act because people should not be fired based on their sexual orientation or gender identity.

President Obama and the Democratic Party are committed to ensuring all Americans are treated fairly. This administration hosted the first-ever White House Conference on Bullying Prevention and we must continue our work to prevent vicious bullying of young people and support LGBT youth. The President's record, from ending "Don't Ask, Don't Tell" in full cooperation with our military leadership, to passing the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, to ensuring same-sex couples can visit each other in the hospital, reflects Democrats' belief that all Americans deserve the same chance to pursue happiness, earn a living, be safe in their communities, serve their country, and take care of the ones they love. The Administration has said that the word 'family' in immigration includes LGBT relationships in order to protect bi-national families threatened with deportation.

"Because of Don't Ask, Don't Tell, each time I went off to war, no one was at the armory to say goodbye. No one was waiting at the airport when I returned. My partner, George Di Salvo, and I started a family five years ago by adopting two wonderful boys. But I kept their existence secret, because that's what the law required. Not anymore, however. Thanks to the unyielding efforts of President Obama, I can serve my country openly and proudly with my family by my side." - Dr. Vito Imbasciani, Colonel, California National Guard, Medical Service Corps

Women. President Obama - the son of a single mother and the father of two daughters - understands that women aren't a special interest group. They are more than half of this country, and issues that affect women also affect families. That is why the first bill he signed into law was the Lilly Ledbetter Fair Pay Act, which helps women fight back when they are paid less than men, and why we continue to fight to overcome Republican opposition and pass the Paycheck Fairness Act to help stop gender discrimination in pay before it starts. And that is why the Justice Department and Equal Employment Opportunity Commission, led by President Obama's appointees, have investigated and prosecuted numerous violations of the nation's civil rights laws, and obtained more than $140 million in relief for victims of gender discrimination. We Democrats will continue to support efforts to ensure that workers can combat gender discrimination in the workplace and to protect women against pregnancy discrimination. And that's why we support passing the Healthy Families Act, broadening the Family and Medical Leave Act, and partnering with states to move toward paid leave.

We understand that economic issues are women's issues, and the challenges of supporting and raising a family are often primarily a woman's responsibility. That's why putting Americans back to work is Job One. That's why the Affordable Care Act especially helps women by guaranteeing they and their families won't become uninsured when they lose their jobs. That's why this administration strengthened Medicare and Medicaid for millions of women and families. And that's why the Affordable Care Act is ending health insurance discrimination against women, and provides women with free access to preventive care, including prenatal screenings, mammograms, cervical cancer screening, breast-feeding supports, and contraception.

We understand that women's rights are civil rights. That's why we reaffirm our support for the ERA, recommit to enforcing Title IX, and will urge ratification of the Convention on the Elimination of All Forms of Discrimination Against Women. That's why we are committed to ending violence against women, why Vice President Joe Biden originally wrote and championed the Violence Against Women Act during his time in the Senate, and why we support reauthorizing and strengthening it now.

The President and the Democratic Party believe that women have a right to control their reproductive choices. Democrats support access to affordable family planning services, and President Obama and Democrats will continue to stand up to Republican efforts to defund Planned Parenthood health centers. The Affordable Care Act ensures that women have access to contraception in their health insurance plans, and the President has respected the principle of religious liberty. Democrats support evidence-based and age-appropriate sex education.

"I know firsthand the injustice of gender discrimination in pay: for years I was paid less than my male colleagues, and it took an anonymous note from a colleague to tip me off to the fact that I was being denied equal pay for equal work. I also know firsthand that President Obama takes these issues seriously: the first bill that he signed into law was focused on making sure that other women don't face the same injustice. While the Lilly Ledbetter Fair Pay Act won't change my story, I couldn't be prouder of the legislation that bears my name, and I know who is standing up for women and families." - Lilly Ledbetter

Protecting A Woman's Right to Choose. The Democratic Party strongly and unequivocally supports *Roe v. Wade* and a woman's right to make decisions regarding her pregnancy, including a safe and legal abortion, regardless of ability to pay. We oppose any and all efforts to weaken or undermine that right. Abortion is an intensely personal decision between a woman, her family, her doctor, and her clergy; there is no place for politicians or government to get in the way. We also recognize that health care and education help reduce the number of unintended pregnancies and thereby also reduce the need for abortions. We strongly and unequivocally support a woman's decision to have a child by providing affordable health care and ensuring the availability of and access to programs that help women during pregnancy and after the birth of a child, including caring adoption programs.

Voting Rights. We believe the right to vote and to have your vote counted is an essential American freedom, and we oppose laws that place unnecessary restrictions on those seeking to exercise that freedom. Democrats have a proud history of standing up for the right to vote. During the Obama administration, the Justice Department has initiated careful, thorough, and independent reviews of proposed voting changes, and it has prevented states from implementing voter identification laws that would be harmful to minority voters. Democrats know that voter identification laws can disproportionately burden young voters, people of color, low-income families, people with disabilities, and the elderly, and we refuse to allow the use of political pretexts to disenfranchise American citizens.

District of Columbia. Every citizen of the United States is entitled to equal citizenship rights, including the 638,000 residents of the nation's capital who pay federal taxes without representation. The American citizens who live in Washington, D.C., like the citizens of the 50 states, should have full and equal congressional rights and the right to have the laws and budget of their local government respected without congressional interference.

Freedom to Marry. We support the right of all families to have equal respect, responsibilities, and protections under the law. We support marriage equality and support the movement to secure equal treatment under law for same-sex couples. We also support the freedom of churches and religious entities to decide how to administer marriage as a religious sacrament without government interference.

We oppose discriminatory federal and state constitutional amendments and other attempts to deny equal protection of the laws to committed same-sex couples who seek the same respect and responsibilities as other married couples. We support the full repeal of the so-called Defense of Marriage Act and the passage of the Respect for Marriage Act.

Firearms. We recognize that the individual right to bear arms is an important part of the American tradition, and we will preserve Americans' Second Amendment right to own and use firearms. We believe that the right to own firearms is subject to reasonable regulation. We understand the terrible consequences of gun violence; it serves as a reminder that life is fragile, and our time here is limited and precious. We believe in an honest, open national conversation about firearms. We can focus on effective enforcement of existing laws, especially strengthening our background check system, and we can work together to enact commonsense improvements - like reinstating the assault weapons ban and closing the gun show loophole - so that guns do not fall into the hands of those irresponsible, law-breaking few.

Ensuring Safety and Quality of Life

Cities and Metro Areas. Cities and metro areas are a vital part of the American community and are incubators of innovation and job creation. Cities and metro areas represent over 80 percent of this country's gross domestic product and 80 percent of this country's population. We are committed to supporting and revitalizing these communities around the country.

When President Obama first took office, four in five cities had already cut services at a time when American people needed them most, while 38 states faced the prospect of budget deficits in the next fiscal year. We took swift and aggressive action in the first months of this administration to pull cities back from the brink, preventing our local communities from sinking into deeper holes and being forced to lay off tens of thousands of police officers, firefighters, emergency medical technicians, and teachers. This administration is implementing the Neighborhood Revitalization Initiative to combat poverty in American cities and the Sustainable Communities Initiative, supports the proposed Growth Zone Initiatives, and has invested in green jobs training programs, community development, public and affordable housing, and homelessness prevention to cut red tape and help revitalize American cities. The administration knows one size does not fit all, which is why it has listened to city leaders about what they need most and is fostering ground-up, instead of top-down, solutions by assigning federal workers to work side-by-side with local leaders in struggling cities.

President Obama and Democrats in Congress have enacted infrastructure investments that will sustain our Highway Trust Fund and provide states, U.S. territories, and communities with two years of funding to build needed roads, bridges, and transit systems. We will continue to partner with local communities to support their sustainable developments such as passenger rail, bicycle and pedestrian paths, and other projects to support livable cities.

"America's metro areas - cities and suburbs working in partnership - are home to 86 percent of the nation's jobs. In this economic environment, our nation's mayors call for a renewed investment in our metro economies. President Obama and the Democratic Party have already worked hard toward this promise, including the over $100 billion of infrastructure investment as part of the Recovery Act, because investment in infrastructure, education, workforce training, and public safety will support job creation, foster innovation, and provide companies with a globally competitive workforce. The generations who came before us built our great nation by investing in the future. We must do the same." - Mayor Kevin Johnson, Listening to America *hearing participant*

Poverty. Too many Americans live without hope for a better future or access to good, family-supporting jobs. Fifteen percent of our fellow citizens live in poverty, and one in five families struggles with food insecurity. Many of these families work but are unable to pay the bills. The economic crisis has hit low-income American families particularly hard, but merely restoring our country to where it was before the economic crisis is not enough. We must make ending poverty a national priority.

When the President took office, we were losing hundreds of thousands of jobs a month. President Obama and Democrats took immediate action to get the economy moving again. By expanding the Earned Income Tax Credit and the Child Tax Credit, and supporting unemployment insurance benefits and food stamps, the Recovery Act kept seven million people out of poverty and reduced poverty for 32 million more in 2010. The Obama administration invested in Promise Neighborhoods in communities across the country - a comprehensive approach to fighting poverty from early learning to college and career. The administration provided grants to financial institutions in urban and rural communities for the purpose of increasing lending for low-income Americans.

But there is still more work to do. Democrats believe that we must raise the minimum wage and index it to inflation. We will continue to fight for equal pay for equal work, a strong labor movement, and access to a world-class education for every child. We will help lift people with disabilities out of poverty. We understand that poverty disproportionately affects communities of color and we are committed to working with those most affected by poverty. We will continue the improvements in refundable tax credits for low-income families to encourage work and education while lifting families out of poverty. To enhance access and equity in employment, education, and business opportunities, we encourage initiatives to remove barriers to equal opportunity that still exist in America. We will expand the Promise Neighborhoods Program to prepare more students for college.

We face an opposition that has proven its priorities are elsewhere. Mitt Romney would raise taxes on low- and middle-income Americans to fund his tax breaks weighted toward the wealthiest. We reject the Republican budget plan that would force us to destroy the safety net in order to help the wealthiest avoid doing their fair share.

Public Safety, Justice, and Crime Prevention. In the last four years, rates of serious crimes, like murder, rape, and robbery, have reached 50-year lows, but there is more work to do. President Obama and Democrats are fighting for new funding that will help keep cops on the street and support our police, firefighters, and emergency medical technicians. Republicans and Mitt Romney have opposed and even ridiculed these proposals, but we believe we should support our first responders. We support efforts to ensure our courageous police officers and first responders are equipped with the best technology, equipment, and innovative strategies to prevent and fight crimes.

We will end the dangerous cycle of violence, especially youth violence, by continuing to invest in proven community-based law enforcement programs such as the Community Oriented Policing Services program. We will reduce recidivism in our neighborhoods. We created the Federal Interagency Reentry Council in 2011, but there's more to be done. We support local prison-to-work programs and other initiatives to reduce recidivism, making citizens safer and saving the taxpayers money. We understand the disproportionate effects of crime, violence, and incarceration on communities of color and are committed to working with those communities to find solutions.

We will continue to fight inequalities in our criminal justice system. We believe that the death penalty must not be arbitrary. DNA testing should be used in all appropriate circumstances, defendants should have effective assistance of counsel, and the administration of justice should be fair and impartial. That's why we enacted the Fair Sentencing Act, reducing racial disparities in sentencing for drug crimes. That's why President Obama appointed two distinguished jurists to the Supreme Court: Justices Elena Kagan and Sonia Sotomayor. Moving forward, we will continue to nominate and confirm judges who are men and women of unquestionable talent and character and will always demonstrate their faithfulness to our law and our Constitution and bring with them a sense of how American society works and how the American people live.

We must help state, local, territorial, and tribal law enforcement work together to combat and prevent drug crime and drug and alcohol abuse, which are blights on our communities. We have increased funding for the Byrne Justice Assistance Grant Program over the last four years, and we will continue to expand the use of drug courts. We support the rights of victims to be respected, heard, and compensated.

We are committed to ending violence against women. We support reauthorizing the bipartisan Violence Against Women Act and oppose the proposals by Republicans in the House of Representatives that would undermine this law and deprive law enforcement of the tools it needs to combat violence against women.

Service, Volunteerism, and Social Innovation. President Obama has called on all Americans to participate in our nation's renewal by serving in our communities. The Democratic Party believes, as Dr. Martin Luther King, Jr. did, that everybody can be great because everybody can serve. The challenges America faces are unprecedented and the new foundation for economic growth we need in America will not be built by Washington alone - it's going to take all of us, working together. To this end, Democrats enacted the Edward M. Kennedy Serve America Act, increasing the size of AmeriCorps and creating more opportunities for Americans of all ages to serve their communities. President Obama and the Democrats in Congress have also sought to increase the budget for the Peace Corps, and today VISTA is larger, stronger, and more vital than it has ever been.

We believe solutions to America's challenges are being developed every day at the grassroots level, and government should be supporting those efforts. We've created a Social Innovation Fund that is leveraging millions in private sector dollars to invest in programs with a proven track record of success. Our nation is experiencing some of the greatest challenges in a generation, but it is also a time of great opportunity if we come together as a community.

Environment. Democrats are committed to protecting our natural resources while creating jobs, preserving habitats, and ensuring that future generations can enjoy our nation's outdoor heritage. From investing in clean energy to protecting our air, land, and water, Democrats have made protecting the environment a top priority. Today we are responsibly developing our natural resources to create clean energy jobs here at home while encouraging conservation, reducing energy waste, and protecting the environment.

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President Obama has taken the most significant strides in decades to cut pollution and advance public health - protecting our children and communities from harmful pollution by restoring and advancing safeguards for clean air and water and by working to reduce carbon pollution. Pollutants like nitrogen oxides, sulfur dioxide, particulate matter, and mercury are a threat to human health, and Democrats will continue to stand up to polluters in the interest of environmental and public health.

We know that global climate change is one of the biggest threats of this generation - an economic, environmental, and national security catastrophe in the making. We affirm the science of climate change, commit to significantly reducing the pollution that causes climate change, and know we have to meet this challenge by driving smart policies that lead to greater growth in clean energy generation and result in a range of economic and social benefits.

President Obama has been a leader on this issue. We have developed historic fuel efficiency standards that will limit greenhouse gas emissions from our vehicles for the first time in history, made unprecedented investments in clean energy, and proposed the first-ever carbon pollution limits for new fossil-fuel-fired power plants. As we move towards lower carbon emissions, we will continue to support smart, energy efficient manufacturing. Democrats pledge to continue showing international leadership on climate change, working toward an agreement to set emission limits in unison with other emerging powers. Democrats will continue pursuing efforts to combat climate change at home as well, because reducing our emissions domestically - through regulation and market solutions - is necessary to continue being an international leader on this issue. We understand that global climate change may disproportionately affect the poor, and we are committed to environmental justice.

We are restoring treasured landscapes like the Great Lakes, the Florida Everglades, and local wilderness areas. We are working with Gulf Coast states to restore the Gulf and hold BP and other responsible parties accountable. Democrats will continue to work with local communities to conserve our publicly-owned lands and dramatically expand investments in conserving and restoring forests, grasslands, and wetlands across America for generations to come. We will ensure that our National Parks are protected while expanding opportunities for Americans to visit and experience these national treasures. Democrats will continue working to ensure the integrity of the waters Americans rely on every day for drinking, swimming, and fishing, by supporting initiatives that restore our rivers, oceans, coasts, and watersheds. We will preserve landscapes and ecosystems and open more lands and waters for hunting, fishing, and recreation. This will bolster local economies and is good for communities today and for generations to come.

Our opponents have moved so far to the right as to doubt the science of climate change, advocate the selling of our federal lands, and threaten to roll back environmental protections that safeguard public health. Their leaders deny the benefits of the Clean Air and Clean Water Acts - benefits like job creation, health, and the prevention of tens of thousands of premature deaths each year. They ignore the jobs that are created by promoting outdoor recreation, cleaning up our air, and promoting a healthy environment.

Stronger in the World, Safer and More Secure At Home

When President Obama took office in January 2009, our armed forces were engaged in two wars. Al-Qaeda, which had attacked us on 9/11, remained entrenched in its safe havens. Many of our alliances were strained, and our standing in the world had diminished. Around the world and here at home, there were those who questioned whether the United States was headed toward inevitable decline.

Under the leadership of President Obama and the Democratic Party, the tide of war is now receding, and America is looking ahead to a new future. We have responsibly ended the war in Iraq. We have struck major blows against al-Qaeda, bringing Osama bin Laden and other senior al-Qaeda leaders to justice, and putting the terrorist organization on the path to defeat. And we have reversed the momentum of the Taliban and established the conditions to draw down our forces in Afghanistan.

These actions have enabled a broader strategic rebalancing of American foreign policy. After more than a decade at war, we can focus on nation-building here at home and concentrate our resources and attention abroad on the areas that are the greatest priority moving forward. This means directing more energy toward crucial problems, including longstanding threats like nuclear proliferation and emerging dangers such as cyber attacks, biological weapons, climate change, and transnational crime. And it means a long-overdue focus on the world's most dynamic regions and rising centers of influence.

As we rebalance our foreign policy, we have rebuilt our relationships around the world. From Europe and Asia to the Middle East, Africa, and the Americas, we have strengthened the alliances and partnerships that are so central to global security, and we have taken steps to reinvigorate international institutions. All the while, we have built the foundation for sustained American leadership by growing our economy, preserving our unrivaled military strength, and advancing our values.

President Obama and the Democratic Party know that there is no greater responsibility than protecting the American people. We also understand the indispensable role that the United States must continue to play in promoting international peace and prosperity. And because of the steps we have taken, the United States is leading once again, and America is safer, stronger, and more secure than it was four years ago.

Responsibly Ending the War in Iraq

Charting a responsible path out of the war in Iraq has been a crucial element of President Obama's foreign policy and has enabled important shifts in our broader strategy.

Then-Senator Obama pledged during the 2008 campaign to responsibly end the war in Iraq, saying it was imperative to "be as careful getting out as we were careless getting in" - and that is precisely what he has done. For over half a decade, our focus on Iraq meant we had taken our eye off of al-Qaeda, and it had cost us thousands of lives, a trillion dollars, and severely strained our key alliances. When President Obama took office, there were over 140,000 American troops in harm's way in Iraq. Today, all of those forces are out of Iraq, and there are no American bases there either. The Iraqi people, in continued partnership with the United States, now have the opportunity to build a better future.

After taking office, President Obama removed our combat brigades and ended our combat mission on a 19-month timetable. And after an interim period in which we continued to advise Iraqis and conduct counterterrorism operations, we completed the drawdown of all U.S. troops last December. This decision was reached after extensive discussions and with the full agreement of the Iraqi government, and it was determined to be in the best interest of both nations. Many Republicans, including Mitt Romney, would have preferred to leave tens of thousands of U.S. troops in Iraq in an open-ended commitment, against the will of the Iraqi government and people.

Moving forward, President Obama and the Democratic Party are committed to building a robust, long-term strategic partnership with a sovereign, united, and democratic Iraq in all fields - diplomatic, economic, and security - based on mutual interests and mutual respect.

"As Commander-in-Chief, President Obama has proven willing to use military force when necessary, though he also knows how important it is for force to be used as a last resort. He is a strong and responsible leader who has kept his promises to end our wars overseas while maintaining America's commitment to those of us who served. The President signed tax credits into law for businesses that hire veterans and wounded warriors. He supported the Post-9/11 GI Bill, which helps 800,000 veterans and their families pursue their education. I would like to thank the President for supporting our military and our veterans every day." - Lieutenant Junior Grade Leo Cruz, United States Navy, Iraq War veteran

Disrupting, Dismantling, and Defeating Al-Qaeda

President Obama and the Democratic Party understood that the war in Iraq distracted us from confronting many of the most fundamental national

security challenges facing the United States, including the danger posed by international terrorist organizations that threaten the American homeland. As the Bush administration shifted its focus to Iraq, Osama bin Laden and al-Qaeda established safe havens across the border from Afghanistan, in Pakistan. President Obama's decision to end the Iraq war freed up military and intelligence resources to refocus on this fight and enabled us to shift to a much more effective approach to counterterrorism.

Importantly, President Obama also shifted away from the Bush administration's sweeping and internationally-divisive rhetoric of a "global war on terrorism" to a more focused effort against an identifiable network of people: al-Qaeda and its affiliates. That has allowed us to target force with greater precision against those who want to harm Americans and attack the United States and move away from the type of large-scale military deployments characteristic of the previous administration and favored by many Republicans today.

As a candidate, then-Senator Obama committed to bringing Osama bin Laden to justice, even if that meant crossing the border into Pakistan. As a consequence of the President's decisions and the brave work of our military and intelligence professionals, bin Laden can no longer threaten the United States and al-Qaeda's senior leadership has been devastated, rendering the group far less capable than it was four years ago. The al-Qaeda core in Afghanistan and Pakistan has never been weaker. We have also struck blows against al-Qaeda's leadership in Yemen and Somalia - with the full support and close cooperation of those governments. At the same time, the President and the Democratic Party understand that we must stay vigilant. The al-Qaeda core may be on the path to defeat, but the organization and its affiliates remain active in Afghanistan, Pakistan, Yemen, Somalia, and elsewhere. For that reason, we are committed to an unrelenting pursuit of those who would kill Americans or threaten our homeland, our allies, our partners, and our interests around the world.

Responsibly Ending the War in Afghanistan

The United States went into Afghanistan after 9/11 to bring justice to those who had attacked us and to take away al-Qaeda's safe haven. But by the time President Obama took office, we had lost sight of those goals. So the President refocused our efforts there in 2009, setting the clear goal of defeating al-Qaeda and denying it an ability to reestablish a safe haven in Afghanistan. Because of the deteriorating security situation, he sent additional resources to reverse the Taliban's momentum and to give the Afghans the time and space to build the capacity of their security forces. We have accomplished that, and now we have begun the process of bringing our troops home from Afghanistan, including removing 33,000 by September 2012. And, with the support of our allies, the President has outlined a plan to end the war in Afghanistan in 2014.

Already, the United States and our North Atlantic Treaty Organization allies have begun to transition responsibility to Afghan security forces. At the same time, we are keeping up the pressure on the Taliban, pursuing the possibility of a political resolution to parts of the conflict, and continuing our capacity-building efforts. Beyond 2014, we will continue to provide counterterrorism and training assistance and to build an enduring relationship with Afghanistan, as outlined by the U.S.-Afghanistan Strategic Partnership Agreement concluded in May. But we will not build permanent bases in Afghanistan. More broadly, we will also continue to support peace and stability in South Asia. Pakistan can be a partner in that process. The United States will make clear that we respect Pakistan's sovereignty and democratic institutions, and that our interest is in putting an end to al-Qaeda's safe havens and respecting Afghan sovereignty.

Mitt Romney has been both for and against our timeline to end the war in Afghanistan, but he has failed to outline any policy ideas for how he would bring our troops home and, at times, has suggested he would leave them there indefinitely.

Preventing the Spread and Use of Nuclear Weapons

In our continuing efforts to keep America safe, President Obama and the Democratic Party believe we must address the threat that nuclear weapons pose to our security and to peace in the world. Despite the two decades that have passed since the end of the Cold War, large stockpiles of nuclear weapons persist, and more nations are interested in acquiring them. Nuclear testing and black-market trade in sensitive nuclear materials continue. And terrorists remain determined to buy, build, or steal the ultimate weapon.

President Obama and the Democratic Party are committed to preventing the further spread of nuclear weapons and to eventually ridding the planet of these catastrophic weapons. This goal will not be achieved overnight. It will require patience, perseverance, and the steady accumulation of concrete actions. But real progress has already been made.

Reducing Nuclear Weapons Stockpiles. The Obama administration has moved away from Cold War thinking by reducing the prominence of nuclear weapons in America's national security strategy, and it has urged others to do the same. As long as these weapons exist, the United States will maintain a safe, secure, and effective arsenal to deter any adversary and guarantee the defense of our allies. But President Obama has taken important steps to decrease America's nuclear arsenal and is committed to further responsible reductions.

To reduce our warheads and stockpile, lower the threat of a nuclear exchange, and lay the foundation for future progress, President Obama negotiated and signed the landmark New Strategic Arms Reduction Treaty with Russia, producing cuts in each side's deployed nuclear stockpiles and launchers and allowing us to monitor and verify Russia's arsenal. Yet despite bipartisan consensus among former National Security Advisors, Secretaries of Defense, and Secretaries of State that New START makes America safer, Mitt Romney strongly objected to the treaty. Moving forward, the President will work with Russia to achieve additional reductions in stockpiles and nuclear delivery vehicles, including tactical and non-deployed nuclear weapons. We will also work to ratify the Comprehensive Test Ban Treaty and seek a new Fissile Material Cut-off Treaty that prohibits the production of fissile materials intended for use in nuclear weapons.

Preventing Nuclear Proliferation. President Obama and the Democratic Party are also committed to strengthening the Nuclear Non-Proliferation Treaty as the bedrock of international efforts to prevent the spread of nuclear weapons to additional countries. As we work to uphold our obligations under the treaty by reducing stockpiles and recognizing the rights of all rule-abiding states to peaceful nuclear energy, we will insist that countries without nuclear weapons comply with their obligations not to develop them, and we will ensure that violators face real consequences.

Iran. President Obama, working closely with our international partners and Congress, has put in place unprecedented sanctions against Iran. Iran has yet to build a nuclear weapon, but has continually failed to meet its obligations under the NPT and several United Nations Security Council resolutions, and it cannot demonstrate with any credibility that its program is peaceful.

The President is committed to using all instruments of national power to prevent Iran from acquiring nuclear weapons. When President Obama took office, Iran was ascendant in the region, and the international community was divided over how to address Iran's nuclear violations. The President's early offer of engagement with Iran - quickly rebuffed by the regime - allowed the United States to expose Iranian intransigence and rally the international community as never before. Working with our European allies and with Russia and China, the administration gained unprecedented agreement for the toughest ever UN sanctions against Iran, laying the foundation for additional national financial and energy sanctions imposed by the United States and other nations. As a result, Iran is now increasingly isolated and the regime faces crippling economic pressure - pressure that will only build over time.

President Obama believes that a diplomatic outcome remains the best and most enduring solution. At the same time, he has also made clear that the window for diplomacy will not remain open indefinitely and that all options - including military force - remain on the table. But we have an obligation to use the time and space that exists now to put increasing pressure on the Iranian regime to live up to its obligations and rejoin the community of nations, or face the consequences.

North Korea. President Obama will also continue to confront North Korea, another regime that ignores its international obligations by developing nuclear weapons and missile technology, with a stark choice: take verifiable steps toward denuclearization or face increasing isolation and costs from the United States and the international community. That is why the administration worked with international partners to impose the harshest multilateral sanctions on North Korea in history. And it is why the President has made clear that the transfer of nuclear weapons or material by North Korea to states or non-state entities would be considered a grave threat to the United States and our allies, and we would hold North Korea accountable for the consequences of such action.

Securing Loose Nuclear Materials. The President has led a global effort to secure all loose nuclear materials around the world, hosting a nuclear security summit in Washington, and making concrete progress in locking these materials down. This is an important goal because the prospect that al-Qaeda or another terrorist organization might acquire a nuclear device represents an immediate and extreme threat to global security. At the same time, the United States will continue to work with international partners to break up black markets, detect and intercept nuclear materials in transit, and use financial tools to disrupt this dangerous trade.

Russia. Crucial to achieving all of these objectives has been, and will remain, expanded cooperation with Russia. The Cold War mentality represented by Mitt Romney's identification of Russia as "our number one geopolitical foe" ignores the very real common interest we share with Russia in reducing nuclear stockpiles, stopping additional proliferation by countries such as Iran and North Korea, and preventing nuclear materials from falling into the hands of terrorists. The President's "reset" policy toward Russia has produced significant cooperation in these areas, as well as in Russian support for the Northern Distribution Network that supplies our troops in Afghanistan. We support establishing permanent, normal trade relations with Russia because it would be good for the U.S. economy, for U.S. businesses, and for U.S. workers if we do. And securing Russia's accession to the World Trade Organization is an important step toward encouraging Russia to follow a rules-based system, and to protecting the rights of American workers, farmers, ranchers, and firms. At the same time, we are candid with the Russians when we disagree. The administration will not put aside our differences but will raise them directly with the Russian government. And we will continue to strongly criticize Russian actions that we oppose, such as their support for the Assad regime in Syria.

Countering Emerging Threats

As we have taken decisive steps to address today's dangers from terrorism and to prevent future nuclear proliferation, we have also sought to bolster homeland security and head off emerging challenges, ranging from cyber and biological threats to climate change and transnational crime.

Cybersecurity. Cybersecurity threats represent one of the most serious potential national security, public safety, and economic challenges we face. The very technologies that empower us to lead and create also empower individual criminal hackers, organized criminal groups, terrorist networks, and other advanced nations to disrupt the critical infrastructure that is vital to our economy, commerce, public safety, and military. Defending against cyber threats requires networks that are secure, trustworthy, and resilient. The President and the administration have taken unprecedented steps to defend America from cyber attacks, including creating the first military command dedicated to cybersecurity and conducting a full review of the federal government's efforts to protect our information and our infrastructure. We will continue to take steps to deter, prevent, detect, and defend against cyber intrusions by investing in cutting-edge research and development, promoting cybersecurity awareness and digital literacy, and strengthening private sector and international partnerships. President Obama has supported comprehensive cybersecurity legislation that would help business and government protect against risks of cyber attacks while also safeguarding the privacy rights of our citizens. And, going forward, the President will continue to take executive action to strengthen and update our cyber defenses.

Biological Weapons. Other dangers pose direct and deadly risks to our health and well-being. The use of a lethal biological agent within a population center would threaten the lives of hundreds of thousands of people. That's why President Obama outlined a National Strategy for Countering Biological Threats in 2009 to address the challenges from proliferation of biological weapons or their use by terrorists. We will continue to work at home with first responders and health officials to reduce the risks associated with unintentional or deliberate outbreaks of infectious disease. We will also continue our efforts with domestic and international partners to promote global health security and reinforce norms of safe and responsible conduct; obtain timely and accurate insight on current and emerging risks; take steps to reduce the potential for exploitation; expand our capability to prevent, attribute, and apprehend perpetrators of attacks; and communicate with all stakeholders. And we will build on existing public and private-sector efforts to prevent intentional contamination of the food supply.

Climate Change. The national security threat from climate change is real, urgent, and severe. The change wrought by a warming planet will lead to new conflicts over refugees and resources; new suffering from drought and famine; catastrophic natural disasters; and the degradation of vital ecosystems across the globe. That is why, in addition to undertaking measures to enhance energy independence and promote efficiency, clean energy, and renewable sources of power here at home, the President and the Democratic Party have steadily worked to build an international framework to combat climate change. We will seek to implement agreements and build on the progress made during climate talks in Copenhagen, Cancun, and Durban, working to ensure a response to climate change policy that draws upon decisive action by all nations. Our goal is an effective, international effort in which all major economies commit to reduce their emissions, nations meet their commitments in a transparent manner, and the necessary financing is mobilized so that developing countries can mitigate the effects of climate change and invest in clean energy technologies. That is why the Obama administration has taken a leadership role in ongoing climate negotiations, working to ensure that other major economies like China and India commit to taking meaningful action. It is also why we have worked regionally to build clean energy partnerships in Asia, the Americas, and Africa.

Transnational Crime. Transnational criminal networks also pose significant national security challenges. These networks continue to expand dramatically in size and scope, harming people worldwide, posing threats to stability, and subverting government institutions through corruption. Transnational criminal organizations have accumulated unprecedented wealth and power through the drug trade, arms smuggling, human trafficking, and other illicit activities, penetrating legitimate financial systems and destabilizing commercial markets. They extend their reach by forming alliances with terrorist organizations, government officials, and some state security services. That's why, in 2011, the Obama administration released a comprehensive Strategy to Combat Transnational Organized Crime. We are committed to a multidimensional approach that safeguards citizens, breaks the financial strength of criminal and terrorist networks, disrupts illicit trafficking networks, fights government corruption, strengthens the rule of law, bolsters judicial systems, and improves transparency. We have responded to this threat through aggressive targeting of the illicit financial infrastructure supporting cross-border criminal activity. And we will continue to coordinate with other nations and build their capacity to combat these threats.

Strengthening Alliances, Expanding Partnerships, and Reinvigorating International Institutions

The greatest dangers we face - terrorism, nuclear proliferation, cyber and biological attacks, climate change, and transnational crime - cannot be solved by any one nation alone. Addressing these challenges requires broad and effective global cooperation. And President Obama and the Democratic Party understand that this depends on close collaboration with our traditional allies, cultivating partnerships with new centers of influence, and strong U.S. leadership within international institutions.

Europe. The cornerstone of our engagement with the world is our alliances, which had been badly damaged under the Bush administration. The President and the Democratic Party believe the foundation of global security remains our relationships with traditional allies in Europe and Asia, and our enduring commitments to their defense. That is why President Obama has worked to methodically strengthen our alliances there, while pressing our allies to bear a greater share of the burden for tackling regional and global challenges.

The President and the Democratic Party recognize America's enduring interest in supporting peace and prosperity in Europe, as well as bolstering the

strength and vitality of NATO, which is critical to the security of the continent and beyond. A decade of military operations in Afghanistan has strengthened NATO's fighting skills and enhanced its ability to cooperate at the political level. This proved critical to the alliance's timely, unified, and effective response in Libya. Going forward, we need to further improve the ability of NATO countries to operate collectively. Modernizing the alliance will be challenging given fiscal constraints on both sides of the Atlantic. But as large-scale military involvement in Afghanistan winds down, NATO has an opportunity to focus on further developing the capabilities required to address 21st century challenges. Therefore, we will continue to urge our NATO allies to pool, share, and specialize their capabilities, and to improve their capacity for effective coalition operations.

Meanwhile, even as the presence of U.S. forces in Europe necessarily evolves, the United States will maintain its Article 5 collective security commitments to NATO and will continue to leverage America's comparative advantage in high-end military capabilities to ensure the defense of our allies. For example, the President is moving forward with a "phased adaptive approach" to European ballistic-missile defense that will protect both Europe and the United States from missile threats emanating from Iran and elsewhere. We believe that the United States and Russia can cooperate on missile defense, but we have also made clear that we will move forward with our system, beginning with the steps we have taken to deploy it in Poland, Turkey, and Romania.

Asia-Pacific. As we have sought to rebalance our foreign policy, we have also turned greater attention to strengthening our alliances and expanding our partnerships in the Asia-Pacific region. In part, this is in recognition that the United States has been, and always will be, a Pacific power. And, in part, it is a recognition that America's future security and prosperity will be fundamentally interconnected with Asia given its status as the fastest growing economic region, with most of the world's nuclear powers and about half of the world's population. The President has therefore made a deliberate and strategic decision that the United States will play a larger and long-term role in shaping this region and its future.

President Obama has made modernizing America's defense posture across the Asia-Pacific a top priority. We remain committed to defending and deepening our partnerships with our allies in the region: Australia, Japan, New Zealand, the Philippines, South Korea, and Thailand. We will maintain a strong presence in Japan and on the Korean Peninsula to deter and defend against provocations by states like North Korea, while enhancing our presence in Southeast Asia and in Australia. We will also expand our networks of security cooperation with other emerging partners throughout the region to combat terrorism, counter proliferation, provide disaster relief, fight piracy, and ensure maritime security, including cooperation in the South China Sea. And we will continue to invest in a long-term strategic partnership with India to support its ability to serve as a regional economic anchor and provider of security in the broader Indian Ocean region.

Meanwhile, the President is committed to continuing efforts to build a cooperative relationship with China, while being clear and candid when we have differences. The world has a profound interest in the rise of a peaceful and prosperous China, but China must also understand that it must abide by clear international standards and rules of the road. China can be a partner in reducing tensions on the Korean Peninsula, countering proliferation in Iran, confronting climate change, increasing trade, and resolving other global challenges. President Obama will continue to seek additional opportunities for cooperation with China, including greater communication between our militaries. We will do this even as we continue to be clear about the importance of the Chinese government upholding international economic rules regarding currency, export financing, intellectual property, indigenous innovation, and workers' rights. We will consistently speak out for the importance of respecting the universal human rights of the Chinese people, including the right of the Tibetan people to preserve their cultural and religious identity. And we remain committed to a one China policy, the Taiwan Relations Act, and the peaceful resolution of cross-Strait issues that is consistent with the wishes and best interests of the people of Taiwan.

The Middle East. President Obama and the Democratic Party maintain an unshakable commitment to Israel's security. A strong and secure Israel is vital to the United States not simply because we share strategic interests, but also because we share common values. For this reason, despite budgetary constraints, the President has worked with Congress to increase security assistance to Israel every single year since taking office, providing nearly $10 billion in the past three years. The administration has also worked to ensure Israel's qualitative military edge in the region. And we have deepened defense cooperation - including funding the Iron Dome system - to help Israel address its most pressing threats, including the growing danger posed by rockets and missiles emanating from the Gaza Strip, Lebanon, Syria, and Iran. The President's consistent support for Israel's right to defend itself and his steadfast opposition to any attempt to delegitimize Israel on the world stage are further evidence of our enduring commitment to Israel's security.

It is precisely because of this commitment that President Obama and the Democratic Party seek peace between Israelis and Palestinians. A just and lasting Israeli-Palestinian accord, producing two states for two peoples, would contribute to regional stability and help sustain Israel's identity as a Jewish and democratic state. At the same time, the President has made clear that there will be no lasting peace unless Israel's security concerns are met. President Obama will continue to press Arab states to reach out to Israel. We will continue to support Israel's peace treaties with Egypt and Jordan, which have been pillars of peace and stability in the region for many years. And even as the President and the Democratic Party continue to encourage all parties to be resolute in the pursuit of peace, we will insist that any Palestinian partner must recognize Israel's right to exist, reject violence, and adhere to existing agreements.

Elsewhere in the region, President Obama is committed to maintaining robust security cooperation with Gulf Cooperation Council states and our other partners aimed at deterring aggression, checking Iran's destabilizing activities, ensuring the free flow of commerce essential to the global economy, and building a regional security architecture to counter terrorism, proliferation, ballistic missiles, piracy, and other common threats. Jerusalem is and will remain the capital of Israel. The parties have agreed that Jerusalem is a matter for final status negotiations. It should remain an undivided city accessible to people of all faiths.

The Americas. In the Americas, we have deepened our economic and security ties with countries throughout the hemisphere, from Canada and Mexico to Brazil and Chile and El Salvador. We have strengthened cooperation with Mexico, Colombia, and throughout Central America to combat narco-traffickers and criminal gangs that threaten their citizens and ours. We will also work to disrupt organized crime networks seeking to use the Caribbean to smuggle drugs into our country. As we collectively confront these challenges, we will continue to support the region's security forces, border security, and police with the equipment, training, and technologies they need to keep their communities safe. We will improve coordination and share more information so that those who traffic in drugs and in human beings have fewer places to hide. And we will continue to put unprecedented pressure on cartel finances, including in the United States.

Africa. We will continue to partner with African nations to combat al-Qaeda affiliates in places like Somalia and to bring to justice those who commit mass atrocities, like Joseph Kony. We have made great efforts to reduce the violence in Darfur and built international support for a successful referendum on South Sudan's future. And in his first visit as President to the United Nations, President Obama advanced initiatives to strengthen UN peacekeeping capabilities in Africa. This includes providing equipment, training, and logistical support for UN and African Union missions in Darfur and Somalia. The President has also worked to help African nations grow their economies, and we have opened trade and investment opportunities across the continent.

The United Nations. International institutions - most prominently the United Nations - have been a centerpiece of international order since the mid-20th century. And just as American leadership was essential to forging the architecture for international cooperation after World War II, the President and the Democratic Party are committed to modernizing its infrastructure for the 21st century - working to reform international bodies and strengthen national and multilateral capabilities to advance peace, security, and opportunity.

We have restored America's leadership at the UN by cooperating with our partners there when we can and respectfully disagreeing with them when we must, reversing the previous administration's disdain for the UN. The President's leadership at the UN has enabled us to make real progress on a number of top national security priorities, including getting Russia and China on board to implement the toughest UN sanctions ever on Iran and North Korea.

Promoting Global Prosperity and Development

As the United States works with allies and partners to establish an international order that advances peace and prosperity, President Obama and the Democratic Party will continue to build three key pillars of American global leadership: a prosperous and inclusive economy, our unsurpassed military strength, and an enduring commitment to advancing universal values.

To allow each American to pursue the opportunity upon which our prosperity depends, we are investing in the sources of our long-term economic strength: access to a complete and competitive education for every American; affordable health care so our people, businesses, and government are not constrained by rising costs; training to allow our workers to adapt and win in a rapidly changing global economy; transformations in the way we produce and use energy to reduce our dependence on fossil fuels and create new jobs and industry; infrastructure that fuels commerce; cutting edge developments in science and innovation that support our economy, defense, and technological leadership; and making the hard decisions to cut our deficit and put our fiscal house in order.

And, because a growing and open global economy serves as a source of opportunity for the American people and a source of strength for the United States, the President and the Democratic Party have coordinated our economic actions with other countries to address financial crises and head off renewed cycles of boom and bust. We have reformed international institutions to give emerging economies a greater role and more responsibility. We have promoted trade that is free and fair. And we have supported global economic development.

Abroad, just as we have at home, we have sought to build a new model for 21st century economic growth that is fair and in which every nation plays by the rules - a model where workers' rights are respected, businesses compete on a level playing field, and intellectual property and new technologies are protected. Currencies must be market-driven so no nation has an unfair advantage. Reforms must protect consumers from abuse and reflect a global commitment to end corruption. And we will continue to champion sustainable growth that includes the clean energy that creates green jobs and combats climate change.

Addressing the Global Financial Crisis. Alongside our global partners, we took decisive actions to address the global financial crisis and have worked together to make the global economy and financial system more stable and secure. While Europe remains a significant risk to the global economy and while the problems there will not be solved overnight, Europe's leaders have made clear they will do what is necessary to preserve financial stability in the Eurozone and have the collective ability to address their economic challenges. We have been and will continue to be in frequent contact with our European allies to discuss best practices and share valuable lessons from our own experience reversing our economic downturn, helping them chart the best way forward.

As we continue to work with traditional centers of influence, we have also reached out to emerging economies to give them a greater voice and a greater stake in the global economy. We have made the G-20 the premier forum for international economic coordination in recognition of the fact that 21st century economic discussions must include countries like China, India, Indonesia, and Brazil. And, together, the nations of the G-20 brought the world economy back from the brink of another depression.

Free and Fair Trade. We have also sought to promote free and fair trade. Because of the economic dynamism of the Asia-Pacific region, which is already home to more than half the global economy, expanding trade with that region is critical to creating jobs and opportunities for the American people. Building on the free trade agreement with South Korea that President Obama signed, we are working with our partners in the Asia-Pacific Economic Cooperation Forum to create a seamless regional economy, promote green growth, and coordinate regulatory reform. Alongside Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam, we are on track to finalize the Trans-Pacific Partnership, a historic high-standard agreement that will address new and emerging trade issues, lower barriers to the free flow of trade and investment, increase exports, and create more American jobs. Exploring opportunities to shape the multilateral trading system to reflect the role and responsibility of major emerging markets in the global economy is a critical part of the President's trade agenda.

We will work to expand free and fair trade in the Americas as well. We already export more than three times as much to Latin America as we do to China, and we will pursue additional opportunities to expand commerce and promote shared prosperity. Last year the President signed free trade agreements with Panama and Colombia - agreements that will significantly boost U.S. exports and support thousands of jobs here at home - while protecting labor rights, the environment, and intellectual property. Because the Caribbean is an important region to our country, we will continue to support robust trade and economic relationships with our partners there. And, across the region, we are moving ahead with "open skies" agreements to expand opportunities for commercial aviation and to bring our people and businesses closer together.

We have also worked to ensure that American businesses and workers are competing on an even footing with our international competitors, and we have not hesitated to take action. That's why the Obama administration has brought trade cases against China at twice the rate of the previous administration and recently set up a new Interagency Trade Enforcement Center, which substantially expands our ability to investigate and take action against unfair trade practices around the world.

Advancing Global Development. President Obama recognizes that promoting global development is a strategic, economic, and moral imperative for the United States. Development expands markets for American products and creates American jobs. Strong and prosperous regional partners are critical to addressing global challenges, ending regional conflicts, and countering the spread of global criminal networks. And good governance and stability cannot take root, and basic human dignity cannot be protected, where poverty reigns and people lack access to the food, basic education, clean water, and medicine they need to survive.

For these reasons, the President this year announced a new strategy toward sub-Saharan Africa that commits to promoting economic growth, including through increased trade and investment. They are also why we are providing robust trade and investment support to Africa and building a trade and investment partnership with the countries of East Africa - because we believe that the private sector will be the engine of prosperity in the developing world. The administration continues to work to promote opportunity and development in sub-Saharan Africa by improving the region's trade competitiveness, encouraging economic diversification, and ensuring that the benefits from growth are broad-based.

Combating HIV/AIDS and Infectious Disease. Recognizing that health is a prerequisite for development, the President has made unprecedented progress in the global fight against HIV/AIDS and other infectious diseases. Building on the strong foundation created during the previous administration, the President's Emergency Plan for AIDS Relief (PEPFAR) has expanded its prevention, care, and treatment programming. As a result, PEPFAR now has made significant investments in more than 30 countries, and we set a goal to roughly double the number of lifesaving anti-retroviral treatments we provide by the end of 2013. With his latest budget, the President is fulfilling his historic commitment to request $4 billion over three years for the Global Fund, and the President remains committed to robust funding for PEPFAR and the Global Fund in the future. And President Obama lifted the 25-year ban that prevented non-citizens living with HIV from entering the United States, allowing the world's largest group of HIV/AIDS researchers, policymakers, medical professionals, and advocates to convene in Washington to continue their efforts to improve prevention and treatment.

Our efforts to combat HIV/AIDS are part of a broader commitment to address the challenges posed by infectious disease. Over the past four years, the administration has leveraged billions of dollars in commitments from donors to meet the demand for new vaccines, making it possible to immunize millions of children and prevent premature deaths.

Ensuring Food Security. The President and the Democratic Party believe that true development requires much more than delivering aid - it requires building the capacity of governments and peoples so that assistance is no longer needed. That is why the administration through its Feed the Future initiative has, with the G-8 and other countries, mobilized more than $22 billion for a global food security effort aimed at building the capacity of nations to feed themselves. This year, the President launched the next phase of this global effort - a major new food security partnership to reduce hunger and lift

tens of millions of people from poverty across Africa. These efforts partner with African countries to improve nutrition for children, mitigate risks from volatile food prices, increase private capital investments, expand access to technologies and information required to boost food production, and provide greater assistance to countries that implement agricultural reforms.

Responding to Humanitarian Crises. Together with the American people and the international community, we will continue to respond to humanitarian crises around the globe. We will come to the aid of countries during their times of need, just as we did following the 2011 earthquake, tsunami, and Fukushima nuclear disaster in Japan. And as we did in the aftermath of Haiti's catastrophic earthquake in January 2010, we will provide critical aid to countries facing devastating circumstances to meet their acute short-term needs and foster long-term recovery. The President led an unprecedented international effort in response to Haiti's natural disaster, committing over $3.1 billion to relief, reconstruction, and recovery, and launching a multifaceted effort to improve health, promote food security, and strengthen economic security. While major challenges remain, President Obama has supported a sustained commitment to Haiti's reconstruction, and the administration has continued to assist in Haiti's development.

Maintaining the Strongest Military in the World

America's unrivaled military capabilities represent a second core pillar of our global leadership. After more than a decade of war, we have an opportunity to retool our armed forces and our defense strategy to ensure we both maintain the world's most capable military and adapt to the challenges of the 21st century.

The President and the Democratic Party understand that we have a special obligation to every soldier, sailor, airman, Marine, and Coast Guardsman who puts their life on the line for our nation. We must send them into harm's way only when it's absolutely necessary. When we do, we must ensure they have the equipment and the support that they need to get the job done. And we have to take care of our troops, their families, and our veterans when they come home.

Eleven years of continuous military operations and repeated deployments to Iraq and Afghanistan have stretched our forces and strained their families. Going forward, our troops will face fewer deployments, allowing them more time to train and ensuring that they are ready for the full range of missions they may have to face.

In our current fiscal environment, we must also make tough budgetary decisions across the board - and that includes within the defense budget. The Budget Control Act enacted by Congress last year, with the support of Republicans and Democrats alike, mandates reductions in federal spending, including defense spending. The administration has worked with Congress to make these decisions, which has been a strategy-driven process. As we look beyond the wars in Iraq and Afghanistan - and the conclusion of long-term nation-building with large military footprints - we will be able to ensure our security with a more agile and more flexible force. At the same time, we will continue to emphasize forward engagement in critical regions, while enhancing robust security partnerships to share the burden. And we will continue to get rid of outdated Cold War-era systems so that we can invest in cutting-edge technologies and maintain a versatile set of capabilities required to execute a wide range of military missions.

Advancing Universal Values

America's leadership extends beyond our economic prosperity and military might - it is also rooted in our enduring commitment to advancing a core set of universal values. These include an individual's freedom to speak their mind, assemble without fear, have access to information, worship as they please, and choose their own leaders. They also include dignity, tolerance, and equality among all people, and the fair and equitable administration of justice. The United States was founded upon a belief in these values, and people of every race, region, and religion around the globe have claimed these principles as their own. The President and the Democratic Party believe that nations that embrace these values for their citizens are ultimately more prosperous, peaceful, and friendly to the United States than those that do not.

Staying True to Our Values at Home. We must always seek to uphold these values at home, not just when it is easy, but, more importantly, when it is hard. Advancing our interests may involve new actions and policies to confront threats like terrorism, but the President and the Democratic Party believe these practices must always be in line with our Constitution, preserve our people's privacy and civil liberties, and withstand the checks and balances that have served us so well. That is why the President banned torture without exception in his first week in office. That is why we are reforming military commissions to bring them in line with the rule of law. That is why we are substantially reducing the population at Guantánamo Bay without adding to it. And we remain committed to working with all branches of government to close the prison altogether because it is inconsistent with our national security interests and our values.

Standing With Those Demanding Greater Freedom. As we continue to perfect our union here at home, setting an example for others to follow, we will also continue to champion universal rights abroad. We recognize that different cultures and traditions give life to these values in distinct ways, and each country will inevitably chart its own course. America will not impose any system of government on another country. But we also know that the sovereignty of nations cannot strangle the liberty of individuals. So as people around the world yearn for greater freedom, we will continue to support progress toward more accountable, democratic governance and the exercise of universal rights. We will do so through a variety of means: by speaking out for universal rights, bolstering fragile democracies and civil society, and supporting the dignity that comes with development.

Across the Middle East and North Africa, we have stood with the people demanding political change and seeking their rights during the Arab Spring. Since the beginning of the protests in Tunisia, the United States has consistently opposed violence against innocent civilians, supported a set of universal rights for the people of the region, and supported processes of political and economic reform. When the Egyptian people flooded Tahrir Square in Cairo demanding democracy, the administration actively engaged the Egyptian government, military, and people in support of a transition away from decades of dictatorship and towards democracy. In Libya, we built an international coalition and intervened alongside NATO and other partner nations to protect the Libyan people and support them as they ended Muammar Qadhafi's brutal reign. In Iran, President Obama spoke out in support of the prodemocracy protestors and imposed human rights sanctions on the Iranian government. In Yemen, we worked with Gulf Cooperation Council states to facilitate a peaceful transition of power. And in Syria, we have led the international community to politically and economically isolate the regime, to increase pressure on President Assad to step down, and to provide assistance to unify the Syrian opposition in order to enable a stable transition. Moving forward, we will work to hasten the end of the Assad regime and support a political transition to a stable and democratic Syria. We will continue to support the consolidation of democratic transitions in Egypt, Libya, Tunisia, and Yemen. And we will engage governments and civil society across the region on behalf of genuine efforts to promote political and economic reforms that are responsive to the people of the region.

The Arab Spring represents the world's most sweeping recent movement toward democracy, but it is not an isolated case. Across the globe, people are demanding more from their governments - and, when they do, they will continue to find support and partnership in the United States. For example, in Burma, we successfully employed a combination of sanctions and engagement to encourage the government to open up political space and release political prisoners. Our historic opening to Burma will continue to incentivize a democratic transition, a deeper engagement with the United States, and national reconciliation among Burma's many different ethnic groups. And because human rights violations persist, we will continue to speak clearly about the additional steps that must be taken for the government of Burma to have a better relationship with the United States.

In Africa, the administration engaged to ensure a legitimate transfer of power in Cote d'Ivoire, supported the independence of South Sudan, and remains actively involved in resolving the issues between Sudan and South Sudan.

In the Americas, we see vibrant democracies in countries from Mexico to Brazil and Costa Rica to Chile. We have also seen historic peaceful transfers of

power in places like El Salvador and Uruguay. Yet despite the region's democratic progress, stark inequalities in political and economic power endure. We will continue to press for more transparent and accountable governance. And we will promote greater freedom in Cuba and Venezuela until all their citizens enjoy the universal rights they deserve.

Under President Obama, we have undertaken the most significant efforts in decades to engage the Cuban people. We have focused on the importance of the family ties between Cuban Americans and their relatives still living under oppression. Because of steps the President has taken, it is now possible for Cuban Americans to visit and support their families in Cuba, and to send remittances that reduce the Cuban people's dependence on the Cuban state. We have taken additional steps to bolster Cuban civil society, expanding purposeful exchanges that bolster independent religious groups on the island and enhancing the free flow of information to, from, and among the Cuban people. Going forward we will continue to support the Cuban people's desire to freely determine their own future.

Promoting Transparent, Accountable Governance and the Rule of Law. To promote transparent and accountable government worldwide, we joined with Brazil to launch and co-chair the international Open Government Partnership. Fifty-five countries now belong to the partnership - representing a quarter of the world's people - each of which has outlined concrete, credible steps to open the work of government so citizens are empowered, problems are solved, and democracy is strengthened.

The President and Democrats know that a commitment to the rule of law and effective judicial institutions are essential to sustainable economic development and must remain a core American value in the years to come. That is why the Obama administration has successfully pressed for international action against government corruption through the G-20 and promoted new initiatives to help countries develop stronger judicial institutions. Because the public's rights, freedoms, and access to economic opportunity depend on the rule of law, we will continue to work in partnership with our allies to promote this important value around the world.

Standing up for Women's Rights Around the Globe. As we work to advance universal values and human dignity, the President and the Democratic Party understand the critical importance of expanding protections and opportunities for women and girls around the world. Ensuring full equality and providing women and girls the opportunity to learn, earn a livable wage, and participate in public decision-making are essential to reduce violence, improve economies, and strengthen democracy. To continue to make progress at home and advance women's rights and opportunities abroad, we will urge ratification of the Convention for the Elimination of All Forms of Discrimination Against Women.

President Obama, Secretary of State Hillary Rodham Clinton, and the State Department are committed to advancing the rights of women and girls as a central focus of U.S. diplomatic, development, and defense interests. We will continue to promote the full engagement of women in the political and economic spheres. We will work to address underlying socio-economic problems, including women's access to health, education, and food security. And we will ensure that women are equal participants in reconciliation and development in areas affected by conflict.

President Obama and the Democratic Party are committed to supporting family planning around the globe to help women care for their families, support their communities, and lead their countries to be healthier and more productive. That's why, in his first month in office, President Obama overturned the "global gag rule," a ban on federal funds to foreign family planning organizations that provided information about, counseling on, or offered abortions. And that is why the administration has supported lifesaving family planning health information and services.

Combating Human Trafficking. Some 27 million women, men, and children around the world are victims of human trafficking. The President and the Democratic Party believe that trafficking in persons is both an affront to our fundamental values and, as a source of funds for transnational criminals and terrorist organization, a threat to national and international security. The Obama administration has used bilateral and multilateral diplomacy, targeted foreign assistance, training programs, public outreach, and law enforcement to combat trafficking in persons across the globe. The administration has continued to provide annual assessments of the strengths and weaknesses of foreign governments' efforts to address the issue, encouraging all countries to do more and calling out countries that have failed to do enough. And the administration has provided technical assistance to improve law enforcement and grants to support grassroots prevention efforts around the world targeting sex and labor trafficking, child sex tourism, forced child labor, and other abuses. The administration is also committed to taking action at home to fight trafficking, including the sex trafficking of young girls.

Gay Rights as Human Rights. Recognizing that gay rights are human rights, the President and his administration have vowed to actively combat efforts by other nations that criminalize homosexual conduct or ignore abuse. Under the Obama administration, American diplomats must raise the issue wherever harassment or abuse arises, and they are required to record it in the State Department's annual report on human rights. And the State Department is funding a program that finances gay rights organizations to combat discrimination, violence, and other abuses.

Internet Freedom. The Obama administration has led the world to recognize and defend Internet freedom - the freedom of expression, assembly, and association online for people everywhere - through coalitions of countries and by empowering individuals with innovative technologies. The administration has built partnerships to support an Internet that is secure and reliable and that is respectful of U.S. intellectual property, free flow of information, and privacy. To preserve the Internet as a platform for commerce, debate, learning, and innovation in the 21st century, we successfully negotiated international Internet policymaking principles, support the current multi-stakeholder approach to Internet governance, and oppose the extension of intergovernmental controls over the Internet.

Through all these actions, America is leading again. By responsibly ending the wars, rebalancing our foreign policy, taking concrete steps to address the greatest threats to our country, cooperating with allies and partners to tackle common challenges, reinvigorating international institutions, and sustaining and building the core pillars of U.S. leadership, President Obama and the Democratic Party have worked to ensure that the 21st century remains an American one. That is why we are stronger abroad, and safer and more secure at home, than we were four years ago.

★ ★ ★

The United States continues to move forward towards a future of strong and sustained growth. Thanks to the leadership of President Obama and Democrats around the country, we're fighting back from the deepest economic crisis since the Great Depression by making investments to create jobs, grow the middle class, and lay the foundations for an economy that out-educates, out-builds, and out-innovates the rest of the world. Today, America is both stronger and safer than it was four years ago. Now, we must continue the work we've started so that the United States of America never fails to meet the tests of our time.

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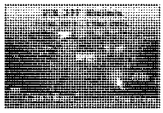

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INTRODUCTION

Today, America finds itself in the midst of prosperity, progress, and peace. We have arrived at this moment because of the hard work of the American people. This election will be about the big choices we have to make to secure prosperity that is broadly shared and progress that reaches all families in this new American century. In the year 2000, the Democratic Party stands ready to meet that challenge and to build on our achievements.

When Thomas Jefferson was elected as our Party's first president in 1800, America was a young country trying to find its place in the world. Two hundred years later, Democrats gather at a moment of vast possibility to nominate Al Gore as America's next president. A new economy founded on the force of new technologies and traditional values of work is giving rise to new industries and transforming old ones. Biological breakthroughs give us the chance to unlock the mysteries of humanity's deadliest plagues. While the globe is still beset with tragedies and difficulties, more people live under governments of freedom, liberty, and democracy than ever before in history. America enjoys unparalleled affluence at home and influence abroad.

Yet this moment is clearly one of possibility, not absolute guarantees. We must remember that our achievements were accomplished only with creativity, courage, and conscience; with a willingness to innovate and imagine; and with a recommitment to our basic American values of hard work, community, embracing diversity, faith, family, and personal responsibility. And all of it can be imperiled again.

Let us not forget that America's future did not always seem so bright. Under the Bush-Quayle administration, America was suffering through economic stagnation. Businesses were failing. Jobs were disappearing. The welfare rolls swelled. Crime exploded in the streets. Hope and optimism were scarce. Most Americans felt that the American Dream was endangered - if not extinct.

But in 1992, Americans elected Bill Clinton and Al Gore with a mandate to turn America around. And that's just what they did. They took on the old thinking that had come to dominate politics and offered new ideas - new ideas that met the challenges of the day, new ideas that kept faith with America's oldest values, new ideas that worked.

Eight years later the record is clear: the longest economic expansion in American history. The most jobs ever created under a single administration. The first real wage growth in 20 years. The highest home ownership rate ever. The lowest African-American and Hispanic-American unemployment rates in American history. The lowest crime rate in 25 years. The lowest number of people on welfare since the 1960's. The largest drop in poverty in nearly 30 years. The lowest level of child poverty in 20 years. And after 15 painful years when the rich were getting richer and the poor were getting poorer, America is finally growing together instead of growing apart.

These are accomplishments, not accidents. They came about because Democrats - from the White House, to the Congress, to State Houses all across America - brought new thinking and new action to our most pressing challenges. We used government as a catalyst to engage the best ideas and energies of the American people. We asked citizens to get involved and they did. They tutored in their children's schools, patrolled on neighborhood crime watches, volunteered in local hospitals, and voiced their opinion on every issue. They shaped effective solutions to real problems. It will take more of this brand of new thinking if we are to build on this record of achievement.

During our nation's darkest hours, Americans have strived mightily and succeeded in meeting the challenges of their times. The question before us is whether we will do the same during this bright moment; whether we will seize this moment to bring more prosperity and progress to more Americans than ever before; whether, having finally conquered our financial deficits, we will have the courage to conquer the other deficits - in health care, in education, in the environment - that challenge us today.

In this Platform, today's Democratic Party lays out its plans to do just that. This platform was not written in a dark backroom, but in the light of day; in an open, democratic process that was interactive and inclusive. It was developed both with the guidance of the brightest Democratic leaders and with the voices of thousands of ordinary Americans around the country who contributed their thoughts, ideas, beliefs, and dreams to this platform in person, on paper, and over the Internet. This is a 21st century platform for the 21st century's party. A people's platform for the people's party.

If one theme runs through this 2000 Democratic platform, it is this: if America is to secure prosperity, progress, peace and security for all, we cannot afford to go back. We must move forward together and we must not leave anyone behind.

I. PROSPERITY

Eight years ago, America was facing a big challenge. Under the Bush-Quayle Administration, the American economy was floundering. Slow growth had turned into no growth and into a jobless recovery. Americans in all walks of life were facing a future of less prosperity and more resignation. In 1992, Bill Clinton and Al Gore were elected to turn the American economy around and point upward toward the future.

They took office with a new set of ideas about how to get the economy moving again. They knew that the private sector is the engine of economic growth, but they also knew that, in Franklin Roosevelt's phrase, "the national community" - acting through government - can make a big difference.

Today, the success of these new ideas is clear. After a generation of stagnation for many and decline for some, real wages for all working families have

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started to rise again. America has the lowest unemployment and fastest economic growth in more than 30 years. The American people have created 22 million new jobs. We have the lowest inflation rate in decades. More Americans own their home than ever before. Looking back on 1992, this much is clear: Americans are better off than we were eight years ago.

But ours is a record to build on, not to rest on. That's because eight years later, we face a new challenge: how to keep prosperity alive - and how to deepen it - in a fast-moving, fast-changing economy. We can never take our economic prosperity for granted nor can we afford to go back to either tax-and-spend or cut-and-run - the failed policies of the past. It took innovative, new Democratic policies to create the environment where prosperity could bloom. It will take more such policies to allow prosperity to blossom - to forge a prosperity that does not leave anyone out and does not leave anyone behind.

During the past decade, the birth of the global, information-based new economy has changed most every aspect of Americans' lives. As we move inexorably from the Industrial Age to the Information Age, the transition will be difficult for some. In the decade to come, Democrats must lead the way in equipping all Americans with new tools for economic success and security. This is the only sure means of ensuring that America's prosperity is one that is broadly shared.

Time after time, Republicans opposed the ideas that brought prosperity to America. Time after time, they have been proven wrong. But their sorry record does not give them pause, it does not even slow them down. Despite a Democratic record of success, the Republicans now propose to rewind to the policies that brought America the days of deficits, doubt, debt, and decline; a retreat to the thinking of the era of recessions, repossessions, and retrenchment.

Democrats believe that to further our prosperity and make sure all Americans are ready to reap the rewards of the new economy we need thinking as innovative as the moment in which we live. First, we must continue the fiscal discipline that has been the hallmark of the past eight years - that means paying down the debt and offering the right kind of tax cuts. Second, we must use our unprecedented prosperity to secure Social Security and Medicare for future generations. Third, we must invest in the most precious resource we have - the American people and their skills and ability to innovate. Fourth, we must continue to reinvent government so that it works better and costs less and is in line with the on-line world. Fifth, we must open new markets to American products at home and around the world. Finally, we must reinforce the basic American bargain of requiring and rewarding hard work and we must provide Americans with the opportunity to participate in key decisions at work and in their communities.

Fiscal Discipline

For the 12 years before Bill Clinton and Al Gore took office, Republicans talked about fiscal discipline while they quadrupled the national debt. They ran up monstrous yearly deficits and nearly ran the American economy into the ground. In 1992, Democrats promised to cut the deficit in half in four years. They did - and went even further. It took Al Gore's tie-breaking vote in the Senate to overcome unanimous Republican opposition to deficit reduction. Today, America has gone from the biggest deficits in history to the biggest surpluses in history. Fiscal discipline keeps interest rates low and investment rates high - and it has helped fuel America's remarkable prosperity.

We must not go back. That's why Democrats now vow to balance the budget every year, barring a national emergency. But even this is not enough. In the 160 years since the very first Democratic Platform, America has always struggled under a national debt. Today's Democrats believe we should pay down the debt every year until we can give our children the independence, self-sufficiency, and prosperity that will come from an America that is debt-free. In 12 years of rule, Republicans quadrupled the national debt. In the next 12 years, Democrats vow to wipe out the publicly-held national debt.

Today, because of the success of the Clinton-Gore Administration, a debt-free America is within reach. This would free businesses to invest and innovate, it would provide an ever more sturdy foundation for future economic growth, and it would create good jobs. That's why Al Gore is determined to completely eliminate the publicly-held national debt by the year 2012.

The Right Kind of Tax Cuts.

The road to long term prosperity starts with embracing fiscal discipline. Unfortunately, the Republicans eschew fiscal discipline and offer up nothing less than fiscal disaster. They would squander the surplus on a more than trillion-dollar federal government tax giveaway for the well-off and well-connected, while failing to eliminate the national debt, neglecting to shore up Social Security and Medicare, and shirking the need to invest in the education of America's children and the skills of her workers.

For the past eight years, Democrats have been working to offer tax relief to the Americans who need it the most where they need it the most. We cut taxes for working parents who were struggling to make ends meet. We cut taxes for parents who were working hard and trying to raise good kids. We cut taxes for Americans who had studied hard and made it to college. We cut taxes for Americans who were continuing their educations and gaining new skills to stay on the cutting-edge of the economy. We cut taxes for companies that were helping Americans make the transition from welfare to work. We cut taxes for more than 90% of America's dynamic small businesses. Today, for most families, the federal tax burden is the lowest it has been in twenty years.

The Bush tax slash takes a different course. It is bigger than any cut Newt Gingrich ever dreamed of. It would let the richest one percent of Americans afford a new sports car and middle class Americans afford a warm soda. It is so out-of-step with reality that the Republican Congress refused to enact it. It would undermine the American economy and undercut our prosperity. Under the leadership of Al Gore, Democrats want to give middle class families tax cuts they can use - tax cuts that will put their own values into action and that will not injure the economic vitality they rely on. Democrats seek the right kind of tax relief - tax cuts that are specifically targeted to help those who need them the most. These tax cuts would let families live their values by helping them save for college, invest in their job skills and lifelong learning, pay for health insurance, afford child care, eliminate the marriage penalty for working families, care for elderly or disabled loved ones, invest in clean cars and clean homes, and build additional security for their retirement.

Retirement Security

Americans' golden years should be times of calm and security, not concern and stress. Few achievements testify more to the ability of government to do good than Social Security. It has lifted millions of elderly Americans out of poverty and helped them make ends meet. Social Security is more than a government program. It is a solemn compact between the generations. It is our nation's most important family protection. The choice for Americans on this vital part of our national heritage has never been more clear: Democrats believe in using our prosperity to save Social Security; the Republicans' tax cut would prevent America from ensuring our senior citizens have a secure retirement. We owe it to America's children and their children to make the strength and solvency of Social Security a major national priority.

That's why Al Gore is committed to making Social Security safe and secure for more than half a century by using the savings from our current unprecedented prosperity to strengthen the Social Security Trust Fund in preparation for the retirement of the Baby Boom generation. We now have an extraordinary opportunity to maintain Social Security. In addition, we can reform it - not the wrong way, with proposals such as raising the retirement age, but the right way - with fiscal discipline and by making it fairer for widows, widowers, and mothers.

Retirement security comes on many fronts. Democrats have successfully passed reforms to simplify the pension process for small businesses, expand pension portability, and protect employee pension funds. Democrats believe that workers' pensions should be protected and more portable. We also believe that changes in every American's pension rights should be fully disclosed. This is becoming increasingly important today, as pensions are progressively being shifted from a workers' benefit plan to a workers' contribution plan. We believe these changes need to be carefully examined by independent agencies to make sure they abide by current federal law. Democrats support President Clinton's veto of the Republican tax scheme that would have diminished anti-

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discrimination protections for middle-class and lower-income workers.

To build on the success of Social Security, Al Gore has proposed the creation of Retirement Savings Plus - voluntary, tax-free, personally-controlled, privately-managed savings accounts with a government match that would help couples build a nest egg of up to $400,000. Separate from Social Security, Retirement Savings Plus accounts would let Americans save and invest on top of the foundation of Social Security's guaranteed benefit. Under this plan, the federal government would match individual contributions with tax credits, with the hardest-pressed working families getting the most assistance.

The Republicans have a far different idea - a scheme that would come not in addition to Social Security but at the expense of it. Their Social Security privatization plot would siphon $1 trillion in payroll taxes away from the Social Security trust fund, take 14 years off the life of Social Security, eliminate the fundamental guarantee of retirement security, and raise the specter of massive government bail-outs. And, according to independent analyses, the Republicans' privatization plan would cut the guaranteed benefits for young workers by as much as 54 percent. It would take the "security" out of Social Security.

Retirement Savings Plus does not threaten Social Security's guaranteed benefit. Social Security may be 65 years old - but it is not ready to be retired. Taken together George W. Bush's $2 trillion tax cut, his campaign-season spending proposals, his support for an unspecified but unprecedented missile defense system, and his support for privatizing Social Security add up to an assault on the surplus - causing Americans to have to choose between drastic cuts in education and health care or a return to the days of deficit spending. This is not a choice Americans should have to make. With fiscal discipline and a commitment to honoring our values, we can both save Social Security and give Americans the ability to create a nest egg without turning back the clock on our prosperity.

Investing in Americans

Democrats know that today, more than ever before, we need the right kinds of investments - in education, lifelong learning, skill development, and research and development - to take advantage of the vast opportunities of the Information Age. We need to make sure Americans have the skills and tools they need to compete and win in the new knowledge-based, global economy.

A Revolution in American Education

Democrats understand that ensuring every child the highest quality education is essential if America is to remain strong and competitive in today's economy. That's why Al Gore's very first campaign speech was about education and that's why Al Gore will make education his top domestic priority.

Nine out of every ten children in this country attend a public school. Public education already allows the United States to have one of the highest standards of living in the world, providing equality of opportunity for all regardless of socioeconomic status.

The success stories coming from public schools are greater than at any time in their history: higher graduation rates, increasing test scores, and higher student achievement - with especially substantial gains among our neediest students. We must continue to build on this record of success that Democrats have compiled in the last eight years. We have helped states and communities set high academic standards for students and called for an end to social promotion. We have started hiring 100,000 qualified teachers. We have increased accountability. We have opened the gates of college to millions of Americans.

Now we must do more. Democrats understand that America will not long remain first in the world economically unless we become first in the world educationally. We cannot continue to generate a fifth of the world's economic output if a third of our students do not meet basic reading standards. We cannot stay number one in high technology jobs if we remain last in the percentage of degrees awarded in science. In today's knowledge-based economy, it's just that simple. Education leads to the future success and security of our country and citizenry.

Americans have been told they must choose between investing in education and demanding accountability. This is the type of false choice that drives our government into stalemate and drives Americans up the wall. Americans believe that we need to invest more in our children's educations - and they're right. Americans also believe that we should not be pouring more money into a system that is producing bad results - and they're right about that too. We should do more of what we're doing right and less of what we're doing wrong.

Al Gore and the Democratic Party know that investments without accountability are a waste of money and that accountability without investments are a waste of time. George W. Bush and the Republican Party offer neither real accountability nor reasonable investment. What they do offer are soothing sound-bites and bite-sized solutions. They refuse to invest in America's crumbling schools and crowded classrooms - spending 100 times more on tax cuts than on education. They don't help pay teachers like professionals nor do they insist on higher standards for teachers. They propose blank check block grants without accountability. Their version of accountability relies on private school vouchers that would offer too few dollars to too few children to escape their failing schools. These vouchers would pass the buck on accountability while pulling bucks out of the schools that need them most. When it comes to education, Democrats want to invest more and aim higher, the Republicans invest too little and aim too low.

We cannot afford - materially or morally - to let another generation of American children pass through inadequate schools before we make needed changes that will save them from a lifetime of frustration and limited horizons. The time for action is now.

By the end of the next presidential term, we should have a fully qualified, well trained teacher in every classroom in every school in every part of this country - and every teacher should pass a rigorous test to get there.

By the end of the next presidential term, every failing school in America should be turned around - or shut down and reopened under new public leadership.

By the end of the next presidential term, we should ensure that no high school student graduates unless they have mastered the basics of reading and math - so that the diploma they receive really means something.

By the end of the next presidential term, parents across the nation ought to be able to choose the best public school for their children.

By the end of the next presidential term, every eighth grader in America should be computer literate.

By the end of the next presidential term, high-quality, affordable preschool should be fully available to every family, for every child, in every community in America.

By the end of the next presidential term, every child should learn in a safe, modern classroom with the most up-to-date technology.

By the end of the next presidential term, the achievement gap between students of color and the rest of America's students should be eliminated.

All this we pledge - and more. The time for tinkering around the edges has long passed. We need revolutionary improvements in our public schools. This requires a major national investment; a demand of accountability from all; a genuine expansion of public school choice; and a renewed focus on discipline, character, and safety in our schools.

Discipline, Character, and Safety.

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Education is not just about test scores, but about passing on our values to the next generation of American citizens. Our children and families deserve schools of safety and classrooms free of fear. We should have a zero-tolerance policy towards guns in schools. Each school should institute strict, firm, and fair discipline policies that are agreed upon on the first day of the school year at a meeting of teachers, parents, and students. We should expand the Family Leave Law to make sure parents can attend these meetings and all parent-teacher conferences without being scared they will lose their jobs.

We must do all we can to encourage active parental involvement in our schools - after all, parents are a child's first and best teachers. A parent's job does not end when they drop their child off at the schools front door. They have a responsibility to actively participate in their childrens' education, to read to their children, and to help their children with their homework. Schools need to do their part by welcoming parents into the education process and giving them a voice in the education of their children.

Democrats believe in "second-chance schools" where kids expelled from school and those headed for trouble can get the concentrated help, services, and guidance they need to get back on the path to success.

If we are serious abont fighting school violence, we need a dramatic increase in after-school care for America's children. The average two-parent family works 500 more hours a year than they did a generation ago. Children often come home from school to empty houses. We know that the must dangerous hours for children are those between the end of the school day and the end of the work day. It is in these afternoon hours that children are most likely to get into trouble and fall under bad influences. Democrats have increased after-school assistance 500 times over in the last four years. Al Gore believes in expanding after-school programs and providing Americans with an after-school tax credit so that children have a safe, supervised after-school environment where they can continue to learn and learn right from wrong.

Too often, our culture offers our children a virtual crash course in violence and degradation. It is sometimes a culture of too much meanness and not enough meaning. That's why character education is so important in our schools. Education should not be a morals-free zone. Schools can teach our kids about honesty, hard work, openness to new information, strong discipline, willingness to reason, personal responsibility, and tolerance for different points of view. Teachers can help children develop the values and the character - as well as the intellectual tools - it takes to succeed and contribute to their communities. The traditional three R's are not enough. Schools need to make sure they teach kids respect, reliability, and responsibility as well.

We must also remember that our schools are not just training the next generation of workers, they are also educating the next generation of citizens. That's why Democrats support democracy education, civic education, and service requirements in our schools.

Strict Accountability for Results, Strong Incentives for Success.

Democrats believe that everyone involved in the education system should be held accountable. Accountability means we will no longer tolerate mediocrity and no longer allow failure. Accountability applies to states, schnol districts, schools, teachers, students, and parents. Everyone must do their part. Nobody can shirk their responsibility.

Consistently bad schools should be shut down. No excuses. No exceptions. Every state and school district should identify failing schools and turn them around with all necessary measures and all necessary resources. Students in those schools should get first priority in transferring to a better-performing public school in the district and getting intensive after-school academic help to make sure they are not left behind while their school is being turned around. Failing schools that do not improve should be quickly shut down and reopened with a new principal and new teachers.

States should be held accountable for reducing dropout rates, increasing graduation rates, and raising student achievement. Working together with teachers, school principals should be able to hire on the basis of qualifications and fit, not just on the basis of seniority.

Teachers should be answerable for what goes on in their classroom. New teachers who answer the call to join this honorable profession should get the mentors and professional support they need to make the transition into teaching - and then should have to pass a rigorous and fair test before they step foot into a classroom.

Teaching is no easy job and we should not expect that everyone is able to make it in the classroom. New teachers should receive ongoing support and mentoring from their more experienced colleagues. Current teachers should receive continuing quality professional development to ensure that their skills and knowledge reflect the most up-to-date information and research.

Those teachers who do not meet the highest quality standards should not be allowed to sully the reputation of the teaching profession. That's why teachers who are not teaching well should receive help in getting up to standards. At its best, teaching is the job of a lifetime. But teaching contracts and licenses should not be an automatic lifetime job guarantee. That's why we need regular evaluations to determine whether a teacher's license should be renewed. Democrats urge faster but fair ways, with due process, to identify, help - and when necessary - speedily remove low performing teachers.

Every student must be given the opportunity to learn. But students have to take responsibility and be accountable for their own educations, as well. We need measurements to make sure students are getting the preparation they require - including voluntary national tests in 4th grade reading and 8th grade math. Democrats insist that no student should graduate with a diploma they cannot read.

The federal government needs to be held accountable, too. In states that do not make progress in improving student performance, the federal government should redirect money from state bureaucrats and transfer it directly to schools that need it. States that do succeed in raising student success should receive bonuses - and schools that are making a positive difference should receive bonuses, as well. In addition, teachers who earn a National Board Certification should be especially rewarded.

Investing in Our Schools.

We cannot expect our children to learn all that they need to know in classrooms that are overcrowded, with teachers that are overburdened, and with textbooks and technology that are out-of-date. We need to invest in our schools and our childrens' futures.

High-quality preschool should no longer be a luxury. Research - and the experience of path breaking states such as North Carolina and Georgia - shows that giving kids a smart start can lead to higher reading and achievement levels, higher graduation rates, and greater success in the workplace.

We need an aggressive national campaign to put one million new well-trained teachers in our classrooms. We must start reducing class size by finishing the job of hiring 100,000 new qualified teachers. In addition, Al Gore has proposed the creation of a new 21st Century Teacher Corps - open to talented people around the country who agree to teach in a school that needs their help. In return, they would get help paying their college tuition, assistance in paying off their student loans, or a hiring bonus for those willing to switch careers. And we need alternative certification so that those who choose to switch into teaching don't have to start their education all over again.

Far too many teachers are overstressed and overworked, underpaid and underappreciated. We need to treat teachers like professionals - pay them like professionals and hold them to professional standards. All qualified teachers should get a raise and master teachers should get the biggest raise. We need to provide professional development, training, and support so that all teachers can succeed.

We should rebuild and modernize our school buildings to assure students can attend schools that are modern, safe, and well-equipped for learning. And we need to construct more new schools to meet the needs of the largest generation of students in American history. We cannot convince our children to value

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education when they are packed into crammed classrooms like sardines in a can and when their facilities are falling down. Al Gore and the Democrats believe we need smaller classes, smaller schools, and "schools within schools" so that impressionable children do not get lost in the shuffle.

We must ensure that children with disabilities are not blocked from having access to free, appropriate education and that the doors to our public schools are not closed to children with special needs. We must, finally, live up to the Federal government's promise to communities to help them defray the expenses of educating children with special needs.

We must assure that schools have the resources to meet the challenges of an increasingly diverse student population with programs for English language learners, including bilingual education, to close the achievement gap. We oppose language-based discrimination in all its forms, including in the provision of education services, and encourage so-called English-plus initiatives because multilingualism is increasingly valuable in the global economy.

We should create new Opportunity Academies around the nation between high school and college where disadvantaged students can get the intensive academic preparation in math, reading, writing, and study skills that will improve their likelihood for success in college and beyond.

Supporting Schools of Innovation.

In order to create a world-class educational system for all our students, we must allow experimentation in our public schools to find out what works. The Democratic Party supports expansion of charter schools, magnet schools, site-based schools, year-round schools, and other nontraditional public school options.

Charter schools and other nontraditional public school options can free school leaders, teachers, parents, and community leaders to use their creativity and innovation to help all students meet the highest academic standards. The Democratic Party will triple the number of charter schools in the nation. And, we will ensure that these charter schools are fully accountable - financially and academically - to students and the communities they serve, and that they are indeed making progress in maximizing student achievement. All public schools should have the freedom to design their curriculum within high standards and all public schools should compete for students - and we should start by bringing universal public school choice and competition to our lowest-performing public schools.

Let there be no mistake: what America needs are public schools that compete with one another and are held accountable for results, not private school vouchers that drain resources from public schools and hand over the public's hard-earned tax dollars to private schools with no accountability.

Closing the Opportunity Gap

Forty years ago, the Democratic platform discussed a Missile Gap as a measurement of America's competitiveness around the world and our security here at home. Today, too many Americans face an Opportunity Gap - a lack of the skills they need to be competitive in the global economy and have career security in the workplace. The Opportunity Gap is also a chasm created by income disparity, discrimination by race and gender, and the abandonment of our inner cities.

Many of today's workers will need retraining over the next decade. Nearly ninety percent of companies say they already face a shortage of skilled workers. The Opportunity Gap is costing American workers good jobs at good wages - and it must be closed. Al Gore has proposed a broad set of initiatives to provide college education, lifelong learning, and ongoing skill development for all Americans.

College Education and Lifelong Learning for All.

With Democratic leadership over the past eight years, the percentage of young people who are entering college has gone up by nearly 20 percent. In the Information Age, it is clear that a college education is more important than ever. The HOPE Scholarship and Lifetime Learning Tax Credit have opened the gates of college wider than ever before. Pell grants are at their highest level ever.

Now we need to do more. We should make a college education as universal as high school is today. Al Gore has proposed a new National Tuition Savings program to tie together state tuition savings programs in more than 30 states so that parents can save for college tax-free and inflation-free. We propose a tax cut for tuition and fees for post-high school education and training that allows families to choose either a $10,000 a year tax deduction or a $2,800 tax credit.

In today's economy, education should not be a time in a person's life but a way of life. To keep up with the fast-moving, fast-changing economy, workers must have the ability to continue learning and upgrading their skills for a lifetime. The next great frontier in American education is dramatically expanding opportunities for lifelong learning, skill development, and training.

Democrats believe that every hardworking American should have the chance to use their best talents. That is why we support a major new commitment to expanding worker training and skill development, including the creation of national skills standards. Al Gore has called on companies and workers to build more partnerships for skill development. He has proposed incentives for states and employers to expand worker training. We should fund partnerships of employers, colleges, unions, and others that will connect workers to the training they need. We should create a new tax credit for employers who train their workers in the skills needed in the New Economy. We must also give new training allowances that will extend unemployment insurance for those who need time to finish their training courses. Al Gore has called for new 401(j) accounts - like the 401(k)'s which so many Americans use - that would let employers help their employees save tax free and use those savings for the lifelong learning for the employee or their spouse, or their children's college education. Al Gore has also called for a permanent tax exemption to encourage employers to provide tuition assistance benefits to their workers, and for expanding this exemption so that entire families can benefit from these tuition benefits as well.

Bridging the Digital Divide.

Democrats believe that every American - regardless of income, geography, race, or disability - should be able to reach across a computer keyboard, and reach the vast new worlds of knowledge, commerce, and communication that are available at the touch of a fingertip.

That is why Democrats fought for the e-rate to wire every classroom and library to the Internet. In the next four years, we must finish connecting the job and then go further.

We must launch a new crusade - calling on the resources of government, employers, the high-tech industry, community organizations, and unions - to move toward full Internet access in every home, for every family, all across the United States. We must make sure that no family or community is left out. We must not rest until Internet access is universal.

We must also launch a new national effort to provide basic skills in the newest technology. Al Gore has proposed a major initiative to set and achieve a national goal of computer literacy for every child by the time they finish the eighth grade. He has also called for expanded technology training for workers, and supports incentives for employers to provide home computers and Internet access to their workers. And we must do more than merely teaching technology in the classroom and the workplace. We must dramatically expand teacher training in how to use the power of the Internet. We should also use our AmeriCorps national service corps members to teach and promote the Internet in the schools, libraries, and technology centers that need them the most. America was the pioneer of universal education; now America must become the pioneer of universal computer literacy.

Investing in Innovation

Technology is no longer just wondrous gadgets, it is an ever more integral part of our economy - and an enormous part of what has been driving economic growth. We need to harness technology's power and make sure America stays on the cutting-edge.

That means continuing to invest in experimentation, exploration, and innovation. Democrats recognize that a sustained public investment in long term basic research has been the foundation for America's scientific and technological leadership. That's why both public and private investment in research and development is crucial to sustaining our prosperity.

On the public side, Democrats believe in doubling the current levels of investment in information technology research and biomedical research and supporting the continued development of the Next Generation Internet - moving 1,000 times faster than today's Internet. We believe in helping universities and federal laboratories become centers of innovation that support and catalyze private sector growth. We also believe in the use of creative public-private partnerships that will, when appropriate, help bring new products to market faster. We continue to support technology transfer - forming partnerships between industry and government that can help ensure that American companies and workers develop the technological tools needed to compete in tomorrow's global markets.

In the private sector, Democrats believe in supporting the startups, the small businesses, and the entrepreneurs that are making the New Economy go. This means making permanent the Research and Experimentation tax credit and expanding it to make it partially refundable so that small businesses can use it more easily. It also means keeping cyberspace a duty-free zone so that American companies can sell goods around the world and insist that other countries refrain from actions that impede commerce. To expand technology's worldwide potential as a force for good, Al Gore has advanced a bold vision for a new Global Information Infrastructure - a network of networks that sends messages and images at the speed of light, across every continent - to expand access to phone service and communications, further improve the delivery of education and health care, and create new jobs and industries.

Strengthening small business is a vital component of economic innovation, job creation, and supporting entrepreneurship. Small businesses have accounted for more than 90 percent of the 22 million new jobs created with Democratic leadership. The Democratic Party is committed to sustaining and adding to that level of growth of small businesses, including home based businesses. Democrats believe that strengthening small businesses is a vital component of strategies to create opportunity and community economic development. We will build on the tremendous progress of the Clinton-Gore Administration in modernizing the Small Business Administration and improving access to the Federal marketplace. We will fight to reform and strengthen programs to combat discrimination against women and minority entrepreneurs, including federal procurement, because the playing field is still not level.

Americans generate more new technologies, new inventions, and more creative works of software and entertainment than the citizens of any other country in the world. American creativity contributes greatly to improving the quality of daily life, helps us work more efficiently, and enriches our national culture. America's laws and policies must be tailored and equipped to nurture and advance this unique aspect of our national character. This means we must ensure that sound patent and copyright laws motivate our inventors and creators to pursue their vision. Internationally, we must work to build support for strong intellectual property laws among the community of nations, including in trade agreements. We must take all steps necessary to secure effective enforcement of those laws - at home and abroad - to ensure that others do not steal intellectual property through piracy and other forms of theft.

Democrats know that technological innovation is critical to maintaining a strong manufacturing sector as we enter the Information Age. Manufacturing is a principal engine of productivity growth, a provider of jobs that pay family-supportive wages, and a significant source of exports for paying our way in the world economy. Al Gore and the Democratic Party will fight to keep America's basic industries the most competitive in the world.

Protecting American Consumers

As our science and technology advance we must work hard to protect our oldest and most cherished values. That's why Al Gore, while supporting the completion of the Human Genome Project, has championed legislation to ban genetic discrimination. While fighting to expand Internet access, he has led the Administration's efforts to give parents, schools, and communities effective tools to protect children from inappropriate content on-line. In particular, Al Gore has focused on the challenge of protecting Americans' personal privacy on-line as well as the medical and financial information that can all too easily be intercepted and abused by others.

Al Gore has called for an Electronic Bill of Rights for this electronic age - including the right to choose whether personal information is disclosed; the right to know how, when, and how much of that information is being used; the right to see it yourself; and the right to know if is accurate.

We must protect not only our privacy, but the food we eat, the air we breathe, and the water we drink. That's why Democrats believe we ought to have a modern, science-based food safety system, including meaningful food labeling that also discloses where our food comes from, and that communities should have the right to know about toxins that are released into the air and water.

Investing in Communities

Democrats believe that in building upon the record-breaking prosperity and growth achieved in the past eight years, we must not leave any community behind. Under the leadership of Al Gore, the Empowerment Zones and Enterprise Communities programs have brought new hope to cities and rural areas all across America. Now we need a new round of Empowerment Zones to spread prosperity even further. The Clinton-Gore New Markets Initiative is shining a spotlight on the untapped potential for commerce, tourism, and investment in many communities, and Al Gore will extend these efforts to see that the prosperity of the mainstream economy flows to the Main Streets everywhere. The Clinton-Gore Administration fought to strengthen the Community Reinvestment Act and to create a network of Community Development Banks, and Al Gore will continue that fight. Democrats are committed to building an America in which no neighborhood or town see joblessness and shuttered businesses commonplace or inevitable, and where no families or young adults surrender their God-given right to work hard and live the American dream.

Part of that dream is home ownership. Under Democratic leadership, we have achieved an all-time high in home ownership, including among groups that have historically been left out. We are committed to continuing this progress, because home ownership is a foundation for building wealth and economic security for families, and it provides a vital anchor enabling neighborhoods to thrive. In too many communities, however, owning or renting an affordable home seems an impossible dream. Al Gore and Democrats have long defended the mortgage interest deduction and the Low Income Housing Tax Credit, and believe we must reinvigorate our communities and support our families through partnerships and targeted investments and eliminating community redlining by lenders that will better harness the power of markets to create the housing we need. We must pay down the debt to keep interest rates low. We need to create a continuum of care for homeless people so that they get help in getting themselves off the streets and back on their feet. We must ensure that housing costs in thriving communities do not outpace the income of middle class families. We must expand the supply of life cycle housing. We must encourage the renovation and construction of affordable housing closer to places of work and to mass transit so workers can get to their jobs without being tied up in traffic for hours.

In rural America, we have the opportunity to create a rural renewal on our nation's farms with improved transportation and infrastructure, better access to capital and technology, reduced concentration in agribusiness, and an expansion of new markets for our crops, and strengthening our ability to compete in world markets. The Internet can break down barriers of geography and isolation and bring the rural economy into the new economy. Farmers should receive incentives to conserve soil and improving farming and forestry techniques. The Republican Freedom to Farm Act has resulted in years of low prices and necessitated billion dollar bailouts. It is misguided and must be changed. Family farmers who work hard and smart should be able not only to survive

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but to thrive. Democrats will strengthen, not shred, the safety net for family farmers; we will open markets abroad for them. And we will not turn our backs on rural communities; we will work to ensure that they share in the new prosperity we are building for all of America.

Livable Communities.

Across America a new movement is emerging as citizens work together to build more livable communities. These are communities where the streets are safe and schools are good, where high wage jobs are not hours away from home, where people can get to work and run their errands without spending hours stuck in traffic, where they can breathe clean air and drink clean water, where the spirit of community reigns.

Democrats believe communities know best and that they should have the resources and tools they need to act on their decisions, to have the ability to create communities of which families can be proud. We want to transform out-of-control sprawl to well-planned smart growth.

That is why we support the "Better America Bonds" - tax credits for state and local bonds to build more livable communities. We must help communities reconnect to the land around them, preserve open spaces, build parks, improve water quality, and redevelop rusty old brown fields. We need to help save farms from being turned into strip malls and parks from being paved over. We should acquire new lands for urban and suburban forests and recreation sites and set aside wetlands, coastal and wildlife preserves. And it is time we enhanced our quality of life by unclogging our nation's roads and airports.

Al Gore and the Democratic Party support the building of high-speed rail systems in major transportation corridors across the nation. High-speed rail reduces highway and airport congestion, improves air quality, stimulates the economy, and broadens the scope of personal choice for traveling between our communities. We support new grants to Amtrak and the states for improving and expanding passenger rail routes and corridors.

Opening Markets Around the World

Exports sustain about 1 in 5 American factory jobs - jobs that pay more than jobs not tied to the global economy. Open markets spur innovation, speed the growth of new industries, and make our businesses more competitive. We must work to knock down barriers to fair trade so other nation's markets are as open as our own.

Trade has been an important part of our economic expansion - about a third of our economic growth in recent years has come from selling American goods and services overseas. There is no doubt that with trade - and with investments in giving American workers the skills they need - we can out-compete workers anywhere in the world.

It's clear we live in a globalized world - and that there is no turning back. But globalization is neither good nor evil. It is a fact - and we have to deal with it. Democrats believe we must be leaders in the new global economy, not followers. We believe that globalization will work for all Americans only if there are rules of the road, as in the domestic economy, that promote both a strong economy and our basic American values.

We need to make the global economy work for all. That means making sure that all trade agreements contain provisions that will protect the environment and labor standards, as well as open markets in other countries. Al Gore will insist on and use the authority to enforce worker rights, human rights, and environmental protections in those agreements. We should use trade to lift up standards around the world not drag down standards here at home.

True open trade is not just about profits, but about people; not a race to the bottom, but a dash to the top; about a rising tide lifting the boats of workers here and abroad; about reinforcing the values of freedom and liberty and the rule of law in the hearts and minds of people everywhere. The test of open trade in the years ahead is whether it empowers the many and not just the few, whether its blessings are widely shared, whether it helps to lift the poor out of poverty, and whether it works for working people.

Democrats know that to build a new consensus for more open trade, we must give workers the tools they need to compete in the global economy and support rules that will protect workers' rights, human rights, and environmental protections. That's why our lifelong learning and skill development proposals are so important. American workers need access to ongoing skills development so that they have the tools they need to succeed in the New Economy. In addition, our trade adjustment assistance programs should be improved so that all affected workers receive timely and adequate assistance, including measures to address health care coverage and pension protections.

With the leadership of Al Gore, Democrats helped America's steel industry weather the effects of the Asian financial crisis. As President, Al Gore will move aggressively to reduce our overall trade deficit and stop the erosion of good paying manufacturing jobs. This includes negotiating tough agreements to reduce our persistent automotive trade imbalances with our major trading partners. We must continue to monitor imports and, consistent with the World Trade Organization, ensure that the United States utilizes all of its trade laws and other mechanisms, including product specific safeguards, to stop quickly and effectively any import surges when they threaten our workers and communities.

The President should be able to negotiate trade agreements with the nations of the world and should include worker rights, human rights, and environmental protections in those agreements, as well as market opening initiatives. At the same time, Al Gore will challenge American companies to ensure labor protections and worker safety at their overseas operations. And U.S. representatives at the International Monetary Fund and the World Bank should also seek to advance fair treatment for workers internationally. We should create an environment in which electronic commerce can flourish globally as it has here in America. We are committed to supporting the rights of workers around the world. And we should vigorously monitor trade agreements to make sure other nations are not shirking their responsibilities.

Democrats are committed to addressing the problem of manipulative corporate tax shelters, including in the international context, that undermine the public's faith in the fairness of our voluntary tax system. At the same time, we must ensure no tax provision has the effect of encouraging corporations to locate in other countries at the expense of American workers.

Building a 21st Century Government

Since he took office, Al Gore has led the way in reinventing government - making government more effective in its mission of service to the public. Under his leadership the federal workforce has been cut by 377,000, making it the smallest government since Dwight D. Eisenhower was president. This has been accomplished through cooperation and partnership. Sixteen thousand pages of regulations were scrapped. From tea testers to mohair subsidies to the Navy's own dairy farm, over 200 outdated and unnecessary government programs have been eliminated. As a percentage of the workforce, the federal government is the smallest it has been since the New Deal.

We have saved over $135 billion - contributing to the surplus and our prosperity. But we have saved something much more precious as well. We have begun to earn back the faith and trust of the American people in their democratic institutions. Trust in government has almost doubled. The first customer survey ever taken of American's satisfaction with the services government delivers found that fully 60 percent felt service had improved in the last two years and rated government services at levels almost as high as services in the private sector.

Today, our government is focused on emphasizing results over red tape, offering Americans quality service, old-fashioned common sense, and working in partnership with the private sector to achieve common goals. Republicans attack public workers and tear down public services. We have empowered government workers and improved public services.

Now we need to go much further. We have ended the era of big government; its time to end the era of old government. We need to create a government where Americans can easily find the services they need; one that is on-line all the time with no need to wait in line, an open

Government that's always open. On the Internet, citizens will be able to help cut crime in their neighborhood, notify government of potentially dangerous environmental hazards, or sign up for a clinical trial of the latest advances in medicine. And all of this will be done while protecting everyone's personal privacy and with the highest levels of universal access and security. This new e-government will break down barriers to service, reduce costs, and make government accessible for all.

We must forge partnerships between labor and management that recognize the interests of both sides while uniting both front-line government workers and managers in a common crusade to improve government performance.

We must ensure that government has the tools and expertise necessary to provide high-quality services. Democrats do not believe that privatization is a panacea. Some services are inherently public. Democrats also believe that, to ensure government works better and costs less, public employees must be allowed to compete both for their current work and for new work. When government work is contracted out to private companies, they should adhere to same level of accountability as public agencies and those arrangements must incorporate labor, safety, health, civil rights, and other important safeguards.

We must also continue to decentralize our government, to make it more flexible and responsive towards communities and individuals, and to turn its focus towards empowering Americans to take charge of their own lives.

Faith-based and community-based organizations have always been at the forefront in combating the hardships facing families and communities. Democrats believe it is time that government found ways to harness the power of faith-based organizations in tackling social ills such as drug addiction, juvenile violence, and homelessness. However, in contrast to the Republicans, Democrats believe that partnerships with faith-based organizations should augment - not replace - government programs, should respect First Amendment protections, and should never use taxpayer funds to proselytize or to support discrimination.

Valuing Work

Democrats believe in hard work and we believe that work must pay. It is what has made America great. There is a basic bargain at the heart of the American story - hard work should be both required and rewarded. Democrats also believe that those who do work hard should not be stuck in place - they should get ahead. And those who work hard should have a voice in their workplace.

Supporting Working Families.

Democrats know that workers' freedom to choose a voice at work is a fundamental American right that must never be threatened, never be obstructed, never be taken away. From the Industrial Age to the Information Age, unions have given working people the chance to improve their living standards and have a voice on the job. The Clinton-Gore Administration stopped the Team Act, defeated a national right-to-work law, and fought for the resources to enforce worker protections. Al Gore will protect our wage and hour laws, including the forty-hour workweek and overtime requirements, and stand firm in support of the Davis-Bacon act and the Service Contract act. He has also proposed reforming government contracting rules to ensure that taxpayer dollars do not go to companies that break basic labor laws. Democrats have always believed in making work pay.

We are fighting for a new ergonomic standard and whistle-blower protections. We have stood up for the National Labor Relations Board and fought to protect the right of working families to participate in the political process when it was under attack.

Now we must go further - not just playing defense against misguided Republican attempts to set back the cause of worker's rights, but moving the ball forward. We need a new national law banning permanent striker replacement workers - so that workers' right to organize into a union and bargain with their employers are never compromised. While we have made the workplace the safest ever, we need to further increase workplace safety. We should stiffen penalties for employer interference with the right to organize and violations of other worker rights. We must also reform labor laws to protect workers' rights to exercise their voices and organize into unions by providing for a more level playing field between management and labor during organizing drives, and facilitating the ability of workers to organize and to bargain collectively.

Rewarding Work for All.

Democrats believe in an economy that works for everyone and gives everyone a chance to work. We have made a good start by fighting for the Earned Income Tax Credit which has helped millions of American families work their way out of poverty. We won the battle for increasing the minimum wage.

Now we must do more. We must bring all Americans who are willing to work hard into the circle of prosperity by more fully extend the benefit of the Earned Income Tax Credit to working families, again raising the minimum wage, and giving American workers the skills they need to make it in today's economy. We will vigorously enforce protections against on-the-job discrimination, reassert our belief in an equal day's pay for an equal day's work, seek to prevent the exploitation of workers, and ensure that the nation's worker protection laws are enforced.

Democrats believe that one way we value and reward hard work is to modernize, strengthen, and sustain the nation's unemployment compensation system - a bedrock protection against poverty for millions of workers and their families. Today, the system serves far fewer working families than in the past and many especially vulnerable workers - such as low wage workers, seasonal employees, contingent workers, and women - are especially likely to fall outside the system's protective safety net. Democrats believe we must fight to update and upgrade the nation's unemployment system, to stabilize its funding, extend eligibility to more workers, and improve benefits.

We know that even as the economy changes and expands, millions of workers will continue to labor in jobs that pay low wages and may not require significant education or skills. Many of these workers are women, people of color, or recent immigrants. These workers provide invaluable services to American society and their work has great dignity. Democrats are committed to ensuring that these workers - no less than their counterparts in more highly-skilled, better paid positions - are treated with dignity, respect, and fairness on the job. Democrats also believe that workers in temporary, part-time, and contract jobs should be treated fairly and earn the wages and benefits they deserve because of the jobs they do.

Requiring Work from All.

With Bill Clinton and Al Gore in the White House, we changed the nation's welfare system - transforming the program into one that encourages and promotes work. Since 1993, the welfare rolls have fallen to their lowest levels in over 30 years. Today, millions of parents now have the dignity of a paycheck, rather than the stigma of a welfare check. The next step is to help these new workers move into the economic mainstream so that they can support their families. It is part of our vision of abolishing poverty. Al Gore is committed to helping new workers and those still on the rolls get help with childcare, transportation and other supports to ensure that anyone who can work, does work. Democrats also believe that we must continue the fight to restore fairness to legal immigrants - these Americans also deserve access to the American dream.

Our fundamental mission is to expand prosperity, not government. But the choices government makes can help or hurt prosperity. For the past eight years, Americans have counted on Democrats to make the right choices. The resulting prosperity is clear. Now, in another moment of big choices,

Democrats stand ready to lead again - with a record of results and a vision for the future.

PROGRESS

Eight years ago, many citizens had come to accept the idea that America's best days were behind her: that crime, welfare, teen births, divisiveness and irresponsibility would continue to rise; that our air and water would keep getting dirtier; and that our essential social safety net programs were fated to go broke.

Instead, with the leadership of today's Democratic Party, the past decade has seen not just a rebirth of American prosperity, but a new season of progress in meeting our challenges and living up to our obligations. Crime is down to its lowest levels in a generation - the longest decline on record, teen births are down seven years in a row, adoptions are up by 30 percent, millions of Americans have moved off the welfare rolls and onto the payrolls. America is not just better off, it is better.

But Democrats know that it must be better still. So we want to use this moment to bring even more progress to America. To make America safer, healthier, more secure. To clean up our environment and our politics. To make the job of parents easier and to bring us together as one America.

Fighting Crime

Democrats believe government's most basic duty is to establish law, order, and freedom and keep citizens safe from crime. When crime is rampant, families are forced off the streets and behind closed doors. When children are ducking for cover, they have a hard time reaching for their dreams. When people are afraid to walk in their own neighborhood, communities are robbed of the basic sense of decency and togetherness. When an overburdened justice system lets thugs off easy, good parents have a harder time teaching their children right from wrong.

Bill Clinton and Al Gore took office determined to turn the tide in the battle against crime, drugs, and disorder in our communities. They put in place a tougher more comprehensive strategy than anything tried before, a strategy to fight crime on every single front: more police on the streets to thicken the thin blue line between order and disorder, tougher punishments - including the death penalty - for those that dare to terrorize the innocent, and smarter prevention to stop crime before it even starts.

They stood up to the gun lobby, to pass the Brady Bill and ban deadly assault weapons - and stopped nearly half a million felons, fugitives, and stalkers from buying guns. They fought for and won the biggest anti-drug budgets in history, every single year. They funded new prison cells, and expanded the death penalty for cop killers and terrorists.

Here are the results of that strategy: serious crime is down seven years in a row, to its lowest level in a quarter-century. Violent crime is down by 24 percent. The murder rate is down to levels unseen since the mid-1960's. The number of juveniles committing homicides with guns is down by nearly 60 percent.

But we have just begun to fight the forces of lawlessness and violence. We cannot go back to the finger-pointing and failed strategies that led to that steep rise in crime in the Bush-Quayle years. We can't surrender to the right-wing Republicans who threatened funding for new police, who tried to gut crime prevention, and who would invite the NRA into the Oval Office. Nor will we go back to the old approach which was tough on the causes of crime, but not tough enough on crime itself.

With Al Gore as President, America won't go back. We will move forward. We will fight to increase the number of community police on our streets. We will fight to give police the high-tech tools and the training they need to keep our streets safe and our families secure. We will toughen the laws against serious and violent crime to restore the sense of order that says to children as well as to criminals: don't even think about committing a crime here. We will reform a justice system that spills half a million prisoners back onto our streets each year - many of them addicted to drugs, unrehabilitated, and just waiting to commit another crime. We will make schools safe havens for students to learn and teachers to teach. We believe that in death penalty cases, DNA testing should be used in all appropriate circumstances, and defendants should have effective assistance of counsel. In all death row cases, we encourage thorough post-conviction reviews. We will put the rights of victims and families first again. And we will push for more crime prevention, to stop the next generation of crime before it's too late.

Victims' Rights.

We need a criminal justice system that both upholds our Constitution and reflects our values. Too often, we bend over backward to protect the right of criminals, but pay no attention to those who are hurt the most. Al Gore believes in a Victims' Rights Amendment to the United States Constitution - one that is consistent with fundamental Constitutional protections. Victims must have a voice in trial and other proceedings, their safety must be a factor in the sentencing and release of their attackers, they must be notified when an offender is released back into their community, they must have a right to compensation from their attacker. Our justice system should place victims and their families in their rightful place.

Ending the Revolving Door.

We have to test prisoners for drugs while they are in jail, treat them for addictions, and break up the drug rings inside our prison system. Drug and alcohol abuse are implicated in the crimes of 80 percent of the criminals behind bars. Al Gore believes we should make prisoners a simple deal: get clean to get out, stay clean to stay out. And this deal should be non-negotiable.

We should do even more to make sure that when criminals leave jail, they leave a life of crime behind. We should impose strict supervision of those who have just been released on parole - and insist that they obey the law and stay off drugs. In return, we should help them make it in the workplace. Al Gore believes that ending the revolving door, in combination with more determined efforts at prevention, will both combat crime and ultimately reduce rates of incarceration that are so tragically high in many communities.

Fighting the Scourge of Drugs and Gangs.

We should send a strong message to every American child: drugs are wrong, and drugs can kill you. We need to dry up drug demand, hold up drugs at the border, and break up the drug rings that are spreading poison on our streets. We should open more drug courts, to speed justice for drug-related crimes; double the number of drug hot-spots where we aggressively target our enforcement efforts; expand drug treatment for at-risk youth; and make sure that all of our school zones are drug-free zones - by stiffening the penalties to those who would use children to peddle drugs, and those who would sell drugs anywhere near our schools. We know that to dry up drug demand, we must provide drug treatment upon demand. To empower communities protect themselves from organized criminal conduct, the Democrats support giving communities relief against gang related crimes. We should be tough on drugs no matter which form they take and should not discriminate in sentencing.

Strong and Sensible Gun Laws.

A shocking level of gun violence on our streets and in our schools has shown America the need to keep guns away from those who shouldn't have them - in ways that respect the rights of hunters, sportsmen, and legitimate gun owners. The Columbine tragedy struck America's heart, but in its wake Republicans

have done nothing to keep guns away from those who should not have them.

Democrats believe that we should fight gun crime on all fronts - with stronger laws and stronger enforcement. That's why Democrats fought and passed the Brady Law and the Assault Weapons Ban. We increased federal, state, and local gun crime prosecution by 22 percent since 1992. Now gun crime is down by 35 percent.

Now we must do even more. We need mandatory child safety locks, to protect our children. We should require a photo license I.D., a full background check, and a gun safety test to buy a new handgun in America. We support more federal gun prosecutors, ATF agents and inspectors, and giving states and communities another 10,000 prosecutors to fight gun crime.

Ending Racial Profiling.

Good policing demands mutual trust and respect between the community and the police. We shouldn't let the acts of a few rogue officers undermine that trust or the reputation of the outstanding work of the vast majority of our dedicated men and women in blue. That is why we need to end the unjust practice of racial profiling in America - because it's not only unfair, it is inconsistent with America's community policing success, it is a violation of the basic American principle of innocent until proven guilty, it views Americans as members of groups instead of as individuals, and it is just plain shoddy policing. We believe that all law enforcement agencies in America should adopt a zero-tolerance policy toward racial profiling.

Hate Crimes.

The very purpose of hate crimes is to dehumanize and stigmatize - not only to wound the victim, but also to distort the American conscience. Every crime is a danger to Americans' lives and liberty. Hate crimes are more than assaults on people, they are assaults on the very idea of America. They should be punished with extra force. Protections should include hate violence based on gender, disability or sexual orientation. And the Republican Congress should stop standing in the way of this pro-civil rights, anti-crime legislation.

Protecting Our Most Vulnerable Citizens.

Our most vulnerable deserve special protections. We need tougher penalties against all sex offenders. We should raise the penalties for those who commit crimes against the elderly. We should give federal prosecutors new tools to fight fraud and abuse. We should move aggressively to shut down fraudulent telemarketers who target the elderly. We believe that we must overcome constitutional objections and reenact a strong new law to combat violence against women. And if you commit any violent crime in front of a child, you should pay an even higher price for it: more time in jail.

Ending Domestic Violence.

Violence in the home is an often silent terror in the lives of millions. We have to make sure that all battered women have the legal protection and the support they need to be safe in their own communities, and to keep their attackers away. By stopping domestic violence, we can also break the generational cycle of violence. We know that when children grow up in abusive families, they are more likely to become abusers themselves.

Stopping Crime Before it Starts.

Democrats also know that all Americans are better off if we stop crime before it claims new victims, rather than focusing single-mindedly on pursuing perpetrators after the harm is done. That is why we are firmly committed to sound and proven crime-prevention strategies that are good for all Americans. Solid investments in children and youth, in job creation, and in skills development are powerful antidotes to crime.

Judges and the Supreme Court.

We will fight to fill the vacancies on the federal bench to make sure we have enough judges to promptly decide all cases and to end Republican delays in the Senate that have kept qualified nominees, especially women and minorities, waiting literally for years for a Senate vote. Democrats oppose efforts to strip the federal courts of jurisdiction to decide critical issues affecting workers, immigrants, veterans and others of access to justice. And, unlike Republicans, Al Gore will appoint justices to the Supreme Court who have a demonstrated concern for and commitment to the individual rights protected by our Constitution, including the right to privacy.

Valuing Our Families

Government does not raise children, families do. But government can help make the hardest job in the world - being a parent - a little easier. Today, families come in all different shapes and sizes, but they all face similar challenges. Government should be on the side of parents - making it easier for them to raise their children and pass down their values. With Democrats in the White House, we have passed the Family and Medical Leave law, which has been used by 20 million Americans to care for a newborn baby or a sick loved one. Al Gore led efforts to create the voluntary TV ratings system, to put the V-chip in all new TV sets sold in America so that parents can stop the assault of graphic images in their children's lives, and to insist on a quick and easy way for all Internet users to be able to make offensive web sites off limits to their children.

Balancing Work and Family.

If we are to value our families, we have to make much more progress. Strengthening America's families means helping parents make time for their children. We need to find new ways to help parents balance work and family so that they will have time to pass on the right values to their children. Already millions of Americans have benefited from the Family and Medical Leave law, now we need to expand it so that it covers parent-teacher visits and children's routine medical appointments. And we will extend the law to cover more employers so that more working families enjoy this vital protection during times of family and medical need. We should urge employers to make workplaces more parent-friendly; explore strategies, including voluntary initiatives and policy reforms, that can provide income support for workers during periods of family and medical leave; call on parents to be more involved in their children's learning; and fix the "marriage penalty" so that parents can spend more time at home and less time trying to make ends meet. We should not penalize families by forcing couples to pay more in taxes just because they have made the sacred commitment of marriage to one another. We should also provide grants to community and faith-based organizations to help couples prepare for and strengthen their marriage and relationships, become better parents, and reduce domestic violence.

Child Care and Early Childhood Education.

Democrats believe in making child care more affordable through targeted tax cuts and other investments, in improving the safety and quality of child care centers, in ensuring that children start school ready to read, and in giving a helping hand to parents who decided to stay at home with their children. We need both higher pay and higher standards for child care workers - and they need to get training so that they can do their jobs well. It is a priority of the Democratic Party to fully fund Head Start.

Eldercare.

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The Baby Boomers are the first generation with more parents than children. Many families are doing all they can to help for and care for their elderly parents. These families are doing the right thing - and America must be on their side. We must do more to support the families and individuals who are caring for relatives suffering from long-term illnesses at home or at institutions. We should provide Americans with long-term care needs and their caregivers a $3,000 tax credit. We should hold those who care for our nation's elderly to the highest standards and improve these workers' wages, benefits, training, and working conditions. We should make sure that every community in the country has a program to offer caregivers critical information, referrals, and respite from the difficult work of caring for a loved one.

Fatherhood.

Promoting responsible fatherhood is the critical next phase of welfare reform and one of the most important things we can do to reduce child poverty. Three times more men acknowledged paternity in 1998 than in 1993. This is a first step toward giving to a child the emotional and financial support a father must give to merit the name.

Democrats believe in cracking down on deadbeats who abandon their children. So we must require all fathers who owe child support to pay or go to work; strengthen child support enforcement, including increasing the amount of child support that gets paid directly to poor families; and make it harder for parents who owe child support to get new credit cards. However, we also recognize that, in addition to dead beat dads there are dead broke dads. Thus Democrats support helping those men who want to reconnect with their families and who want to become a positive force in the lives of their children.

Responsible Entertainment.

Parents are struggling to pass on the right values in a culture that sometimes seems to practically scream that chaos and cruelty are cool. Democrats have worked to give parents the tools to have more control over the images their children are exposed to. Parents and the entertainment industry must accept more responsibility. Many parents are not aware of the resources available to them, such as the V-chip technology in television sets and Internet filtering devices, that can help them shield children from violent entertainment. The entertainment industry must accept more responsibility and exercise more self-restraint, by strictly enforcing movie ratings, by taking a close look at violence in its own advertising, and by determining whether the ratings systems are allowing too many children to be exposed to too much violence and cruelty.

Democrats call for the reinstatement of the Fairness Doctrine by the Federal Communications Commission. We believe in public support for the arts, including the National Endowment for the Arts and the National Endowment for the Humanities. Public and private investment in creativity and cultural heritage - the arts and humanities - is an investment in the education of our children, in the well being of our communities, in the strength of our economy, and in spreading the dream of democracy throughout the world.

Accessible, Affordable, Quality Health Care

For fifty years, the Democratic Party has been engaged in a battle to provide the kind of health care a great nation owes its people. We reaffirm our commitment to take concrete, specific, realistic steps to move toward the day when every American has affordable health coverage. And we will not rest until the job is done.

During the past eight years, Democrats have helped Americans keep their doctor when they lose or change jobs. We passed the Child Health Insurance Program to help states provide health coverage to millions of uninsured children - the largest single investment in children's health in a 35 years. We kept solvent a Medicare system that was scheduled to go bankrupt this year. We brought immunization rates to an all-time high.

In contrast, the Republican Party has refused to use one penny of the surplus to secure the solvency of Medicare and has supported plans that would increase Medicare premiums, force elderly patients into HMOs and raise the eligibility age for Medicare to 67. They have adamantly opposed the Patients' Bill of Rights and proposed instead a mirage "Patient's Bill of Goods" that would leave out a real guarantee of the right to see a specialist and assurances that you can go to the nearest emergency room - and leave out 135 million Americans in the cold.

Instead of the guaranteed, universal prescription drug benefit that Democrats believe should be added to Medicare, Republicans are proposing to leave to insurance companies the decisions about whether and where a drug benefit might be offered, what it would include, and how much it would cost. Studies suggest that less than half of seniors will be able to use this benefit.

Universal Health Coverage.

There is much more left to do. We must redouble our efforts to bring the uninsured into coverage step-by-step and as soon as possible. We should guarantee access to affordable health care for every child in America. We should expand coverage to working families, including more Medicaid assistance to help with the transition from welfare to work. And we should also seek to ensure that dislocated workers are provided affordable health care. We should make health care accessible and affordable for small businesses. In addition, Americans aged 55 to 65 - the fastest growing group of uninsured - should be allowed to buy into the Medicare program to get the coverage they need. By taking these steps, we can move our nation closer to the goal of providing universal health coverage for all Americans.

A Real Patients' Bill of Rights.

Medical decisions should be made by patients and their doctors and nurses, not accountants and bureaucrats at the end of a phone line a thousand miles away. It is time we meaningfully addressed concerns about the quality of care and about the decline of patient, access, trust, and satisfaction. People need to get the health care they need, when they need it, without having to leap endless hurdles. Americans need a real, enforceable Patients' Bill of Rights with the right to see a specialist, the right to appeal decisions to an outside board, guaranteed coverage of emergency room care, and the right to sue when they are unfairly denied coverage.

Al Gore will work with a wide range of stakeholders to develop a national strategy to reduce medical errors, including appropriate public reporting, analysis of root causes, and development of error prevention models. Democrats also believe that doctors, nurses, and other health care practitioners must be allowed to advocate freely on behalf of their patients.

Protecting and Strengthening Medicare.

It is time we ended the tragedy of elderly Americans being forced to choose between meals and medication. It is time we modernized Medicare with a new prescription drug benefit. This is an essential step in making sure that the best new cures and therapies are available to our seniors and disabled Americans. We cannot afford to permit our seniors to receive only part of the medical care they need.

Democrats believe Medicare is worth fighting for - and worth saving. With the number of Americans on Medicare expected to double in the next 35 years, Al Gore has stepped up and taken responsibility by proposing a Medicare Lock Box that would insure Medicare surpluses are used for Medicare - and not for pork barrel spending or tax giveaways. We should also modernize Medicare by promoting competitive prices and remain vigilant against Medicare fraud.

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Fighting Diseases.

Our newest medical miracles give us the chance to make significant progress in battling some of the most dreaded diseases. Democrats believe that we must invest in biomedical research and continue to fight and conquer everything from AIDS to Alzheimers to Diabetes to Parkinsons to spinal cord injuries. We must speed up the development of new drugs and get them to patients sooner while maintaining essential health and safety standards. We should allow stem cell research to make important new discoveries. We should expand prevention and widen access to clinical trials. And we should devote more resources to eliminating disease disparities among racial and ethnic groups.

Our nation must do all it can to focus its efforts on fighting HIV and AIDS. A top priority for Democrats will be the continued investment in research, prevention, care, treatment, and we are deeply committed to the search for a cure. Democrats continue to support important programs such as the Ryan White CARE Act, the Housing Opportunities for People with AIDS program, and incentives to return Americans with HIV/AIDS to work.

For a generation, America has been waging a war on cancer. Al Gore believes it is time we started winning it. Because of astonishing scientific breakthroughs, the day that America is cancer-free is within reach. With the completion of the draft of the Human Genome, we are on the verge of cracking cancer's secret code. Democrats believe in taking advantage of this progress by doubling federal cancer research.

Fighting Teen Smoking.

Al Gore is committed to dramatically reducing teen smoking in America. It is time we treated underage tobacco use like the health crisis it is. That's why we need to give the FDA full authority to keep cigarettes away from children. We must match the power of big tobacco's advertising dollars with a counter-campaign that tells kids the truth about the dangers of smoking and the risks of cancer to themselves and to others through second-hand smoke. And we should double our investment in efforts to prevent teen smoking and break the deadly grip of nicotine addiction.

State attorneys general across America have recovered billions of dollars from the tobacco industry for damages caused by tobaccos' advertising directed at our children and for the death and disease created by cigarettes. Now Republicans are trying to stop the United States Justice Department from pursuing similar litigation to hold the tobacco companies accountable for the damages they have caused to American taxpayers. We believe it is wrong to insulate the tobacco companies from liability for their wrongdoing.

Mental Health.

Mental illness has long been concealed behind a shroud of silence and shame. Mental illness affects nearly one in five Americans each year, but nearly two-thirds of those Americans affected by mental disorders do not receive help. When mental illness goes untreated, undiagnosed, and unmentioned, people are denied the opportunity to live full lives and our nation is denied their full contribution. Democrats believe in supporting families caring for loved ones with mental illness by strengthening our community mental health system, providing access to full mental health coverage for every child in America, giving teachers and schools more mental health resources, and ensuring that mental illness and physical illness are treated equally by our nation's health plans.

Disabilities.

Democrats believe that we must fight to ensure that people with disabilities can meet their full potential and participate fully in the American dream. For people with disabilities accessing affordable health insurance is the greatest barrier to returning to work. That is why we fought to assure that people with disabilities do not lose their health care when they return to work. Democrats also support tax credits and grants to pay for rehabilitation and work-related expenses for people with disabilities. And we support all efforts to implement the Supreme Court's Olmstead decision and to make personal assistance services and supports available to people with disabilities in their homes and communities - because no one should be kept in a nursing home or institution if they prefer to live in the community with the necessary supports.

Choice

The Democratic Party stands behind the right of every woman to choose, consistent with Roe v. Wade, and regardless of ability to pay. We believe it is a fundamental constitutional liberty that individual Americans - not government - can best take responsibility for making the most difficult and intensely personal decisions regarding reproduction. This year's Supreme Court rulings show to us all that eliminating a woman's right to choose is only one justice away. That's why the stakes in this election are as high as ever.

Our goal is to make abortion less necessary and more rare, not more difficult and more dangerous. We support contraceptive research, family planning, comprehensive family life education, and policies that support healthy childbearing. The abortion rate is dropping. Now we must continue to support efforts to reduce unintended pregnancies, and we call on all Americans to take personal responsibility to meet this important goal.

The Democratic Party is a party of inclusion. We respect the individual conscience of each American on this difficult issue, and we welcome all our members to participate at every level of our party. This is why we are proud to put into our platform the very words which Republicans refused to let Bob Dole put into their 1996 platform and which they refused to even consider putting in their platform in 2000: "While the party remains steadfast in its commitment to advancing its historic principles and ideals, we also recognize that members of our party have deeply held and sometimes differing views on issues of personal conscience like abortion and capital punishment. We view this diversity of views as a source of strength, not as a sign of weakness, and we welcome into our ranks all Americans who may hold differing positions on these and other issues. Recognizing that tolerance is a virtue, we are committed to resolving our differences in a spirit of civility, hope and mutual respect."

Protecting Our Environment

Democrats know that for all of us there is no more solemn responsibility than that of stewards of God's creation. That is why we have worked for eight years to produce the cleanest environment in decades: with cleaner air, cleaner water, and a safer food supply; a record number of toxic waste dumps cleaned up; new smog and soot standards so that children with asthma and the elderly would be able to live better lives; and a strong international treaty to begin combating global warming - in a way that is market-based and realistic, and does not lead to economic cooling.

From the Redwood forests to the Florida Everglades, from the Grand Canyon to Yellowstone to Yosemite, we have protected millions of acres of our precious natural lands. We stopped development in America's last wild places. Teddy Roosevelt saw our national parks as the playground of the people - there for average families to enjoy with camping and hiking. Today's Republicans see them as the playground of the powerful - there for big businesses to exploit with drilling and mining. The Republicans have tried to sell off national parks; gut air, water, and endangered species protections; let polluters off the hook; and put the special interests ahead of the people's interest. They are wrong. Our natural environment is too precious and too important to waste.

Al Gore is committed to restoring the Everglades; protecting the coasts of California and Florida and the Arctic National Wildlife Refuge from oil and gas drilling; and preserving our untouched forests, including the Tongass, from logging and development. With regard to public lands, Democrats believe that communities, environmental interests, and government agencies should work together to protect our public resources, critical habitat areas, and wildlands while ensuring the vitality of local economies. We will work together to find land-based alternatives and decontamination technologies that will permanently end the ocean disposal of contaminated dredge spoils.

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Once Americans were led to believe they had to make a choice between the economy and the environment. They now know that this is a false choice. But there is a real choice to make in 2000: whether we will protect our environment in ways that are practical and achievable or go back to the policies that led to generations of environmental devastation and degradation.

We have to do what's right for our Earth because it is the moral thing to do. It involves all of our lives - from the simple security of having clean safe, reliable, affordable electricity for your home; to America's ability to build and sell the best new clean cars, trucks, and technology to the world; to guarding our children from the summer smog that is made worse by global warming, and securing for our grandchildren the expectation of a joyful array of seasons that we took for granted when we grew up ourselves.

Democrats believe we must give Americans incentives to invest in driving more fuel-efficient cars, trucks, and sport utility vehicles; living in more energy-efficient homes, and using more environmentally-sound appliances and equipment. We need to clean up aging power plants. We must invest in rebuilding and improving our transportation infrastructure and ensure that we adequately maintain these systems for the future. Americans need and rely on diverse transportation sources, and our public infrastructure priorities should reflect that diversity.

We should invest in roads, bridges, light rail systems, cleaner buses, the aviation system, our national passenger railroad, Amtrak, and high-speed trains that would give Americans choices - freeing them from traffic, smog-choked cities, and being held hostage to foreign oil. We should ensure that urban communities affected by the presence of airports which create increased levels of noise and pollution be provided mitigation support to address these concerns. We must also ensure that we maintain adequate public funding and public administration of publicly operated and delivered transportation services, without gutting collective bargaining agreements or long-standing worker-protections. In these and other areas, we will encourage project labor agreements, fostering labor-management cooperation, quality development, and efficient use of public monies. Today, technology has advanced to the point that we can drive the kind of cars we like and live in the kind of homes we like - while being kind to the earth. We should use some of our budget surplus to help Americans take advantage of these new opportunities. With the right investments, these new environmentally-friendly technologies can create new jobs for American workers.

America is blessed with abundant low-cost sources of coal, petroleum, and natural gas, but we must use them wisely and ensure that changes in the energy sector promote a workforce whose skills are expanded, utilized, and rewarded. Democrats believe that with the right incentives to encourage the development and deployment of clean energy technologies, we can make all our energy sources cleaner, safer, and healthier for our children. This responsibility includes disposing of nuclear waste in a scientifically-sound manner in accordance with standards designed to protect human health and the environment.

And we must dramatically reduce climate-disrupting and health-threatening pollution in this country, while making sure that all nations of the world participate in this effort. Environmental standards should be raised throughout the world in order to preserve the Earth and to prevent a destructive race to the bottom wherein countries compete for production and jobs based on who can do the least to protect the environment. There will be no new bureaucracies, no new agencies, no new organizations. But there will be action and there will be progress. The Earth truly is in the balance - and we are the guardians of that harmony.

Eight of the ten hottest years ever recorded have occurred during the past ten years. Scientists predict a daunting range of likely effects from global warming. Much of Florida and Louisiana submerged underwater. More record floods, droughts, heat waves, and wildfires. Diseases and pests spreading to new areas. Crop failures and famines. Melting glaciers, stronger storms, and rising seas. These are not Biblical plagues. They are the predicted result of human actions. They can be prevented only with a new set of human actions - big choices and new thinking.

Working with the America's great automakers, Al Gore has led the Partnership for a New Generation of Vehicles which has helped spur the development of high-performing cars that get far better gas mileage while meeting emissions standards. Now we need to give Americans help in being able to afford these new cars - getting them out of the showrooms, onto the streets, and into our driveways. At the same time, we are committed to improving fuel economy in a way that preserves and creates jobs for American workers, and delivers products that consumers want to buy. To further this kind of progress, we now need the oil industry to join us in producing much cleaner fuels that will allow automotive environmental equipment to achieve the maximum possible reductions in emissions.

We have also created a new 21st Century Truck Initiative to build highly-efficient heavy duty pick-up and delivery trucks, even long-haul 18-wheelers. Now we need to work in partnership with industry to create a new generation of mass transit and a new generation of cleaner, more reliable power systems. Al Gore wants to swap every dirty, smoke-belching city bus for a cleaner, less polluting one.

Renewing Our Democracy and Campaign Finance Reform

In the year 2000, along with all the other big choices they have to make, Americans will be making a choice about who's running their country: the people or the special interests, the voters or the lobbyists, the many or the few. We must restore American's faith in their own democracy by providing real and comprehensive campaign finance reform, creating fairer and more open elections, and breaking the link between special interests and political influence.

The Republicans will have none of this. Instead of limiting the influence of the powerful on our politics, they want to raise contribution limits so even more special interest money can flow into campaigns. The big-time lobbyists and special interest were so eager to invest in George W. Bush and deliver campaign cash to him hand-over-fist that he became the first major party nominee to pull out of the primary election financing structure and refuse to abide by campaign spending limits.

In this year's presidential primaries it became clear that the Republican establishment is violently opposed to John McCain's call for reforming our democracy. Al Gore supports John McCain's campaign for political reform. In fact, the McCain-Feingold bill is the very first piece of legislation that a President Al Gore will submit to Congress - and he will fight for it until it becomes the law of the land.

Then he will go even further - much further. He will insist on tough new lobbying reform, publicly-guaranteed TV time for debates and advocacy by candidates, and a crackdown on special interest issue ads. Most boldly of all, Al Gore has proposed a public-private, non-partisan Democracy Endowment which will raise money from Americans and finance Congressional elections - with no other contributions allowed to candidates who accept the funding. This will let our politics be free from the influence of special interests and let Americans believe in their own democracy again.

Just as our country has been the chief apostle of democracy in the world, we must lead by example at home. This begins with our nation's capital. The citizens of the District of Columbia are entitled to autonomy in the conduct of their civic affairs, full political representation as Americans who are fully taxed, and statehood. Puerto Rico has been under U.S. sovereignty for over a century and Puerto Ricans have been U.S. Citizens since 1917, but the island's ultimate status still has not been determined and its 3.9 million residents still do not have voting representation in their national government. These disenfranchised Citizens - who have contributed greatly to our country in war and peace - are entitled to the permanent and fully democratic status of their choice. Democrats will continue to work in the White House and Congress to clarify the options and enable them to choose and to obtain such a status from among all realistic options. Democrats believe the people of Guam, American Samoa, and the Virgin Islands have a right to be fully self-governing. We are committed to fair treatment in economic and social policies as well as improvement in federal-territorial relations in accordance with the needs of each area. Elected representatives of these areas will be regularly consulted on policies, laws, and treaties that affect the areas and we will ensure fair treatment for our fellow Citizens in the territories.

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Building One America

Democrats believe that God has given the people of our nation not only a chance, but a mission to prove to men and women throughout this world that people of different racial and ethnic backgrounds, of all faiths and creeds, can not only work and live together, but can enrich and ennoble both themselves and our purpose. America's diversity is expanding, yet amidst important signs of progress, there is widespread evidence of persistent discrimination, growing racial segregation of our schools and neighborhoods, and dream-crushing barriers to opportunity. We cannot - we dare not - remain a nation divided. Our vision is of an America healed of hatreds and misunderstanding, with equality and opportunity so rich that legacies of discrimination and exclusion will be found only in history books, and not in our communities. To that end, Democrats support creation of a commission of distinguished scholars and civic leaders to examine the history of slavery, discrimination, and exclusion suffered by all minorities; to report on the continuing effects of those tragic chapters in our history; and to make appropriate recommendations on behalf of the American people.

Welcoming Our Newest Americans.

Immigrants enrich the tapestry of American life, making our economy more vibrant, our workplaces more productive, and our nation stronger. We believe that all levels of government, in partnership with the private and voluntary sectors, must devise and pursue a comprehensive immigrant integration agenda that will make the newest Americans full participants in the nation's mainstream. That's why Democrats support reforming the INS to provide better services, and investing the resources needed to reduce the backlog of citizenship applications from nearly two years to three months. Democrats also support increased resources for English language courses, which not only help newcomers learn our common language but also help us promote our common values. And, we believe that family reunification should continue to be the cornerstone of our legal immigration system.

Democrats believe in an effective immigration system that balances a strong enforcement of our laws with fair and evenhanded treatment of immigrants and their families. The Clinton-Gore administration provided long overdue leadership in dramatically improving border management and law enforcement, including a major expansion of the Border Patrol and curbs on abuses of the asylum process. We also recognize that the current system fails to effectively control illegal immigration, has serious adverse impacts on state and local services, and on many communities and workers, and has led to an alarming number of deaths of migrants on the border. Democrats are committed to reexamining and fixing these failed policies.

We must punish employers who engage in a pattern and practice of recruiting undocumented workers in order to intimidate and exploit them, and provide strengthened protections for immigrant workers, including whistleblower protections. Doing so enhances conditions for everyone in the workplace. We believe that any increases in H1-B visas must be temporary, must address only genuine shortages of highly skilled workers, and must include worker protections. They must also be accompanied by other immigration fairness measures and by increased fees to train American workers for high skill jobs. The Democratic Party is committed to assuring an adequate, predictable supply of agricultural labor while protecting American farm workers who are among the poorest and more vulnerable in our society. We reject calls for guest worker programs that lead to exploitation, and instead call for adjusting the status of immigrants with deep roots in the country. We should have equitable asylum policies that treat people the same whether they have fled violence from the Right and Left. And we support restoration of basic due process protections and essential benefits for legal immigrants, so that immigrants are no longer subject to deportation for minor offenses, often committed decades ago without opportunity for any judicial review, and are eligible to receive safety net services supported by their tax dollars.

Fighting for Civil Rights and Inclusion.

Passage of the Civil Rights Act of 1964 was one of the proudest moments of our nation's history and a sterling testament to our aspirations as a people. Yet, despite undeniable progress over the last several decades, inequality and polarization nevertheless persist in far too many American workplaces, schools, and communities. Over the last eight years, we have fought hard to end discrimination. We have increased funding for civil rights enforcement - so that the laws on our books are not just pleasant words, but pledges of justice. Al Gore has strongly opposed efforts to roll back affirmative action programs. He knows that the way to lift this nation up is not by pulling the weakest down, but by continuing to expand opportunities for everyone who wants to achieve. The Clinton-Gore Administration has appointed the most diverse administration in American history, demonstrating that pursuing excellence means including the all of the best that our nation has to offer.

Al Gore and the Democratic Party know that much remains to be done. We must remember we do not have an American to waste. We continue to lead the fight to end discrimination on the basis of race, gender, religion, age, ethnicity, disability, and sexual orientation. The Democratic Party has always supported the Equal Rights Amendment and will continue to do so, and we are committed to ensuring full equality for women and to vigorously enforcing the Americans with Disabilities Act. We support continuation of the White House initiative on Asian Americans and Pacific Islanders. Because every American counts, we will continue to work toward a census that counts every American. We support continued efforts, like the Employment Non-Discrimination Act, to end workplace discrimination against gay men and lesbians. We support the full inclusion of gay and lesbian families in the life of the nation. This would include an equitable alignment of benefits. We recognize the importance of new battles against forms of discrimination and disadvantage that stand as barriers to communities and families, such as environmental injustices and predatory lending practices. And we will fight for full funding and full staffing of the Equal Employment Opportunity Commission and other civil rights enforcement agencies so they can do their job of ensuring that America lives up to its creed of equal rights and equal opportunity for all.

The Democratic Party proudly upholds its tradition of support for the first Americans. The sovereignty of the American Indians and Native Alaskans and a strong affirmation of the government-to-government relationship are basic to our approach to the tribal governments. As we move into the 21st century, we have to renew our trust obligations and work to improve the lives of the many Indians who live in terrible poverty. The Democratic Party pledges to continue our work to make a difference in the lives of those who occupied this land before us. We affirm the legal and political relationship between the United States and Native Hawaiians as an important step in the continuing process of reconciliation. We will work to pass legislation establishing a process for Native Hawaiians to reorganize a governing body, freely chosen, expressing their rights to self-determination. The justice we provide the first Americans is a measure of our nation's character, and Democrats believe we should build on the progress of the last eight years.

Forging Common Ground.

American citizenship entails both rights and responsibilities and we need to ask every American - from every walk of life - to give something back to their communities and their country. We are committed to expanding AmeriCorps so that more Americans both serve their country and further their educations.

America will become much more diverse in the coming century. But while much is changing, much remains. Our common civic culture - one grounded in the values most Americans share: work, family, personal responsibility, individual liberty, and faith - ties us together. Our common ground - our shared civic institutions - makes us whole. In the years to come, we must celebrate our diversity and focus on strengthening the common values and beliefs that make us one America - one nation, under God, with liberty and justice for all.

PEACE

Eight years ago, Americans found themselves between two worlds. After half a century in which we stood up for peace and security all over the globe - taking on the forces of tyranny and terror that imperiled our interests and assaulted our values - the Cold War was over and a new Global Age was beginning. We needed new ideas and new leadership.

Democrats have provided them. Under the leadership of Bill Clinton and Al Gore, the first light of the 21st Century finds America at peace. More of the world's citizens live in freedom than ever before, and our people and our values are protected by the greatest military force the world has ever known.

Democratic leadership has brought peace and security to Americans and to millions of freedom-loving people around the globe. We achieved victory and ended ethnic cleansing in Kosovo - allowing hundreds of thousands of refugees to return to their homes in safety. We helped achieve historic breakthroughs in the Middle East peace process. We led the efforts that produced the Good Friday Accord in Northern Ireland - offering the best hope yet of ending decades of bloodshed. We are working to build a self-sustaining peace in Bosnia through the implementation of the Dayton Peace accords. We have ended the military dictatorship and given democracy a chance in Haiti. We have made Americans safer by reducing Russian nuclear arsenals. We strengthened and expanded NATO for a new century.

But now is not the time to sound the trumpets of triumph. In the wake of the Cold War, America has entered a new Global Age that is altering our security challenges and creating entirely new issues. Globalization is transforming the international order that defined the 20th century. Today, for both good and ill, our destiny and the destinies of billions of people around the world are increasingly intertwined, and our domestic and international challenges are bound together as never before.

The Democratic Party recognizes that globalization will continue shaping our future. We also believe that the United States has the means and the responsibility to shape globalization so that it reflects the needs and the values of the American people.

Al Gore and the Democratic Party know that we must be able to meet any military challenge from a position of dominance. But Al Gore and the Democratic Party also recognize that there is a new security agenda - threats that affect the entire world and transcend political borders.

During the past century, we have learned that if we wish to avoid war, we must be strong enough to deter aggression, but also farsighted enough to invest in peace. Now it is time to apply this lesson to the new global challenges we face - to shape a new strategy of Forward Engagement to guide our conduct around the world.

Forward Engagement means addressing problems early in their development before they become crises, addressing them as close to the source of the problem as possible, and having the forces and resources to deal with these threats as soon after their emergence as possible.

While we must always stand prepared to use our military power when all other options fail, Forward Engagement also means addressing societal and political problems before they evolve into threats to our national security and values - before armed conflict becomes the only way to achieve our goals. And Forward Engagement means drawing on all three main sources of American power - military strength, a vibrant, growing economy, and a free and democratic political system - to advance our objectives around the world.

The Democratic Party believes that America's peace and security depend on our unflagging leadership and engagement in global affairs-and that Forward Engagement is the strategy that must guide us. We must maintain America's economic and military strength. We must also form partnerships to help solve global problems and take advantage of new global opportunities. That means we must deepen our key alliances, develop more constructive relationships with former enemies, and bring together diverse coalitions of nations to deal with new problems. America has a responsibility to lead - and should lead from within the international community.

At a time when new conditions require new thinking, the Republican Party offers little more than outdated positions and a narrow worldview that lets international problems fester.

Some Republicans believe America should turn away from the world. They oppose using our armed forces as part of international solutions, even when regional conflicts threaten our interests and our values.

Other Republicans want America to act unilaterally. They attack the Anti-Ballistic Missile Treaty - even at the risk of precipitating a new nuclear arms race. They voted down the Comprehensive Test Ban Treaty, threatening both our security and our global leadership. They have attempted to sabotage the Clinton-Gore administration's efforts to negotiate with other nations by declaring that any arms control agreement - regardless of content - would be "dead on arrival."

Mired in the past, the Republican Party fails to realize that ensuring peace and security for Americans today does not just mean guarding against armies on the march. It means investing in building the global peace. It means addressing the fact that more than 1 billion of the Earth's inhabitants live on less than $1 a day - inviting social dislocation, violence, and war. It means meeting new challenges such as international crime and terrorism, environmental degradation, and pandemic diseases head-on. And it means that Forward Engagement must be the new pole-star of our global strategy.

Neutralizing the Forces That Cause Chaos and Instability

The questions of war and peace among sovereign states are as important to our security as ever. But today America also faces a new set of international issues. Technology's unprecedented power means that lawlessness, diseases, and ecological disruptions - which once were localized - now land on America's doorstep even as they also threaten the stability and security of nations all over the world.

Disruption of the World's Ecological System.

The disruption of the world's ecological systems - from the rise of global warming and the consequent damage to our climate balance, to the loss of living species and the depletion of ocean fisheries and forest habitats - continues at a frightening rate. We must act now to protect our Earth while preserving and creating jobs for our people. In 1997, we negotiated the historic Kyoto Protocols, an international treaty that will establish a strong, realistic, and effective framework to reduce greenhouse emissions in an environmentally strong and economically sound way. We are working to develop a broad international effort to take action to meet this threat. Al Gore and the Democratic Party believe we must now ratify those Protocols.

Global Epidemics.

Global epidemics constitute another major security threat. Malaria is running out of control in Africa, and antibiotic-resistant strains of tuberculosis are ravaging Russia and other countries.

But the most severe global epidemic is HIV/AIDS. It is more than a health tragedy, it is a threat to global security. AIDS now grips 20 million Africans. Fourteen million have already died, a quarter of them children. Each day, 11,000 more men, women, and children become infected. Diseases like AIDS threaten not just individual citizens, but the very institutions that define and defend the character of society. The Democratic Party believes we can and must do more to prevent transmission, care for those who are ill, and lead in knitting together the scores of AIDS-fighting initiatives into a global campaign to defeat this threat.

Fighting Drugs and Organized Crime.

International drug networks and other organized crime syndicates represent a growing threat to the survival of democratic governance. They breed corruption and lawlessness and they erode the institutions that maintain societal order.

Drug producing nations like Colombia have seen their societies torn apart by the intersection of criminal activity, political discord, and terrorism. And our nation is also afflicted with the violence and hopelessness of drugs. We must continue to combat narco-traffickers, increasing our budget to do so. We must continue to have a strong Drug Czar who can bring together the considerable resources of the U.S. Government in this effort. We must continue to fight those who make the financing of this effort possible such as the money launderers who facilitate the drug trade. We must continue to work with our friends and allies and international organizations to fight the blood money of the drug trade by getting a handle on those nations who turn a blind eye to the financial end of this problem.

We must remember that the drug trade, like other criminal enterprises, fundamentally reflects the economics of hopelessness. Farmers have been drawn to cultivate these crops as a means for economic survival in the absence of other viable alternatives. Al Gore and the Democratic Party understand that no policy of interdiction and prosecution will succeed unless it is combined with robust investment in alternative ways to make a living. We must also build on our efforts to expand the rule of law, fight corruption, and improve democratic governance.

Transforming Our Military

A strong, flexible, and modern military force is the ultimate guarantor of our physical survival and the protection of our interests and values. Today, America's military is the best-trained, best-equipped, most capable, and most ready fighting force in the world. With Bill Clinton and Al Gore in the White House, Democrats reversed a decline in defense spending that began under President Bush, boosted pay and allowances, and provided the funding for a new generation of weapons.

The Democratic Party understands that, good as they are, the armed forces must continue to evolve. They must not only remain prepared for conventional military action, but must sharpen their ability to deal with new missions and new kinds of threats. They must become more agile, more versatile, and must more completely incorporate the revolutionary implications and advantages of American supremacy in information technology.

Recruiting, Training, and Retaining Our Troops.

A high-tech fighting force must recruit, train, and retain a professional all-volunteer force of the highest caliber. The Democratic Party understands that in order to do this, military pay must continue to increase. We enacted the largest military pay increase in twenty years - and we must raise pay even more. We need to further reform the military retirement system and improve housing, health care, and childcare benefits to support the general competitiveness of military careers during a period of unprecedented prosperity in the civilian economy. While the number of soldiers and families on food stamps is down by two-thirds over the past decade, it is unacceptable that any member of our armed forces should have to rely on food stamps. Al Gore is committed to equal treatment of all service members and believes all patriotic Americans be allowed to serve their country without discrimination, persecution, and violence.

The Democratic Party honors America's veterans for their selfless willingness to defend the United States and promote our values around the world. We must always remember the debt this nation owes its defenders. Al Gore will expand access to health care for all eligible veterans; pursue the causes of illness suffered by Vietnam and Gulf War veterans; press for more research on diseases caused by exposure to toxic battlefields and treat fairly veterans suffering from those ailments; back research efforts to screen and treat hepatitis C; and expand programs in the areas of mental health, spinal cord injury, and vision impairment. We will streamline the disability claims process to ensure that this nation continues to live up to its sacred commitment to the men and women who served in uniform. We support efforts of the Filipino American Veterans who fought in World War II to obtain equity.

Deploying America's Technological Edge.

It is imperative that aging weapons systems - which are now the backbone of our military - be replaced by the incoming generation of advanced, high-tech weapons which are designed to make sure that our armed forces face any future conflict from a posture of dominance. Al Gore and the Democratic Party will make sure that the military has the most advanced weaponry, sophisticated intelligence, and information systems and, in addition, continues to invest in research and development for future supremacy. By contrast, George W. Bush has talked about "skipping" this generation of weapons - which could mean skipping our responsibility to give our fighting men and women the weapons they need. We must also ensure that investment in the infrastructure needed to support the military, including our maritime capability, is not ignored. And we must ensure a competitive workforce maintaining high-skilled workers and training programs that will ensure the capability to respond to national security emergencies and defense readiness.

Protecting Our Interests and Securing Our Values.

The lessons of the past eight years show that the nation must be prepared to use force when American interests and values are truly at stake. We cannot be the world's policeman, and we must be discriminating in our approach. But where the stakes are high, when we can assure ourselves that nothing short of military engagement can secure our national interest, when we know that we have the military forces available for the task, when we have made our best efforts to join with allies, and when the cost is proportionate to the objective, we must be ready to act.

Closing the Gates of War

In areas where conflict has raged, comprehensive peace agreements are the foundation for lasting security. Bill Clinton and Al Gore have actively pursued peaceful resolutions to conflicts across the world and have been prepared to go the extra mile on behalf of negotiators seeking peace. Al Gore and the Democratic Party are fundamentally committed to the security of our ally, Israel, and the creation of a comprehensive, just, and lasting peace between Israel and its neighbors. We helped broker the Israel-Jordan Peace Treaty, the Wye River accords, and the Sharm el-Sheik Memorandum, and will continue to work with all parties to make progress towards peace. Our special relationship with Israel is based on the unshakable foundation of shared values and a mutual commitment to democracy, and we will ensure that under all circumstances, Israel retains the qualitative military edge for its national security. Jerusalem is the capital of Israel and should remain an undivided city accessible to people of all faiths. In view of the government of Israel's courageous decision to withdraw from Lebanon, we believe special responsibility now resides with Syria to make a contribution toward peace. The recently-held Camp David summit, while failing to bridge all the gaps between Israel and the Palestinians, demonstrated President Clinton's resolve to do all the United States could do to bring an end to that long conflict. Al Gore, as president, will demonstrate the same resolve. We call on both parties to avoid unilateral actions, such as a unilateral declaration of Palestinian statehood, that will prejudge the outcome of negotiations, and we urge the parties to adhere to their joint pledge to resolve all differences only by good faith negotiations.

In Northern Ireland, we helped facilitate multi-party talks and played an instrumental role in brokering the historic Good Friday Accord, which has greatly enhanced the prospect for peace. We will continue to work toward implementation of the Accord and provide continued political and economic support for the new institutions involving Northern Ireland, the Republic of Ireland, and Great Britain. Our goal is not merely the laying down of arms, but the joining together of hands in a new political relationship that enables former rivals to govern and thrive together.

We have worked hard and successfully to calm dangerous tensions between our allies Greece and Turkey over issues of sovereignty in the Aegean, and we have never ceased our efforts to facilitate a resolution of tensions between the Greek and Turkish communities on Cyprus. This work must continue.

In the Balkans, the Clinton-Gore Administration ended ethnic cleansing in Bosnia and Kosovo by the resolute use of military power and vigorous diplomacy. The Republican Party, having first opposed the Administration's efforts to restore peace in the region, now tries to impede the Administration's

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efforts to rebuild these shattered societies. We look forward to the day when Serbia will be free from the grip of Slobodan Milosevic, and we will work to make that happen. America did right in the Balkans, and now we must finish the job.

Remembering the historic suffering of the people of Armenia, and recognizing the need of the modern Armenian state for security and economic growth, Al Gore and the Democratic Party are committed to continuing our efforts to bring a permanent end to tensions between Armenia and Azerbaijan over Nagorno-Karabakh, along with the restoration of diplomatic, commercial, and economic ties between Armenia and her neighbors, including Turkey. Al Gore helped bring about a special task force to intensify economic cooperation between the United States and Armenia.

We have helped close the gates of war in other parts of the world as well, and our work continues. We helped settle the Peru-Ecuador border dispute and end the civil war in Guatemala. We have worked for peace in the Democratic Republic of Congo, the Central African Republic, Sierra Leone, and on the Ethiopia-Eritrea border. And we helped end the violence and protect democracy in East Timor by leading diplomatic efforts and supporting an international peacekeeping mission.

We helped facilitate the dialogue between North and South Korea, without which the recent summit could not have occurred. We continue to work with China and Taiwan to resolve their differences by peaceful means. And we continue our work with India and Pakistan to dampen down a nuclear arms race on the sub-continent and continue to urge them to deal with their differences over their conflict in Kashmir with peaceful means. President Clinton's historic trip to India and Pakistan has created new possibilities for dialogue with these countries, and under a Gore Administration these will be continued vigorously.

Engaging Former Enemies

Democrats understand that we must engage former enemies. This Administration's efforts to design new relationships with the Russian Federation and China have been continuously subjected to every form of harassment and attack by the Republicans - but they have been in America's national interest and they have been the right thing to do.

We recognize that Russia's historic transition to a market democracy is difficult - all the more reason we must continue to engage Russia. We recognize that Russian democracy is challenged by corruption that deeply penetrates her society - all the more reason to engage Russia on behalf of reform. We recognize that Russia has her own self-interest and concerns that can and do run contrary to ours - all the more reason to search for constructive forms of cooperation. We deeply disagree with what Russia is doing in Chechnya and remain concerned about signs of Russian efforts to intimidate the press - all the more reason to step up our discussions with them on those issues. The Democratic Party is prepared to pursue American objectives as needed even at the cost of friction with Russia. But it is also of tremendous potential benefit to us if we can nurture a sense of common purpose and trust. Al Gore and the Democratic Party will continue that effort.

Similarly, we must continue to engage China - a nation with 1.3 billion people, a nuclear arsenal, and a role in the 21st Century that is destined to be one of the basic facts of international life. We must search out ways to cooperate across a broad range of issues, such as the environment and trade, while at the same time, insisting on adherence to international standards on human rights, freedom, the persecution of religions, the suppression of Tibet, and bellicose threats directed at Taiwan. China cannot be ignored, and these issues cannot - and must not - be marginalized. A deterioration of the U.S.-China relationship would harm, not help, American national security interests and the promotion of our values. A Gore Administration will fulfill its responsibilities under the Taiwan Relations Act. A Gore Administration will also remain committed to a "One China" policy. We support a resolution of cross-Straits issues that is both peaceful and consistent with the wishes of the people of Taiwan.

Enhancing Existing Alliances

The security and stability of Europe is critical to America's national security interests. We will continue to partner with the European Union to address global issues that could benefit from our combined capabilities. Under a Gore Administration, the U.S. will continue to work with our transatlantic allies to make the North Atlantic Treaty Organization (NATO) even stronger, thereby enhancing stability, promoting prosperity, and fostering democracy throughout Europe. The Democratic Party strongly supported the accession of Poland, the Czech Republic and Hungary as a milestone in building a stronger NATO and a more democratic and unified Europe. We look forward to bringing in additional qualified members in the future who share our values and are willing to take on the responsibilities of membership. A Gore Administration will ensure that the issue of NATO's future enlargement is part of the Alliance's agenda at the next summit in 2002 and that no non-NATO member has a veto over NATO decisions in this regard.

We must strengthen our alliances and partnerships in Asia, with Japan and with South Korea. We must intensify our strategic cooperation with our ally Japan, building on our Joint Security Declaration, while finding more avenues to deal with Japan on a range of issues, from supporting democracy in Asia to promoting fair trade. And we remain committed to the defense of South Korea. The Democratic Party views our warm relationship with Australia as an anchor for our security interests in Southeast Asia, and we commend Australia for its leadership, and we applaud other nations for their participation with us in the peacekeeping operation in East Timor.

We also are committed to enhancing our alliance with the countries of Latin America. We must build on the work that we began when we hosted the first Summit of the Americas, and we must accelerate implementation of the Plan of Action that will promote hemispheric cooperation on a full spectrum of political, economic, security and social issues.

Preventing New Physical Threats

Preventing Proliferation.

We must strengthen our defense against the proliferation of conventional and unconventional weapons that threaten America. Our first priority must be to continue the work we have begun in cutting stockpiles of weapons of mass destruction, halting testing, and ensuring that weapons and weapons-grade material do not fall into the wrong hands. Working with the government of the Russian Federation, we have helped safeguard nuclear material against the danger of theft. We have made it possible for thousands of Russia's nuclear scientists and weapons experts to find peaceful pursuits. And we have helped deactivate nearly 5,000 nuclear warheads.

We are also equipping our military and continuously preparing our defenses for an unconventional attack. We have been an active player in international efforts to strengthen compliance with the Biological Weapons Convention. We renewed and made permanent the Non-Proliferation Treaty and ratified the Chemical Weapons Convention, but our effort to ratify the Comprehensive Test Ban Treaty was derailed by Senate Republicans. As President, Al Gore will promptly resubmit this treaty to the Senate with a demand from the American people for its ratification.

Al Gore and the Democratic Party recognize the possibility of change in Iran, but we remain focused on the realities. Even as elements in Iran press for reform, the country still supports international terrorism, strives to acquire weapons of mass destruction, and represses its citizens, as evidenced by the immoral trial of 13 Jews in Shiraz. Ultimately, we must judge Iran by its actions. Al Gore will make an all-out effort to halt Iran's acquisition of weapons of mass destruction and delivery systems.

In Iraq, we are committed to working with our international partners to keep Saddam Hussein boxed in, and we will work to see him out of power. Bill Clinton and Al Gore have stood up to Saddam Hussein time and time again. As President, Al Gore will not hesitate to use America's military might against

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Iraq when and where it is necessary.

In light of the possibility that U.S. Forces or our allies will have to contend with hostile tactical range ballistic missiles, we have been working rapidly to develop anti-tactical ballistic missile systems. We are working successfully with Israel on developing and deploying the Arrow anti-tactical ballistic missile system and the Tactical High Energy Laser.

Our diplomacy has helped to halt North Korea's push for nuclear weapons. We got North Korea to stop testing long-range ballistic missiles and are also engaged in continuing negotiations regarding their testing and export of long-range ballistic missiles. The tight coordination between the United States, South Korea, and Japan is critical to our success, and we will maintain it as the two Koreas continue the dialogue began at the recent summit.

We reject Republican plans to endanger our security with massive unilateral cuts in our arsenal and to construct an unproven, expensive, and ill-conceived missile defense system that would plunge us into a new arms race. Al Gore and the Democratic Party support the development of the technology for a limited national missile defense system that will be able to defend the U.S. against a missile attack from a state that has acquired weapons of mass destruction despite our efforts to block their proliferation. A decision to deploy such a system should be made based on four criteria: the nature of the threat, the feasibility of the technology, the cost, and the overall impact on our national security, including arms control. The Democratic Party places a high value on ensuring that any such system is compatible with the Antiballistic Missile Treaty. We also support continued work in significantly reducing strategic aud other nuclear weapons, recognizing that the goal is strategic nuclear stability at progressively lower levels.

Battling Terrorism.

Whether terrorism is sponsored by a foreign nation or inspired by a single fanatic individual, such as Osama Bin Laden, Forward Engagement requires trying to disrupt terrorist networks, even before they are ready to attack. We must improve coordination internationally and domestically to share intelligence and develop operational plans. We must continue the comprehensive approach that has resulted in the development of a national counter-terrorism strategy involving all arms and levels of our government. We must continue to target terrorist finances, break up support cells, and disrupt training. And we must close avenues of cyber-attack by improving the security nf the Internet and the computers upon which our digital economy exists.

As President, Al Gore will tolerate no attack against American interests at home or abroad: terrorists must know that if they attack America, we will never forget. We will scour the world to hunt them down and bring them to justice.

While fighting terrorism, we will protect the civil liberties of all Americans. Our justice system must guarantee fairness with procedures that protect the rights of the accused, even under the unusual circumstances of the investigation of threats to our national security. We must avoid stereotyping, for it defeats the highest purposes of our country if citizens feel automatically suspect by virtue nf their ethnic origin. The purpose of terrorism is not only to intimidate, but also to divide and fracture, and we cannot permit that to happen.

Seizing Opportunities

Forward Engagement requires investment. But while international assistance and government aid are important - we should do more. There is no way to donate enough money to the parts of the world that are most deeply affected by war, lawlessness, disease, or disorder. What applies to us, applies to them: the only way for them to make real progress is to cucourage investment by promoting growth that is sustainable and broadly shared.

Latin America and the Caribbean must continue to be a focal point of our efforts. We believe that increased cooperation and trade with our partners in this hemisphere can reduce poverty and the reliance on the drug trade, and ultimately lead to economic development, stability, and prosperity. We have made great strides by helping avert a financial crisis in Mexico. Mexico's ongoing shift to a mature democracy, as demonstrated by her recent election, makes it increasingly possible for us to visualize even stronger relations and more effective relationships between ourselves, Mexico, and Canada, building on our growing economic ties to address environmental and social issues of common concern. A Gore Administration will build on this possibility in order to assure ourselves and the people of the Americas a future of democracy, prosperity, and security built on mutual trust and respect. At the same time, we should continue to safeguard environmental standards, food safety, and worker protections by refusing to allow cross-border trucking and bus operations until appropriate safety and worker fairness standards have been met.

Prosperity and peace in Asia, the Middle East, and Africa will only be possible when those regions are fully integrated into the global economy. In Asia, we are working to promote fair trade with Japan and China. In the Middle East, we are promoting regional trade, particularly among Israel, Jordan, and Egypt. We must continue our work to reach out to moderate Arab states and we must intensify our effort to foster closer ties to the Islamic World.

With respect to sub-Saharan Africa, the Democratic Party believes in supporting what South African President Thabo Mbeki has called "an African renaissance." Notwithstanding this region's many problems, we see the example of South Africa as a great beacon of hope. We are encouraged by the restoration of democracy in Nigeria, the long-term continuation of a stable democratic system in Botswana, and Mozambique's courageous efforts of recovery after years of civil war. Even in the midst of her continuing problems, we see in Zimbabwe's recent election hope for the survival of the ideal of a multi-ethnic society. We regard the recently enacted African Growth and Opportunity Act as a major contribution toward the future.

We believe that the United Nations can play an integral role in our policy of Forward Engagement. We understand that the institution needs both resources and reform if it is to play that role, and we pledge to take the lead on both fronts.

Prosperity Abroad.

Globalization must be a tide that lifts all boats, not a wave that overwhelms the most vulnerable among us. We support increasing our investment in the International Labor Organization and expanding the use of trade preferences that are tied to improvement in core labor standards. We also want to reverse the widening gap between rich and poor and nations, which is why Al Gore and the Democratic Party back debt forgiveness for the world's poorest nations.

We must seek to reform international institutions such as the World Trade Organization, the International Monetary Fund, and the World Bank so that core labor standards, human rights, and protections of the environment are integral to their policies and practices. These institutions must also improve their transparency, accountability, and level of consultation with civil society so that citizens around the world can both understand the basis for their decisions and contribute to them. We should use our influence in multilateral development institutions to not only provide emergency assistance for stabilizing economies and to create social safety nets, including unemployment insurance and health care, but also to give people the skills, education, and training they need to compete in the New Economy.

We must make a special effort to help women and children in societies that are devastated by war, disease and poverty. Women are traditionally the backbone of the family. We must also make a special effort to hear women when they rise up courageously to resist or end war in their communities. They are in a sense the front lines - the first affected - by the horrors of war and the misery of disease and poverty. We demand the United States Congress pass the Convention to Eliminate all forms of Discrimination Against Women which has been consistently blocked by the Republican Senate. And children represent the future. When we lose our children, we lose the promise of a future. Our investment programs must be more targeted toward women. And we must end the scourge of child labor by helping societies create educational opportunities for children and, more importantly, economic alternatives to employing the young.

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Promoting Democracy, Human Rights, Rule of Law, and Civil Society.

American values and freedoms are a beacon unto nations, and we should use the power of our ideals to foster democracy, human rights, rule of law, and civil society throughout the world. The Democratic Party believes that America must continue to work closely with other nations, as well as non-governmental organizations to promote these goals. We aim to rededicate ourselves to the defense of democracy in the Americas at a moment when it is being brought into question in Peru and absent on the island of Cuba. We will continue to work with Haiti to deepen the roots of democracy that we helped replant. We will continue to press for human rights, the rule of law, and political freedom. We will continue to support the spread of democracy across Africa, Asia, and the Middle East and the development of judiciary, legal systems, media and civil society organizations.

To accomplish this, we need the right tools. Al Gore and the Democratic Party support continued funding for the National Endowment for Democracy, Radio Liberty, Radio Free Europe, Radio Free Asia, Radio Marti, and other efforts to promote democracy and the free flow of ideas. We will build on our successful Reinventing Government program, led by Al Gore, to help other nations make their governments more responsive, more open, and more effective. We strongly support international educational exchanges. The students who come to America to study here - at the best academic institutions in the world - learn about our democratic values and institutions, our entrepreneurial skills, and our culture. They learn that Americans are noble dreamers remaining ever inclusive.

Forty years ago, John F. Kennedy came to Los Angeles to accept the Democratic Party's nomination for president. In doing so, he pointed America towards new frontiers at home and abroad. In the year 2000, Al Gore comes to Los Angeles to accept that same nomination and renew our party's determination to accept big challenges and make bold choices. At the edge of a new century, Democrats stand united in our determination to offer prosperity to all who are willing to work for it, to provide progress in all who are willing to live by the values that have made America great, and to bring peace to all those willing to embrace democracy all over the world.

For eight years, the Democratic Party's new thinking has helped America reach unparalleled heights of prosperity, progress, and peace. Now, we say that this is the time to move forward - not to go back. Now, we say that Democrats have just yet begun to fight for a better America and a brighter future. Now, we say to America, "You ain't seen nothing yet."

APP Note: The American Presidency Project used the first day of the national nominating convention as the "date" of this platform since the original document is undated.

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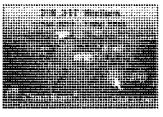

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PREAMBLE

As we come together to declare our vision as Democrats, we are mindful that the challenges of our times are new and profound. This November, the choice we face as Americans may have more impact on our people and our place in the world than any in our lifetimes. We approach this task with a seriousness that matches the challenges before us, but also with a profound optimism about our future – an optimism that springs from our great faith in America, and our great pride in what it means to be Americans.

We know the stakes are immeasurably high.

For the first time in generations, we have been attacked on our own shores. Our brave men and women in uniform are still in harm's way in Iraq, Afghanistan, and the war against terror. Our alliances are frayed, our credibility in doubt.

Our great middle class is hard-pressed. Millions of Americans have lost their jobs, and millions more are struggling under the mounting burden of life's everyday costs.

In Washington, the President and his allies stubbornly press on, without regard to the needs of our people or the challenges of our times.

It is time for a new direction.

John Kerry, John Edwards and the Democratic Party bring a new vision for America – strong at home, respected abroad. An America that offers opportunity, rewards responsibility, and rejoices in diversity.

We have a plan to build a strong, respected America: protecting our people, rebuilding our alliances, and leading the way to a more peaceful and prosperous world.

We have a plan to build a strong, growing economy: creating good jobs, rewarding hard work, and restoring fiscal discipline.

We have a plan to help our people build strong, healthy families: securing quality health care, offering world-class education, and ensuring clean air and water.

And we will honor the values of a strong American community: widening the circle of equality, protecting the sanctity of freedom, and deepening our commitment to this country.

In offering this vision, we affirm our faith in the greatness of America. We recommit to the ideal of a people united in helping one another, an ideal as old as the faiths we follow and as great as the country we love. To those who are threatened, we pledge protection; to those who are victims, we promise justice; to those who are hopeless, we offer hope. And to all Americans who seek a better future for themselves, for their loved ones, and for our country, we say: your cause is our own.

That is the America we believe in. That is the America we are fighting for. That is the America we will build together – one nation, under God, indivisible, with liberty and justice for all.

A STRONG, RESPECTED AMERICA

Alone among nations, America was born in pursuit of an idea – that a free people with diverse beliefs could govern themselves in peace. For more than a century, America has spared no effort to defend and promote that idea around the world. And over and over, that effort has been marked by the exercise of American leadership to forge powerful alliances based on mutual respect with longtime allies and reluctant friends; with nations already living in the light of democracy and with peoples struggling to join them.

The might of our alliances, coupled with the strength of our democratic ideals, has been a driving force in the survival and success of freedom – in two World Wars, in the Korean War, in the Cold War, in the Gulf War and in Kosovo. America led instead of going it alone. We extended a hand, not a fist. We respected the world – and the world respected us.

As Americans, we respect and honor our veterans. We are indebted to all those courageous men and women who have answered our country's call to duty. Their service and sacrifice, their dedication and love of country advance our cause of freedom and uphold our finest traditions as a nation.

That is the America we believe in. That is the America we are fighting for. And that is the America we can be.

But the Bush Administration has walked away from more than a hundred years of American leadership in the world to embrace a new – and dangerously ineffective – disregard for the world.

They rush to force before exhausting diplomacy. They bully rather than persuade. They act alone when they could assemble a team. They hope for the best when they should prepare for the worst. Time and again, this Administration confuses leadership with going it alone and engagement with compromise of principle. They do not understand that real leadership means standing by your principles and rallying others to join you.

John Kerry, John Edwards and the Democratic Party believe in a better, stronger America – an America that is respected, not just feared, and an America that listens and leads. Our vision has deep roots in our Declaration of Independence and Franklin Delano Roosevelt's Four Freedoms, and in the tough-minded tradition of engagement and leadership—a tradition forged by Wilson and Roosevelt in two world wars, then championed by Truman and Kennedy

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during the Cold War. We believe in an America that people around the world admire, because they know we cherish not just our freedom, but theirs. Not just our democracy, but their hope for it. Not just our peace and security, but the world's. We believe in an America that cherishes freedom, safeguards our people, forges alliances, and commands respect. That is the America we are going to build.

Our overriding goals are the same as ever: to protect our people and our way of life; and to help build a safer, more peaceful, more prosperous, more democratic world. Today, we face three great challenges above all others – first, to win the global war against terror; second, to stop the spread of nuclear, biological and chemical weapons; and third, to promote democracy and freedom around the world, starting with a peaceful and stable Iraq.

To meet these challenges, we need a new national security policy guided by four new imperatives: First, America must launch and lead a new era of alliances for the post-September 11 world. Second, we must modernize the world's most powerful military to meet the new threats. Third, in addition to our military might, we must deploy all that is in America's arsenal – our diplomacy, our intelligence system, our economic power, and the appeal of our values and ideas. Fourth and finally, to safeguard our freedom and ensure our nation's future, we must end our dependence on Mideast oil.

DEFEATING TERRORISM

Today, the Bush Administration is waging a war against a global terrorist movement committed to our destruction with insufficient understanding of our enemy or effort to address the underlying factors that can give rise to new recruits. This war isn't just a manhunt. We cannot rest until Osama bin Laden is captured or killed, but that day will mark only a victory in the war on terror, not its end. Terrorists like al Qaeda and its affiliates are unlike any adversary our nation has ever known. We face a global terrorist movement of many groups, funded from different sources with separate agendas, but all committed to assaulting the United States and free and open societies around the globe. Despite his tough talk, President Bush's actions against terrorism have fallen far short. He still has no comprehensive strategy for victory. After allowing bin Laden to escape from our grasp at Tora Bora, he diverted crucial resources from the effort to destroy al Qaeda in Afghanistan. His doctrine of unilateral preemption has driven away our allies and cost us the support of other nations.

We must put in place a strategy to win – an approach that recognizes and addresses the many facets of this mortal challenge, from the terrorists themselves to the root causes that give rise to new recruits, and uses all the tools at our disposal. Agents of terrorism work in the shadows of more than 60 nations, on every continent. The only possible path to victory will be found in the company of others, not walking alone. With John Kerry as Commander-in-Chief, we will never wait for a green light from abroad when our safety is at stake, but we must enlist those whose support we need for ultimate victory.

Victory in the war on terror requires a combination of American determination and international cooperation on all fronts. It requires the ability and willingness to direct immediate, effective military action when the capture or destruction of terrorist groups and their leaders is possible; a massive improvement in intelligence gathering and analysis coupled with vigorous law enforcement; a relentless effort to shut down the flow of terrorist funds; a global effort to prevent failed or failing states that can become sanctuaries for terrorists; a sustained effort to deny terrorists any more recruits by conducting effective public diplomacy; and a sustained political and economic effort to improve education, work for peace, support democracy and extend hope.

Improving intelligence to find and stop terrorists. We will train and equip the military to enhance its capabilities to seek out and destroy terrorists. We will strengthen the capacity of intelligence and law enforcement around the world by forging stronger international coalitions to provide better information and communication.

We must also improve our intelligence here at home. From the failure to uncover the September 11th plot to the deeply misguided reports about Iraq's supposed weapons of mass destruction, we have experienced unprecedented intelligence failures in recent years. We must do what President Bush has refused to do – reform our intelligence system by creating a true Director of National Intelligence with real control of intelligence personnel and budgets. We must train more analysts in languages spoken by terrorists. And we must break down the old communications barriers between national intelligence and local law enforcement, taking care to fully preserve our liberties.

Cutting off terrorist funds. We will move decisively to cut off the flow of terrorist funds. We will impose tough financial sanctions against nations or banks that engage in money laundering or fail to act against it. We will strengthen our anti-money laundering laws to prevent terrorists from using hedge funds and unregulated institutions to finance terror. We will launch a "name and shame" campaign against those that are financing terror. If nations do not respond, they will be shut out of the U.S. financial system. And in the specific case of Saudi Arabia, we will put an end to the Bush Administration's kid-glove approach to the supply and laundering of terrorist money.

Preventing Afghanistan and other nations from becoming terrorist havens. Nowhere is the need for collective endeavor greater than in Afghanistan. The Bush Administration has badly mishandled the war's aftermath. Two years ago, President Bush promised a Marshall Plan to rebuild that country. Instead, he has all but turned away from Afghanistan, allowing it to become again a potential haven for terrorists.

We must expand NATO forces outside Kabul. We must accelerate training for the Afghan army and police. The program to disarm and reintegrate warlord militias into society must be expedited and expanded into a mainstream strategy. We will attack the exploding opium trade ignored by the Bush Administration by doubling our counter-narcotics assistance to the Karzai Government and reinvigorating the regional drug control program.

Beyond Afghanistan, terrorist attacks from Saudi Arabia and Indonesia to Kenya, Morocco, and Turkey point to a widening network of terrorists targeting this country and our friends. Failed and failing states like Somalia or countries with large areas of limited government control like the Philippines and Indonesia need international help to close down terrorist havens.

Increasing public diplomacy to promote understanding and prevent terrorist recruitment. At the core of this conflict is a fundamental struggle of ideas: democracy and tolerance against those who would use any means and attack any target to impose their narrow views. The war on terror is not a clash of civilizations. It is a clash of civilization against chaos.

America needs a major initiative in public diplomacy to support the many voices of freedom in the Arab and Muslim world. To improve education for the next generation of Islamic youth, we need a cooperative international effort to compete with radical Madrassas. And we must support human rights groups, independent media, and labor unions dedicated to building a democratic culture from the grassroots up. Democracy will not blossom overnight, but America should speed its growth by sustaining the forces of democracy against repressive regimes and by rewarding governments that work toward this end.

KEEPING WEAPONS OF MASS DESTRUCTION OUT OF THE HANDS OF TERRORISTS

There is no greater threat to American security than the possibility of terrorists armed with weapons of mass destruction. Preventing terrorists from gaining access to these weapons must be our number one security goal.

Containing this massive threat requires American leadership of the highest order – leadership that brings our allies, friends, and partners to greater collaboration and participation – and compels problem states to join and comply with international agreements and abandon their weapons programs. Unfortunately, this Administration's policies have moved America in the opposite direction. They have weakened international agreements and efforts to enforce nonproliferation instead of strengthening them. They have not done nearly enough to secure existing stockpiles and bomb-making materials. They have failed to take effective steps to stop the North Korean and Iranian nuclear programs. We must change course now.

Defending America against attack at all costs. First, the world should be on notice that we will take every possible measure to defend ourselves against the possibility of attack by unconventional arms. If such an attack appears imminent, we will do everything necessary to stop it. If such a strike does occur, we will respond with overwhelming and devastating force. But we should never wait to act until we have no other choice but war. We must build and lead an international consensus for early preventive action to lock up and secure existing weapons of mass destruction and the material to manufacture more.

Locking away existing nuclear weapons and material. The first step is to safeguard all bomb making material worldwide. We need to find it, catalog it, and lock it away. Our approach should be simple: treat the nuclear materials that make bombs like they are bombs.

More than a decade after the fall of the Berlin Wall, Russia still has nearly 20,000 nuclear weapons and enough nuclear material to produce 50,000 more. For most of these weapons and materials, cooperative security upgrades have not been completed. The world is relying on whatever measures Russia has taken on its own. At the current pace, it will take 13 years to secure potential bomb material in the former Soviet Union. We cannot wait that long. We will do it in four years.

Stopping the creation of new nuclear material for nuclear weapons. We will lead an international coalition to put an end to the production of new materials – highly enriched uranium and plutonium – for use in nuclear weapons. And we will reduce excess stocks of existing nuclear materials and weapons. We will conduct a global cleanout initiative to remove stockpiles of vulnerable highly enriched uranium at research reactors and facilities in dozens of countries around the world within four years.

Leading international efforts to shut down nuclear efforts in North Korea, Iran, and elsewhere. We must show determined leadership to end the nuclear weapons program in North Korea and prevent the development of nuclear weapons in places like Iran. North Korea has sold ballistic missiles and technology in the past. The North Koreans have made it clear to the world – and to the terrorists – that they are open for business and will sell to the highest bidder. But while this Administration has been fixated on Iraq, the nuclear dangers from North Korea have multiplied. The North Koreans allegedly have made enough new fuel to make six to nine nuclear bombs.

We should maintain the six-party talks, but we must also be prepared to talk directly with North Korea to negotiate a comprehensive agreement that addresses the full range of issues for ourselves and our allies. But we should have no illusions about Kim Jong Il. Any agreement must have rigorous verification and lead to complete and irreversible elimination of North Korea's nuclear weapons program.

Even as we have secured Iraq for signs of weapons of mass destruction, Iran has reportedly been working to develop them next door. A nuclear-armed Iran is an unacceptable risk to us and our allies.

The same is true for other countries that may be seeking nuclear weapons. This is why strengthening the Nuclear Nonproliferation Treaty is so critical. We must close the loophole that lets countries develop nuclear weapons capabilities under the guise of a peaceful, civilian nuclear power program. We also need to strengthen enforcement and verification and make rigorous inspection protocols mandatory.

We must work with every country to tighten export controls, stiffen penalties, and beef up law enforcement and intelligence sharing. That way we can make absolutely sure that a disaster like the AQ Khan black market network, which grew out of Pakistan's nuclear program, can never happen again. We must also take steps to reduce tension between India and Pakistan and guard against the possibility of their nuclear weapons falling into the wrong hands.

PROMOTING DEMOCRACY, PEACE, AND SECURITY

We know that promoting democracy, human rights, and the rule of law is vital to our long-term security. Americans will be safer in a world of democracies. We will work with people and nongovernmental organizations around the world struggling for freedom, even as we work with their governments to protect our security from weapons of terror. We will restore America's credibility and commitment as a force for democracy and human rights, starting in Iraq.

We believe that upholding international standards for the treatment of prisoners, wherever they may be held, advances America's national security, the security of our troops, and the values of our people. And we believe torture is unacceptable. America should abide by its own laws and the treaties it has ratified, including the Geneva Conventions. We will also support international efforts to address the problem of landmines, while at the same time ensuring that our troops are protected.

Winning the peace in Iraq. More than a year ago, President Bush stood on an aircraft carrier under a banner that proclaimed "mission accomplished." But today we know that the mission is not finished, hostilities have not ended, and our men and women in uniform fight almost alone with the target squarely on their backs.

People of good will disagree about whether America should have gone to war in Iraq, but this much is clear: this Administration badly exaggerated its case, particularly with respect to weapons of mass destruction and the connection between Saddam's government and al Qaeda. This Administration did not build a true international coalition. This Administration disdained the United Nations weapons inspection process and rushed to war without exhausting diplomatic alternatives. Ignoring the advice of military leaders, this Administration did not send sufficient forces into Iraq to accomplish the mission. And this Administration went into Iraq without a plan to win the peace.

Now this Administration has been forced to change course in order to correct this fundamental mistake. They are now taking up the suggestions that many Democrats have been making for over a year. And they must – because having gone to war, we cannot afford to fail at peace. We cannot allow a failed state in Iraq that inevitably would become a haven for terrorists and a destabilizing force in the Middle East. And we must secure more help from an international community that shares a huge stake in helping Iraq become a responsible member of that community, not a breeding ground for terror and intolerance.

As a first step, we must create a stable and secure environment in Iraq. To do this right, we must truly internationalize both politically and militarily: we cannot depend on a US-only presence. Other nations have a vital interest in the outcome, and we must bring them in to commit troops and resources. The Bush Administration has missed three great opportunities to do that. First, the President broke his promise to build a legitimate coalition in Iraq by exhausting diplomacy before resorting to the use of military force. Second, when the statue fell in Baghdad, Kofi Annan invited the United States to come to the table to discuss international support – but we rejected his offer. Third, when the President addressed the United Nations last fall, he once again refused to acknowledge the difficulties we faced in Iraq and failed to elicit support from other nations.

The President has not given our troops the clarity of mission, the equipment or the international support they need and deserve. We have a different approach based on a simple commitment: Troops come first. Our helicopter pilots have flown battlefield missions without the best antimissile systems. In a Democratic Administration, that will change. Too many of our nation's finest troops have died in attacks, because tens of thousands were deployed to Iraq without the best bulletproof vests, and there is a shortage of armored vehicles on the ground. In a Democratic Administration, that will change. Thousands of National Guardsmen and reservists have been forced to leave their families and jobs for more than a year – with no end in sight – because this Administration ignored the pressing need for a true coalition. In a Democratic Administration, that will change.

To succeed, America must do the hard work of engaging the world's major political powers in this mission. We must build a coalition of countries, including the other permanent members of the UN Security Council, to share the political, economic, and military responsibilities of Iraq with the United States.

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To win over allies, we must share responsibility with those nations that answer our call, and treat them with respect. We must lead, but we must listen. The rewards of respect are enormous. We must convince NATO to take on a more significant role and contribute additional military forces. As other countries, including Muslim majority countries, contribute troops, the United States will be able to reduce its military presence in Iraq, and we intend to do this when appropriate so that the military support needed by a sovereign Iraqi government will no longer be seen as the direct continuation of an American military presence.

Second, we need to create an international High Commissioner to serve as the senior international representative working with the Iraqi government. This Commissioner should be backed by a newly broadened security coalition and charged with overseeing elections, assisting with drafting a constitution, and coordinating reconstruction. The Commissioner should be highly regarded by the international community, have the credibility to talk to all the Iraqi people, and work directly with Iraq's interim government, the new U.S. Ambassador, and the international community.

At the same time, U.S. and international policies must take into consideration the best interests of the Iraqi people. The Iraqi people desperately need financial and technical assistance that is not swallowed up by bureaucracy and no-bid contracts, but instead goes directly into grassroots organizations. They need to see the tangible benefits of reconstruction: jobs, infrastructure, and services. They should also receive the full benefits of their own oil production as quickly as possible, so as to rebuild their country and help themselves as individuals, while also reducing the costs of security and reconstruction on the American taxpayer and the cost of gasoline to American consumers. And they need to be able to communicate their concerns to international authorities without feeling they are being disrespected in their own country.

America also needs a massive training effort to build Iraqi security forces that can actually provide security for the Iraqi people. It must be done in the field and on the job as well as in the classroom. Units cannot be put on the street without backup from international security forces. This is a task we must do in partnership with other nations, not just on our own. And this is a task in which we must succeed. If we fail to create viable Iraqi security forces – military and police – there is no successful exit for us and other nations.

The challenges in Iraq are great, but the opportunity is also significant. Under John Kerry and John Edwards, we will meet those challenges, win the peace in Iraq, and help to create new hope and opportunity for the entire Middle East.

Africa. U.S. engagement in Africa should reflect its vital significance to U.S. interests and the moral imperative to help a continent struggling with the scourge of HIV/AIDS and under the long shadow of chronic poverty. The HIV/AIDS pandemic in southern and eastern Africa is a massive human tragedy. It is also a security risk of the highest order that threatens to plunge nations into chaos. Chronic and debilitating hunger also threatens the very survival of communities where investment in agriculture has suffered for over a decade. We are committed to bringing the full weight of American leadership to bear against this crisis. We must also work with the United Nations and Africa's regional organizations to address Africa's persistent, disproportionate share of the world's weak, failing states and chronic armed conflicts, and to promote effective relief efforts when there is a humanitarian crisis – particularly at this moment in Sudan. We value our deepening economic ties with Africa, including Central and West Africa's rapidly rising position as a major source of non-Gulf oil. We recognize Africa's promise as a trade and investment partner and the importance of trade policies that reduce poverty and promote growth in Africa. We will continue to promote policies to support newly democratic states that have shown a commitment to economic reform and respect for human rights.

Asia. In Asia, we must better engage with China to secure Chinese adherence to international trade, non-proliferation and human rights standards. We are committed to a "One China" policy, and will continue to support a peaceful resolution of cross-Straits issues that is consistent with the wishes and best interests of the Taiwanese people. We must maintain our strong relationship with Japan, and explore new ways to cooperate further. And we will actively seek to enhance relations with our historic ally South Korea in order to advance our collaborative efforts on economic and security issues. We must also work with our friends, India and Pakistan, in their efforts to resolve longstanding differences.

Europe. Throughout the 20th century, America's most trusted and reliable allies were the democracies of Europe; together, the two sides of the Atlantic ensured that democracy and free markets prevailed against all challenges. The Bush Administration has allowed the Atlantic partnership to erode, leaving the United States dangerously isolated from its indispensable allies.

The Democratic Party is committed to revitalizing the Atlantic partnership. The international goals that the United States pursues will be easier to attain if Europe and America are working together. We will ensure that NATO remains strong, continuing to consolidate peace in Europe even as the alliance takes on new tasks in Afghanistan and Iraq. We look forward to the evolution of the European Union and to a prosperous and unified Europe that joins the United States in meeting today's security challenges and expanding the global economy.

Latin America and the Caribbean. We believe that it is time to create a new Community of the Americas that reflects our close relationship with our regional neighbors. We will return U.S.-Latin American relations to a place marked by dialogue, consensus and concerted action to address common concerns. We understand that our collective security and prosperity are furthered by mutual efforts to promote democracy, generate wealth, reduce income disparities, and provide sound environmental stewardship. We are committed to strong and steady support for democratic processes and institutions in our hemisphere. We believe that democratic governments deserve our support, and that we should exercise our considerable diplomatic and moral force in support of democratically elected leaders. Mexico has made steady progress toward building a mature democracy, and we will make relations with Mexico a priority in order to best address economic, environmental and social issues of concern. We support effective and peaceful strategies to end the Castro regime as soon as possible and enable the Cuban people to take their rightful place in the democratic Community of the Americas. We will work with the international community to increase political and diplomatic pressure on the Castro regime to release all political prisoners, support civil society, promote the important work of Cuban dissidents, and begin a process of genuine political reform. Within this framework the Democratic Party supports a policy of principled travel to Cuba that promotes family unity and people-to-people contacts through educational and cultural exchanges. We will seek to reinforce democratic values in Haiti and throughout the Caribbean. We will support economic development to increase employment and economic opportunity, reducing incentives for emigration by dangerous and life-threatening means. We will increase efforts to combat drug-trafficking throughout the Caribbean and ensure that those involved in bringing drugs into the U.S. are brought to justice. We will assist in combating corruption so that funds made available for development are used appropriately.

The Middle East. The Democratic Party is fundamentally committed to the security of our ally Israel and the creation of a comprehensive, just and lasting peace between Israel and her neighbors. Our special relationship with Israel is based on the unshakable foundation of shared values and a mutual commitment to democracy, and we will ensure that under all circumstances, Israel retains the qualitative edge for its national security and its right to self-defense. Jerusalem is the capital of Israel and should remain an undivided city accessible to people of all faiths.

Under a Democratic Administration, the United States will demonstrate the kind of resolve to end the Israeli-Palestinian conflict that President Clinton showed. We will work to transform the Palestinian Authority by promoting new and responsible leadership, committed to fighting terror and promoting democracy. We support the creation of a democratic Palestinian state dedicated to living in peace and security side by side with the Jewish State of Israel. The creation of a Palestinian state should resolve the issue of Palestinian refugees by allowing them to settle there, rather than in Israel. Furthermore, all understand that it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949. And we understand that all final status negotiations must be mutually agreed.

Northern Ireland. We are determined to help create a lasting peace in Northern Ireland. We support efforts by the Irish and British Governments and the political parties to break the current impasse, and we stand ready to assist in any way to achieve full implementation of the Belfast Agreement.

Russia. Democrats will pursue a Russia policy that recognizes that country's importance and advances the core U.S. security interests at stake in Russia's

historic transformation, beginning with cooperative work to secure vulnerable stockpiles of nuclear weapons and materials. We realize that respect for human rights, the rule of law and Russia's fledgling democratic institutions and independent media outlets are essential to Russia's continued integration into international institutions and the global economy.

Global health. Addressing global health challenges -- including the AIDS pandemic -- is a humanitarian obligation and a national security imperative. We are committed to a coordinated effort to combat the HIV/AIDS epidemic in the United States and in all other regions throughout the world. Epidemics can decimate societies and contribute to failed states which can become bases for terrorists and other criminal elements. And a strong global public health system is essential to effectively combating bio-terror threats. Our global health policy will bring the best of our scientific knowledge, financial resources, management skills, and compassion to the challenge of improving health conditions around the world. And we will restore America's leadership in global health by rejecting policies driven by ideology instead of science.

International development. We understand that promoting international economic development is a strategic imperative of the United States. We will use American economic power to extend security and prosperity -- which leads to peace -- around the world. And we will work with poor countries to help stabilize and diversify their economies, including through the consideration of sensible debt relief measures where appropriate. We will support efforts to reach universal basic education and the other Millennium Development Goals.

Supporting America's foreign affairs community. We are committed to the best training, facilities and support for America's diplomats, the men and women of America's foreign affairs community, who represent our country and work to promote our values around the world.

STRENGTHENING OUR MILITARY

We need a new military to meet the new threats of the 21st Century. Today's American military is the best in the world, but tomorrow's military must be even better. It must be stronger, faster, better armed, and never again stretched so thin.

John Kerry, John Edwards and the Democratic Party will send a clear message to every man and woman in our armed forces: We guarantee that you will always be the best-led, best-equipped and most respected fighting force in the world. You will be armed with the right weapons, schooled in the right skills, and fully prepared to win on the battlefield. You will never be sent into harm's way without enough troops for the task, and never asked to fight a war without a plan to win the peace. You will never be given assignments which have not been clearly defined and for which you are not professionally trained.

The Bush Administration was right to call for the "transformation" of the military. But their version of transformation neglected to consider that the dangers we face have also been transformed. The Administration was concerned with fighting classic conventional wars, instead of the asymmetrical threats we now face in Iraq, Afghanistan, and the war against al Qaeda. To rise to those challenges, we must strengthen our military, including our Special Forces, improve our technology, and task our National Guard with homeland security.

Expanding active duty personnel. As a first step, we will expand America's active duty forces. The war in Iraq has overextended our armed services. The vast majority of the Army's active duty combat divisions are committed to Iraq--currently there, preparing to go, or recently returned. That is a dangerous and potentially disastrous strain that limits our capacity to respond to other crises.

To pick up the slack, we've called up our Guard and Reserves at historic levels. Some have been on the ground in Iraq for as many as 15 months, much longer than was expected or promised. Many of these units are being pushed to the limit and stretched far too thin. The Administration's answer has just been to stretch further. They have extended tours of duty, delayed retirements, and prevented enlisted personnel from leaving the service -- effectively using a stop-loss policy and recall of Individual Ready Reserve members as a back-door draft.

We will add 40,000 new soldiers -- not to increase the number of soldiers in Iraq, but to sustain our overseas deployments and prevent and prepare for other possible conflicts. This will help relieve the strain on our troops and bring back more of our soldiers, guardsmen and reservists. We are dedicated to keeping our military operating on a volunteer basis. We are committed to management reform both to ensure that our defense funding is spent effectively and to help pay for these new forces.

Doubling Special Forces capability. Next, we need to create a "New Total Force," a military prepared to defeat any enemy, at any time, in any place. We will double the capacity of our Special Forces, the troops who took the fight to the Taliban with remarkable creativity after September 11th. These troops conduct counter-terrorism operations, perform reconnaissance missions, and gather intelligence. They also train local forces and build the relationships that are vital for our victory in the war on terror.

We will increase our civil affairs personnel -- those who arrive on the scene after the major conflict ends to work with local leaders and officials to get the schools back in shape, the hospitals reopened, and the banks up and running. We also need more military police, because public order is critical to establishing the conditions that allow peace to take hold.

State-of-the-art equipment. Third, we need the best possible equipment. We can't have a 21st century military unless we're using 21st century technology and preparing our forces for 21st century threats. That means educating, training, and arming every soldier with state-of-the-art equipment, whether body armor or weapons. It also means employing the most sophisticated communications to help our troops prevail and protect themselves in battle. Every soldier in every unit should have access to technology that can mean the difference between life and death. We will make sure every solider does.

And we will build and train new forces equipped with the most-sophisticated technology to specialize in finding, securing, and destroying weapons of mass destruction and the facilities that build them.

The best training. Fourth, we must match our commitment to innovation with a commitment to the training, education, and facilities necessary to make the most of it.

Standing up for military families. Fifth, we will make sure that America's commitment to the men and women of our armed forces (our active duty, our reservists, and our national guard) and their families is ironclad. We will enact a Military Family Bill of Rights to ensure that our men and women in uniform and their families receive the benefits and respect they deserve: competitive pay and quality housing, decent health care and dental care, quality education for their children, and timely deployment information. And we will ensure that America will care for them and their families if the worst should happen.

Better use of the National Guard. Finally, we need to make better use of a key asset in homeland defense -- our National Guard. The National Guard has served in every war, and they're serving now. They were the first ones called to line city streets, guard bridges, and patrol our airports after September 11th. We will make homeland security one of the Guard's primary missions, and assign Guard units to a standing joint task force commanded by a General from the Guard.

ACHIEVING ENERGY INDEPENDENCE

No strategy for American security is complete without a plan to end America's dependence on Mideast oil. Today, the American economy depends on oil controlled by some of the world's most repressive regimes. This leaves our economy dangerously vulnerable to nations that do not share our interests. America too often is silent about the practices of some governments because we depend on oil they control.

John Kerry, John Edwards and the Democratic Party believe a strong America must no longer rely on the cooperation of regimes that do not share our

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values. We believe a strong America must move toward energy independence.

In the Bush Administration, energy independence doesn't get a thought. Their energy policy is simple: government by big oil, of big oil, and for big oil. This Administration let oil industry lobbyists and executives write our nation's energy policy in secret. They even went to the Supreme Court to stop the public from learning what they were doing. They've done nothing as gas prices have soared to record levels. Even the Administration's own economists have found that their energy plan will do nothing to reduce gas prices. This President's approach to energy policy leaves America shackled to foreign oil, dependent, vulnerable, and exposed.

John Kerry, John Edwards and the Democratic Party believe in a better, stronger, more independent America. We are committed to achieving energy independence, and we know we can do it. Our ingenuity and determination built the cars we drive and the bridges we use. It electrified rural America in the 1930s, and took us to the moon in the 1960s. Our resolve helped conquer polio.

It's this simple: When we see a problem, we roll up our sleeves and solve it. And that's what we pledge to do now.

Achieving energy independence will improve our ability to protect our values and interests in the world. It will reduce energy costs for our families. It will create high-paying new jobs. And it will improve our environment and make our people healthier.

Harnessing American ingenuity to create renewable energy. Our plan begins with commonsense investments to harness the natural world around us--the sun, wind, water, geothermal and biomass sources, and a rich array of crops--to create a new generation of affordable energy for the 21st century. By mobilizing the amazing productivity of America's farmers, we can grow our own cleaner-burning fuel. We support tax credits for private sector investment in clean, renewable sources of energy, and we will make ethanol credits work better for farmers. And we will ensure that billions of gallons of renewable fuel are part of America's energy supply while striving for strong, national renewable energy goals.

Creating the energy-efficient vehicles of tomorrow. We support creating more energy-efficient vehicles, from today's hybrid cars to tomorrow's hydrogen cars. We support the American people's freedom to choose whatever cars, SUVs, minivans, and trucks they choose, but we also believe American ingenuity is equal to the task of improving efficiency. We support improving fuel standards, and because of the challenges this poses, we will offer needed incentives for consumers to buy efficient vehicles, and for manufacturers to build them. We are also committed to developing hydrogen as a clean, reliable domestic source of energy. Our economy cannot convert to hydrogen overnight, so we will fund research to overcome the obstacles to hydrogen fuel and continue our other efforts to achieve energy independence.

Moving beyond OPEC. We can improve our energy security in other ways. We will seek more diverse sources of oil around the world and here at home. We support balanced development of domestic oil supplies in areas already open for exploration, like the western and central Gulf of Mexico. We support the expansion of new infrastructure to develop supplies from non-OPEC nations like Russia, Canada, and nations in Africa. We will increase efficiency of natural gas use, develop the Alaska natural gas pipeline, and enhance our nation's infrastructure to help supply natural gas more effectively.

Electricity. We will work to create new technology for producing electricity in a better, more efficient manner. Coal accounts for more than one-half of America's electric power generation capacity today. We believe coal must continue its important role in a new energy economy, while achieving high environmental standards. Working with the coal industry, we will invest billions to develop and implement new, cleaner coal technology and to produce electric and hydrogen power. We will also work to make sure that our people have access to an affordable, secure, and reliable supply of electricity at all times. We support mandatory, enforceable reliability standards. We also support public-private partnerships to make our power systems more flexible, resilient, and self-healing--and more environmentally friendly than ever before.

Government as a role model. The federal government is the largest single consumer of energy in the world. We will cut the federal government's energy use and challenge local governments, corporations, universities, small businesses and hospitals to do the same.

Our commitment to conservation. A balanced energy policy must create real incentives for energy conservation in our homes, our offices, our factories, and our infrastructure, saving money and improving security even as it creates good jobs and rebuilds our communities.

With sixty-five percent of the world's oil reserves in the Middle East, we cannot drill our way to energy independence. But we can create, think, imagine, and invent our way there. And we will create jobs, help our environment, and build a stronger country as we do.

STRENGTHENING HOMELAND SECURITY

The first and foremost responsibility of government is to protect its citizens from harm. Unfortunately, Washington today is not doing enough to make America safe.

We have made some progress since the terrible attacks of September 11th. We have taken steps to secure our airports. After resisting Democratic efforts for months, the Administration finally agreed to create the Department of Homeland Security.

But we have not done nearly enough. Our intelligence services remain fragmented and lack coordination. Millions of massive shipping containers arrive at American ports every year without being searched and without even a reliable list of their contents. Our borders are full of holes. Our chemical plants are vulnerable to attack. Across America, police officers, firefighters, and other first responders still lack the information, protective gear, and communications equipment to do their jobs safely and successfully.

The Bush Administration, full of tough talk about terror, has no coherent plan for domestic defense. John Kerry, John Edwards and the Democratic Party believe America can do better. We believe America must do better. We believe America will do better.

A comprehensive strategy to protect America. We need a new strategy for homeland security that addresses five major challenges. We need to improve our ability to gather, analyze, and share information so we can track down terrorists and stop them before they cause harm. We need to do a better job securing our airports, seaports, and borders. We need to harden likely terrorist targets. We need to improve domestic readiness. Finally, we must win the war on terror without losing the values of freedom and justice for all that make us so proud to be Americans.

Better intelligence. The war on terror begins with good intelligence. Shockingly, many of the same flaws in intelligence-sharing that allowed terrorists to slip in and out of America before September 11th still exist. The government has missed its own deadlines for upgrading and integrating security databases, and still fails to share information with the state and local law enforcement agencies on the frontlines. This must change.

We will ensure that our watch lists are accessible when and where they are needed. We will also give security clearances to appropriate state and local officials so they can get critical information at the critical times. Our intelligence apparatus needs significant reform, and so creating a true Director of National Intelligence is critical.

More secure borders. We will improve security at our borders and entry-points to block the individuals and weapons that would harm us. We will strengthen container security rules, improve the detection equipment in our shipping systems, ensure that private companies are providing adequate information about the goods they are shipping, and work with other nations to increase inspection levels abroad.

We will put an end to political delays in adopting tighter controls on air cargo, tons of which goes uninspected every day. We will increase perimeter inspections at U.S. airports and work with international aviation authorities to make sure the same standards are in place overseas. Working with our

Northern and Southern neighbors, we will strengthen controls at border crossings, and use modern technology and better staffing to improve the quality of border inspections while enhancing commerce.

Hardened targets. We will launch a major effort to harden our most vulnerable targets – from chemical and nuclear plants to rails and tunnels – and better protect them from attack. Security upgrades at some nuclear weapons facilities are a shocking three years behind. That is unacceptable, and we will fix it. We must better protect nuclear facilities and waste sites which today are too vulnerable to attack. We will improve transit rail and subway security, by adding chemical release detectors to deter attacks like we saw in Tokyo, and taking other steps.

There are more than 100 chemical plants where an attack could endanger more than one million people, and the FBI has warned that al Qaeda may target our chemical industry. The Bush Administration was actually moving toward a commonsense solution that would set minimum standards for safety at chemical plants. But dangerously true to form, after heavy lobbying by the chemical industry, they backed down. We will make these plants secure; by requiring more guards, more fencing, and the use of less dangerous chemicals when possible.

Domestic readiness. We need to improve domestic readiness so people on the frontlines have the training and equipment to respond to any attack with all the speed, skill, and strength required.

Our first responders are the first ones up the stairs in the event of the emergency, and it is wrong that today they are last in line when it comes to this administration's budgets. Under the Bush Administration, police departments in small cities have lost more than 15 percent of their full-time paid police and employees. And today, two-thirds of our nation's fire departments are not fully staffed. We can do more for the heroes of 9/11 and we can do more for our fellow citizens. And we will. We will provide direct assistance to our police officers and firefighters on the frontlines. They'll have the equipment and manpower they need to protect us. We will also ensure that front line workers throughout our transportation system receive the security training necessary to respond to terrorist threats. We also need to modernize our emergency warning system to provide localized warnings, treat the fighters on the frontlines as partners, and give families all the information they need. This Administration may think that homeland security is about changing the alert from yellow to orange. They're wrong; the colors of safety are firefighter red, EMT white, and police officer blue.

We will dramatically improve our ability to respond to a biological attack. We will appoint one individual to oversee all bioterrorism programs, budgets and strategic priorities. We will set national benchmarks for state and local preparedness so community leaders aren't flying blind. We will harness America's bioscience genius to increase drug and vaccine development. We will revitalize our public health system, improving monitoring capabilities and coordination. And we will strengthen hospitals, which today cannot prepare for a bio-terrorism emergency because they are overwhelmed by the everyday emergencies of people without insurance.

We also will encourage all Americans to do their part to make America safer. We support the development of a new community defense service grounded in neighborhoods and comprised of ordinary Americans from across the country. Like a 21st Century Neighborhood Watch, members would work within their communities to make a contribution—helping health professionals, assisting with evacuation plans, and standing ready in emergency.

Crime and violence. While terrorism poses an especially menacing threat to our nation, a strong America must remain vigilant against the scourge of homegrown crime as well. We are proud that Democrats led the fight to put more than 100,000 cops on the beat through the COPS program, and we will continue our steadfast support for COPS and community policing. To keep our streets safe for our families, we support tough punishment of violent crime and smart efforts to reintegrate former prisoners into our communities as productive citizens. We will crack down on the gang violence and drug crime that devastate so many communities, and we will increase drug treatment, including mandatory drug courts and mandatory drug testing for parolees and probationers, so fewer crimes are committed in the first place. We support the rights of victims to be respected, to be heard, and to be compensated. We will help break the cycle of domestic violence by punishing offenders and standing with victims. We will protect Americans' Second Amendment right to own firearms, and we will keep guns out of the hands of criminals and terrorists by fighting gun crime, reauthorizing the assault weapons ban, and closing the gun show loophole, as President Bush proposed and failed to do.

Guarding liberty. We must always remember that terrorists do not just target our lives; they target our way of life. And so we must be on constant guard not to sacrifice the freedom we are fighting to protect. We will strengthen some provisions of the Patriot Act, like the restrictions on money laundering. And we will change the portions of the Patriot Act that threaten individual rights, such as the library provisions, while still allowing government to take all needed steps to fight terror. Our government should never round up innocent people only because of their religion or ethnicity, and we should never stifle free expression. We believe in an America where freedom is what we fight for – not what we give up.

Together, we can make America safer, stronger, and more respected. We can do it in a way that safeguards all the greatness of America by protecting our people, securing our homeland, and reinforcing our values – faith and family, duty and service, individual freedom and a common purpose to build one nation under God. We can do it in a way that keeps faith with the best measures of American leadership around the world – the builder of alliances, the defender of freedom, the champion of human rights. We can do it, and we will.

A STRONG, GROWING ECONOMY

The great promise of America is simple: a better life for all who work for it. No matter who you are, where you come from, or what you believe, as an American, you live in a land that offers you all the possibilities your hard work and God-given talent can bring.

The opportunity to build a better future starts with a good job. It has always been that way. From the time when most people worked in the fields, through the Industrial Revolution and into the Information Age, the opportunity for work, the rewards from work, and the dignity of work have made Americans successful and America strong.

CREATING GOOD JOBS

We offer America a new economic plan that will put jobs first. We will renew American competitiveness, make honest budget choices, and invest in our future.

A strong America keeps the promise of opportunity for all and heeds the warning of special privileges for none. That's the America we believe in. That's the America we're fighting for. And that's the America we can build together.

In President George Bush's America, unfortunately, too often you need special privileges if you want opportunity. This White House values wealth over hard work, lavishes special treatment upon a fortunate few at the expense of most businesses and working people, and defends policies that weaken America's competitive position and destroy American jobs. Instead of meeting the challenge of globalization by strengthening our workers' ability to compete and win, this Administration uses globalization as an excuse not to fight for American jobs.

John Kerry, John Edwards and the Democratic Party believe in a better America—a strong America.

We believe that a strong America begins at home, with good jobs that support families and an equal chance for all our people.

We believe in progress that brings prosperity for all Americans, not just for those who are already successful. We believe that good jobs will help strengthen and expand the strongest middle class the world has ever known.

We believe the private sector, not government, is the engine of economic growth and job creation. Government's responsibility is to create an environment that will promote private sector investment, foster vigorous competition, and strengthen the foundations of an innovative economy.

We believe Americans are the smartest, toughest competitors in the world. Our products and ideas can compete and win anywhere, as long as we're given a fair chance. And our companies can keep and create jobs in America without sacrificing competitiveness.

We will fight for American jobs and we will fight for American workers. Under John Kerry and John Edwards, we will revive America's manufacturing sector, create new jobs and protect existing ones by ending tax breaks for companies that ship jobs overseas and cutting taxes for companies that create jobs here at home; by fighting for free, fair and balanced trade; by encouraging investment in small businesses and helping companies deal with rising health care costs; by promoting new technologies, like energy, that will lead to the companies and jobs of tomorrow; and by ensuring that people of every age learn the skills to succeed in today's economy.

Tax reform to create jobs. Today's tax law provides big breaks for companies that send American jobs overseas. Current "deferral" policies allow American companies to avoid paying American taxes on the income earned by their foreign subsidiaries. John Kerry and John Edwards will end deferral that encourages companies to ship jobs overseas, and they will close other loopholes to make the tax code work for the American worker. They'll use the savings to offer tax cuts for companies that produce goods and create jobs here at home. Under John Kerry and John Edwards, 99 percent of American businesses will pay lower taxes than today.

A plan to reinvigorate manufacturing. Manufacturing has lost 2.5 million jobs under President Bush in its worst jobs crisis since the Depression. John Kerry, John Edwards and the Democrats will launch a concerted effort to revitalize American manufacturing. The measures outlined above are important components of our overall strategy. In addition, based on the model that has helped launch some of America's most successful companies, we will establish new investment corporations to give small and medium-sized businesses access to capital. And we will support the growth of high-technology "clusters" that invest in new industries around research institutions.

Free and fair trade that creates American jobs. Exports sustain about 1 in 5 American factory jobs. Open markets spur innovation, speed the growth of new industries, and make our businesses more competitive. We will make it a priority to knock down barriers to free, fair and balanced trade so other nation's markets are as open as our own.

We will stand up for American workers and consumers by building on President Clinton's progress in including enforceable, internationally recognized labor and environmental standards in trade agreements. We will aggressively enforce our trade agreements with a real plan that includes a complete review of all existing agreements; immediate investigation into China's workers' rights abuses and currency manipulation; increased funding for efforts to protect workers' rights and stop child labor abuse; new reforms to protect the innovations of high-tech companies; and vigorous enforcement of U.S. trade laws. We will use all the tools we have to create new opportunities for American workers, farmers, and businesses, and break down barriers in key export markets, like the Japanese auto market and the Chinese high-technology market. We will effectively enforce our trade laws protecting against dumping, illegal subsidies, and import surges that threaten American jobs.

New trade agreements must protect internationally recognized workers' rights and environmental standards as vigorously as they now protect commercial concerns. We will build on and strengthen the progress made in the Jordan agreement to include strong and enforceable labor and environmental standards in the core of new free trade agreements. And no trade agreement should stop government from protecting the environment, food safety or the health of its citizens. Nor should an agreement give greater rights to foreign investors than to U.S. investors, require the privatization of our vital public services, or limit our government's ability to create good jobs in our communities.

Investing in technology to create good jobs. We will invest in the technologies of the future, from renewable energy to nanotechnology to biomedicine, and will work to make permanent the research and development tax credit. We will achieve universal access to broadband services, which could add $500 billion to our economy, generate 1.2 million jobs, and transform the way we learn and work. And we will put science ahead of ideology in research and policymaking.

Enhancing Our Transportation System. Our nation's transportation network is an integral part of our economy and an engine for economic expansion that must be strengthened. We are committed to vigorous federal highway and transit initiatives that put Americans to work, relieve traffic congestion, and foster long-term projects at state and local levels.

Free markets and honest competition. Economic growth and job creation depend on free markets and competition, but competition and free markets depend on trust, transparency, and integrity. We are committed to requiring honesty in corporate accounting effective corporate governance, a fair shake for small investors and worker pension funds, a level playing field and competitive bidding practices for those who wish to transact business with the government, and vigorous prosecution of criminal conduct in executive suites.

Promoting small businesses. Small businesses and entrepreneurs are the lifeblood of our economy. We will encourage small business growth with a plan to make it easier for small businesses to secure capital and loans. We support tax credits and energy investments that slash overall operating costs for small businesses and encourage them to grow and expand here in America. For America's 350,000 small manufacturers, which account for over half the total value of U.S. industrial production and employ 11 million people in high-skill, high-wage jobs, we will double funding to use technology to grow.

We will help businesses cope with the skyrocketing cost of health care by reforming our health care system and cutting taxes to help small businesses pay for health insurance. Retiree health costs impose major burdens on many employers, particularly manufacturers, and we will push for reform so that companies are not forced to choose among retirees, current workers, and their own ability to compete.

Fiscal Relief in an economic downturn. When states are the thrust into a fiscal crisis due to a national economic downturn, we should support Federal fiscal relief to states as an effective tool to jumpstart growth and job creation, and to prevent harmful tuition and tax increases, as well as painful cuts to vital education, health, homeland security, and other critical services; and to prevent underfunded mandates.

Standing up for workers. We will ensure that the right to organize a union exists in the real world, not just on paper, because that's how we create more jobs that can support families. That means reforming our labor laws to protect the rights of workers (including public employees) to bargain contracts and organize on a level playing field without interference. It also means barring the permanent replacement of legal strikers. And we will of course reverse this Administration's cuts in wages for working people by restoring overtime protections for hard-working Americans. We will strengthen health and safety protections as well.

Lifelong learning. We will make sure that Americans are the best-skilled, best-trained workers in the world. In addition to reforming K-12 education, we will expand training and opportunities for Americans of all ages. We will support regional skills alliances, workforce development conducted at community colleges, and other initiatives that prepare workers for high-skills jobs that offer family-sustaining wages and benefits. And we will support high-quality distance learning so that Americans everywhere can use a keyboard to learn from experts anywhere.

Unlike the Bush administration, we will always stand by workers who lose their jobs as the economy changes. We will require companies to give employees at least three months notice before a planned shutdown. We will expand efforts to help manufacturers, workers, the long-term unemployed, and communities hurt by imports, including extending trade adjustment assistance to workers in the service sectors and making health insurance more affordable for workers who lose their jobs due to trade. Through our jobs plan, we will bring hope and jobs back to the cities and small towns devastated

by the shuttering of factories.

STANDING UP FOR THE GREAT AMERICAN MIDDLE CLASS

The heart of the American promise has always been the middle class, the greatest engine of economic growth the world has ever known. When the middle class grows in size and security, our country gets stronger. And when more American families save and invest in their children's future, America grows stronger still.

But in President George Bush's America, where everyday costs are soaring and ordinary incomes are sinking, the middle class is struggling, and our economy is suffering.

Today, the average American family is earning $1,500 less than in 2000. At the same time, health care costs are up by nearly one-half, college tuition has increased by more than one-third, gas and oil prices have gone through the roof, and housing costs have soared. Life literally costs more than ever before – and our families have less money to pay for it. Three million more Americans have fallen into poverty since 2000. Average family debt is higher than ever. And as they lose the struggle to make ends meet, one out of every seven middle class families may be bankrupt by the end of the decade.

President Bush and the Republicans in Congress have ignored the middle class since day one of this Administration. They have catered to the wealth of the richest instead of honoring the work of the rest of us. They have promised almost everything and paid for almost nothing. And the middle class is shouldering more taxes, earning less money, and bearing higher costs. The bottom line for the middle class under President Bush and the Republican Party is this: Instead of working hard to get ahead, the middle class is working hard just to get by.

John Kerry, John Edwards and the Democratic Party believe in a stronger, more prosperous America for all our people. We believe in an America where the great American promise of upward mobility is alive and well. We believe in an America where the middle class is growing, our economy is thriving, and America is strong. And we have a plan to build that America.

Cutting taxes for middle class Americans. First, we must restore our values to our tax code. We want a tax code that rewards work and creates wealth for more people, not a tax code that hoards wealth for those who already have it. With the middle class under assault like never before, we simply cannot afford the massive Bush tax cuts for the very wealthiest. We should set taxes for families making more than $200,000 a year at the same level as in the late 1990s, a period of great prosperity when the wealthiest Americans thrived without special treatment. We will cut taxes for 98 percent of Americans and help families meet the economic challenges of their everyday lives. And we will oppose tax increases on middle class families, including those living abroad.

Helping families cope with rising costs. We must help Americans deal with the staggering increase in everyday costs of living, from insurance premiums to child care to the price of gas.

Today, thousands of businesses that would otherwise provide raises are using that money to pay climbing health care premiums. That is cutting wages for working people. Reforming health care, offering tax credits to pay for it, and cutting health costs will raise wages for working people.

College tuitions rose by 35 percent between 2000 and 2003, and this year, 220,000 Americans were priced out of college by its high costs. We will make college affordable for every qualified student with a tax credit for four years of college.

Child care costs are rising twice as fast as inflation, and millions of working parents worry desperately how to care for their children between 3 p.m. and 6 p.m. each day. Other families must care not only for their children, but also for loved ones who are older or have disabilities. We will increase tax credits to pay for child care and eldercare, and make sure those credits are available to lower-income families and stay-at-home parents. We will expand after-school opportunities, help schools stay open until 6 p.m., and offer good transportation so young people can take advantage of it. We support expanding family and medical leave to help parents meet the growing challenge of balancing work and family responsibilities.

The price of gas is at an all time-high, placing an enormous burden on millions of Americans who have no choice but to drive to work. We will help cut costs in the short-run by halting additional stockpiling of oil reserves and working more effectively to ensure that OPEC increases production. For the long-run, we offer a detailed plan for energy independence.

Protecting retirement security. We must protect the retirement security of America's workers and their families. Workers should never lose all their savings because their employer locked those savings into the company's own stock. We will bar that practice. We need to require honest information and full disclosure, and protect older workers from unfair treatment when their benefits are converted to cash balance plans. At the same time, we will strengthen and promote both defined-contribution and defined-benefit pension plans, and increase the portability of retirement savings and help all families save.

We are absolutely committed to preserving Social Security. It is a compact across the generations that has helped tens of millions of Americans live their retirement years in dignity instead of poverty. Democrats believe in the progressive, guaranteed benefit that has ensured that seniors and people with disabilities receive a benefit not subject to the whims of the market or the economy. We oppose privatizing Social Security or raising the retirement age. We oppose reducing the benefits earned by workers just because they have also earned a benefit from certain public retirement plans. We will repeal discriminatory laws that penalize some retired workers and their families while allowing others to receive full benefits. Because the massive deficits under the Bush Administration have raided hundreds of billions of dollars from Social Security, the most important step we can take to strengthen Social Security is to restore fiscal responsibility. Social Security matters to all Americans, Democrats and Republicans, and strengthening Social Security should be a common cause.

Expanding the middle class. The dream of the middle class should belong to all Americans willing to work for it. We still have work to do as long as millions of Americans work full-time, fulfill their responsibilities, and continue to live in poverty. We will offer these Americans a ladder to the middle class. That means raising the minimum wage to $7.00, increasing the Earned Income Tax Credit and extending child credits so that parents who work full-time don't have to raise their children in poverty. It means working to eliminate hunger in our rural and urban communities. It means using our tax code and savings incentives to help families build their savings, become homeowners, and start businesses. And it means continuing on the path of welfare reform. We must match parents' responsibility to work with the real opportunity to do so, by making sure parents can get the health care, child care, and transportation they need. And we must expect increased responsibility from fathers as well as mothers by increasing child support enforcement and promoting responsible fatherhood together with religious and civic organizations.

Strengthening our cities. We will invest in the businesses, schools, and hospitals that metropolitan areas need to thrive. We will support quality housing opportunities and a balanced housing policy for all Americans, defending good rental housing and extending the American Dream of homeownership to more families. At a time when so many families are losing their homes and life savings to unscrupulous lenders, we will rein in predatory lending and expand access to mainstream financial services for urban families. And we will redouble our nation's commitment to closing the "digital divide."

Revitalizing rural and small-town America. Small towns are at the heart of America, but today, they are often losing people, jobs, and hope. We will use new technologies like distance learning and telemedicine to link our towns with cutting-edge advances and bring back investment to our small towns. We will ensure that American farmers have a strong safety net and can achieve profitability in the marketplace, and we will support incentives for farmers to use conservation practices and sustainable farming methods. Americans should be able to make the choice to raise their children in the towns and rural communities where they grew up.

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Fiscal discipline. We must restore responsibility to our budget, or we will strangle opportunity for the next generation of middle-class Americans. Over the last three years, record surpluses have turned into record deficits. Not once has this Administration tried to balance new spending with new savings or pay for new initiatives – including its enormous tax breaks for the wealthy. Today, we face unsustainable foreign borrowing and rising interest rates.

Fiscal discipline helped create 23 million new jobs in the 1990s. Fiscal discipline frees up money for productive investment. And over time, fiscal discipline saves families thousands of dollars on their mortgages and credit cards.

We will roll back the Bush tax cuts for those making more than $200,000. We will restore commonsense budget rules that this Administration has abandoned, like "Pay-As-You-Go" rules that require the government to pay for new initiatives. We will commit to living within tough budget caps—real and enforceable limits on what the government can spend. We will enact a Constitutional version of the line-item veto to make it easier to root out pork-barrel spending. And we will make our government more efficient by cutting the waste of taxpayer dollars in the federal budget, from unneeded travel budgets to crony contracting. We are committed to cutting the deficit in half over the next four years.

Ending corporate welfare. Many American corporations today pay less than ever in taxes because of tax loopholes secured by powerful lobbyists. We will end corporate welfare as we know it. We will eliminate the indefensible loopholes in our tax code— from tax deals that have no purpose but avoiding taxes to the very shelters that Enron used to drive so many lives toward financial ruin. And we will eliminate the corporate subsidies that waste taxpayer dollars and undermine fair competition.

The Democratic Party understands that working people built modern America. We understand that today's global economy requires new rules, new skills, and new approaches, and we believe that the time-honored values of equal opportunity, fair play, and good rewards for hard work still apply. That's how we give all our people the chance to succeed. That's how we keep on building the America we believe in. That's how we keep the promise of America.

STRONG, HEALTHY FAMILIES

Family is the center of everyday American life. Our parents are our first protectors, first teachers, first role models, and first friends. Parents know that America's great reward is the quiet but incomparable satisfaction that comes from building their families a better life. Strong families, blessed with opportunity, guided by faith, and filled with dreams are the heart of a strong America.

REFORMING HEALTH CARE

We believe not just that a strong America begins at home, but that a strong America begins *in* the home. And just as government's first responsibility is the health and safety of its people, parents' first responsibility is the health and safety of their children. We believe that health care is a right and not a privilege.

Today, a family's ability to ensure that all its members get the quality health care they deserve is challenged like never before. For the most fortunate, America offers the best health care in the world. But tens of millions of Americans pay too much and get too little from our health care system, and tens of millions more have no health insurance at all.

Skyrocketing health care costs not only hurt our families; they hurt our economy. American businesses pay more than their competitors for health care, reducing their competitiveness. American incomes suffer because raises are stifled by rising insurance premiums.

We will attack the health care crisis with a comprehensive approach. Our goal is straightforward: quality, affordable health coverage for all Americans to keep our families healthy, our businesses competitive, and our country strong.

In President George Bush's America, drug company and HMO profits count for more than family and small business health costs. Health care costs increased four times as fast as wages in the last year alone. Prescription drug spending has more than doubled during the past five years. Nearly 82 million Americans went without health care coverage at some point in the last two years. And the President has done nothing to bring costs down or lift these burdens. The few small proposals he has offered would further divide our health system between one that is affordable for the healthy and wealthy, and one that is unaffordable for the elderly, the sick, and increasingly, for America's broad middle class.

John Kerry, John Edwards and the Democratic Party believe in a better, stronger, healthier America. Our resolve to fix the health crisis is stronger than ever. In the wealthiest country in the world, every expectant mother should get quality prenatal care; every child should get regular check-ups; every senior should be able to get safe, affordable prescription drugs; and no hardworking family should ever lose everything because illness strikes a loved one.

Ensuring health care for children. The job begins with our children. It is a disgrace that nearly

8.5 million children still lack health insurance. We will strengthen Medicaid for our families and expand the children's health program created under President Clinton so no child goes without medical care.

Expanding coverage. Under the leadership of John Kerry and John Edwards, we will offer individuals and businesses tax credits to make quality, reliable health coverage more affordable. We will provide tax credits to Americans who are approaching retirement age and those who are between jobs so they can afford quality, reliable coverage. We will expand coverage for low income adults through existing federal-state health care programs. And we will provide all Americans with access to the same coverage that members of Congress give themselves.

Cutting health care costs. At the center of our efforts will be a plan to reduce health costs. We will lift a financial burden on families, businesses, and the self-employed by picking up the tab for the highest-cost medical cases. That will save America's families up to $1,000 on their premiums.

We will improve the quality of care and the efficiency of the medical system by using American technological know-how to cut billions of dollars wasted in administrative processing and paperwork. Today, about a quarter of all health-related spending is not even medical. We can do better. We will ensure that all Americans have secure, private electronic medical records by 2008, and we will give medical providers incentives and resources to simplify their paperwork so patients spend more time with doctors and less time filling out forms. We recognize that our health care system is substantially strengthened by the daily efforts of the men and women in a variety of health professions and we support fair treatment for all health professionals.

We will enact a real Patient's Bill of Rights to put doctors and nurses back in charge of making medical decisions with their patients – instead of allowing HMO bureaucrats to decide what a patient needs.

Helping seniors by protecting Medicare and cutting prescription costs. We oppose privatizing Medicare. We will not allow Republicans to destroy a commitment that has done so much good for so many seniors and people with disabilities over the past 39 years. Instead, we want to strengthen Medicare and make it more efficient.

We will ensure that seniors across the country, particularly in small-town and rural America, no longer suffer from geographic discrimination.

We will end the disgrace of seniors being forced to choose between meals and medication. Today, our seniors are paying too much for prescription drugs, while options abroad are far cheaper and just as safe. We will allow the safe reimportation of drugs from other countries.

The current Medicare drug program serves drug companies more than seniors. It allows these companies to change the price of prescriptions more

frequently than seniors can change their plans. It does virtually nothing to bring down prescription drug costs. It forces seniors into HMOs. Elderly Americans deserve a real prescription drug benefit – one that uses the government's purchasing power to lower costs and ensures access to new therapies for their illnesses.

We will cut the waste and abuse that cost Medicare billions each year, using competitive bidding to lower the costs of buying medical equipment, educating providers to file claims more efficiently, and increasing penalties for those who bilk the system.

Dignity for all. We will ensure that elderly Americans and people with disabilities can live in dignity, with quality options for long-term care. We need to expand alternative care options and provide better assistance for those who give care. No one should be kept in a nursing home or institution if they prefer living in dignity elsewhere and can do so. And we will ensure that no person with a disability has to choose between quality health care and the dignity of work. We will also work to ensure that people with HIV and AIDS have the care they need, and we will support the community-based prevention programs, built on experience with real life, that President Bush has cut. We are committed to passing the Wellstone mental health parity legislation, ending discrimination against Americans with mental illnesses, and ensuring equal treatment for mental illness in our health system.

Eliminating health disparities. Millions of African Americans, Latinos, Asian Americans, Pacific Islanders, and American Indians continue to live sicker and die younger in America. Cultural and language barriers remain a particular problem for immigrant communities. We will fight racial and ethnic health care disparities by increasing research and training in the medical profession, breaking down language barriers, and ensuring good health care for all Americans. We will encourage and support enabling more minority students to enter the sciences. We will also work to ensure that women have access to the best medicines and state-of-the-art prevention and detection techniques to stop diseases early. We will also support prevention of illness through better nutrition and exercise.

Investing in science to battle disease. We will push the boundaries of science in search of new medical therapies and cures. The Bush Administration has put ideology over science, skewing information about everything from women's health to scientific research. Americans deserve access to the best evidence available about illnesses, therapies, and cures. From new therapies to prolong life for people with AIDS, to new openings in the battle to cure cancer, the possibilities of medical research fill us with hope. We will secure more funding for aggressive biomedical research seeking affordable and effective therapies based on real science.

President Bush has rejected the calls from Nancy Reagan, Christopher Reeve and Americans across the land for assistance with embryonic stem cell research. We will reverse his wrongheaded policy. Stem cell therapy offers hope to more than 100 million Americans who have serious illnesses – from Alzheimer's to heart disease to juvenile diabetes to Parkinson's. We will pursue this research under the strictest ethical guidelines, but we will not walk away from the chance to save lives and reduce human suffering.

Honoring our veterans. Finally, we will never forget the debt America owes our veterans. Patriotism means keeping faith with those who have worn the uniform of the United States. This Administration has broken its promises to our veterans – raising their health costs and reducing their access to care. John Kerry, John Edwards and the Democrats will keep faith with our veterans. We will continue the fight for mandatory funding for veterans' health care and we will make sure that disabled veterans and military retirees are not penalized with reductions in their pension benefits. And we will aggressively address the inexcusable backlogs in veterans' compensation and pension claims.

We believe in an America where health care is available and affordable. Where every family looks to the future with hope and excitement, without worry that the cost of health care is becoming too great to bear. Where strong, healthy families build a stronger America.

IMPROVING EDUCATION

The simple bargain at the heart of the American Dream offers opportunity to every American who takes the responsibility to make the most of it. That bargain is the great source of American strength, because it unleashes the amazing talent and determination of our people. And as our people seize the opportunity to build a better life, they build a stronger country.

Today, our people compete with workers on every continent. Information flows across oceans. High-wage jobs are more dependent than ever on high-level skills.

Now, as never before, education is the key to opportunity, essential to a strong America. So we believe in an America that offers the best education to all our children – wherever they live, whatever their background. Period.

We believe in an America where every child comes to school ready to learn. Where every student is held to high standards, and every school has the resources and responsibility to meet those standards. Where every classroom has a great teacher, and every student gets enough personal attention to foster a talent or overcome a difficulty. We believe in an America where every teenager completes a rigorous high school curriculum. Where every qualified young person who wants to go to college can afford it. And where every adult who needs additional job training can get it.

In President George Bush's America, our government ignores the shameful truth that the quality of a child's education depends on the wealth of that child's neighborhood. Our best public schools are the best schools in the world, but too many children go to schools that just don't work. Too many children who beat the odds and succeed in school can't afford to go on to college. And too many adults who need added training aren't able to get it.

For this White House, education is an easy promise – easy come, and easy go. When President Bush signed the No Child Left Behind Act, he said the right things – asking more from our schools and pledging to give them the resources to get the job done. And then he promptly broke his word, providing schools $27 billion less than he had promised, literally leaving millions of children behind.

The President also gets a failing grade for higher education. Over the last three years, college tuitions have risen by 35 percent, pricing 220,000 students out of college. Yet while then-Governor Bush promised to increase college aid, President Bush tried to charge more for student loans and eliminate Pell Grants for 84,000 students.

John Kerry, John Edwards and the Democratic Party believe that a strong America begins at home with strong families, and that strong families need the best schools. We believe schools must teach fundamental skills like math and science, and fundamental values like citizenship and responsibility. We believe providing resources without reform is a waste of money, and reform without resources is a waste of time. And we believe politicians who expect students to learn responsibility should start by keeping their own promises.

Meeting our responsibilities. Under John Kerry and John Edwards, we will offer high quality early learning opportunities, smaller classes, more after school activities, and more individualized attention for our students, particularly students with special needs, gifts, and talents. The federal government will meet its financial obligations for elementary and secondary education and for special education.

A great teacher in every classroom. Continuing the fight for reform, we will make an intensive effort to put a great teacher in every classroom. Nothing has a bigger impact than a teacher on the quality of a child's education. We need to do more to attract and retain teachers, more to encourage their excellence, and more to ensure that all teachers are offering high-quality teaching. We must raise pay for teachers, especially in the schools and subjects where great teachers are in the shortest supply. We must improve mentoring, professional development, and new technology training for teachers, instead of leaving them to sink or swim. At the same time, we must create rigorous new incentives and tests for new teachers. We need new rewards for teachers who go the extra mile and excel in helping children learn. And teachers deserve due process protection from arbitrary dismissal, but we must have fast,

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fair procedures for improving or removing teachers who do not perform on the job.

Parents are our children's first and most important teachers, and they have a responsibility to participate in their children's education. We will help them do so by offering information and resources to better teach their children, whether reminding them about homework or attending a parent-teacher conference.

Securing high achievement for all. Vast achievement gaps persist in America. Nearly half of African-American, Latino, and American Indian youth don't graduate high school. We believe in the potential of every child and we will not accept this loss of talent. Because education in the earliest years of a child's life is critical, we will expand and improve preschool and Head Start initiatives with the goal of offering these opportunities to all children. Because children need safe, loving, and disciplined homes in order to learn, we will work on a bipartisan basis to reform foster care. And we will undertake a national campaign to raise graduation rates by raising student achievement, expecting more from schools, reaching out to troubled youth with mentoring and tutoring, and strengthening the basic high school curriculum. We will meet these challenges together--parents, teachers, principals, educational support professionals and paraprofessionals, along with universities, community-based and faith-based organizations.

Making schools work for children. We will use testing to advance real learning, not undermine it, by developing high-quality assessments that measure the complex skills students need to develop. We will make sure that federal law operates with high standards and common sense, not just bureaucratic rigidity. Instead of pushing private school vouchers that funnel scarce dollars away from the public schools, we will support public school choice, including charter schools and magnet schools that meet the same high standards as other schools. And at a time when so many schools charged with our future are relics of the past, we will build new schools and offer the technology and equipment for a 21st century education.

Making college affordable. With the leadership of John Kerry and John Edwards, we will make college more affordable, so that more young people get higher education, and more of those who graduate get relief from the crushing burden of debt. We will make student aid faster and simpler to get so students aren't scared off by the complicated process. We will offer generous tax credits to reduce the price of four years of college for all students, including those who pay their own way and can least afford college now. We will strengthen our aid programs for students while eliminating wasteful subsidies for lenders. At a time when all good jobs increasingly depend on advanced skills, we will strengthen technical training for those who do not attend college. Finally, we must place a special emphasis on expanding achievement in math and science. These are subjects where America has always led the world and must continue to lead in the 21st century.

Teaching good citizenship and good values. We must remain committed to the moral and civic dimensions of education. Education requires the engagement of the whole community in order to teach the whole child. Students should learn responsibility in our schools, and students who are irresponsible--using drugs or bringing violence into schools--must face strict discipline. We should support character education in our elementary and secondary schools and community service as a condition of graduation from high schools. We should also give back to those who give to America, in the tradition of the G.I. Bill and AmeriCorps.

The promise of America is the promise of opportunity. If we are going to keep that promise, every child should have a great teacher and every high school graduate should have the chance to go to college. Nothing less is good enough for America.

PROTECTING OUR ENVIRONMENT

For generations, Americans of all political beliefs have understood that the protection of our environment and the stewardship of our land are vital to the strength of our nation. God gave America extraordinary natural gifts; it is our responsibility to protect them. The health of our families, the strength of our economy, and the well-being of our world all depend upon a clean environment.

But in President George Bush's government, where polluters actually write environmental laws and oil company profits matter more than hard science and cold facts, protecting the environment doesn't matter at all.

Even though 133 million Americans already live with unhealthy air, the Bush Administration bowed to energy industry lobbying and rewrote rules to allow 20,000 facilities to spew more smog, soot, and mercury into the air. Even though public water systems in many cities are polluted, they have taken environmental cops off the beat and pushed to allow more arsenic in our water. Even though the President promised more than five billion dollars for our national parks, he has delivered a fraction of that, leaving trails closed, historic structures collapsing, and our parks losing luster. And even though overwhelming scientific evidence shows that global climate change is a scientific fact, this administration has rewritten government reports to hide that fact.

John Kerry, John Edwards and the Democratic Party believe in a stronger, safer, healthier America. A strong America depends on healthy families, and healthy families depend on fresh air, pure water, and clean neighborhoods.

These are our commitments: we will make our air cleaner and our water purer. We will ensure our children can safely play in our neighborhoods, our families can enjoy our national parks, and our sportsmen can hunt and fish in our lakes and forests. We will foster a healthy economy and a healthy environment by promoting new technologies that create good jobs and improve our world. And we will work with our allies to achieve these goals and to protect the global environment, for this generation and future generations.

We reject the false choice between a healthy economy and a healthy environment. We know instead that farming, fishing, tourism, and other industries require a healthy environment. We know new technologies that protect the environment can create new high-paying jobs. We know a cleaner environment means a stronger economy.

Cleaner air. We will strengthen protection for our air by making our government and our markets work together. We will strengthen the Clean Air Act, by controlling all of the top pollutants and offering new flexibility to industries that commit to cleaning up within that framework. We will reduce mercury emissions, smog and acid rain, and will address the challenge of climate change with the seriousness of purpose this great challenge demands. Rather than looking at American industries only as polluters, we will work with the private sector to create partnerships that make a profit and a cleaner world for us all. At the same time, we will plug Republican-created legal loopholes and renew public enforcement of the law.

Cleaner water and healthier communities. We will work with communities to reduce water pollution--not only from factories, but also from large corporate farms, storm water runoff, and sewer overflows. We will bring environmental justice to low-income, rural, and minority communities, using federal resources to improve public health and spur economic development by cleaning up polluted sites. We will restore the "polluter pays" principle to fund the cleanup of the most polluted sites, so that those who cause environmental problems pay to fix them. We will protect Nevada and its communities from the high-level nuclear waste dump at Yucca mountain which has not been proven to be safe by sound science.

Protecting public lands. We will use our natural resources to fuel our economy, but end Republican giveaways to special interests that exploit public lands without regard for environmental consequences. We will require companies to restore leased lands to their original state after their work is done. And we will make sure our government treats our national parks with the same respect and care that millions of families show each year when they visit.

Honoring our hunting and fishing heritage. We are committed to protecting the lands used by hunters and anglers, and we will open millions of new acres of land to public hunting and fishing.

We will conserve and restore the habitats where wildlife flourish, expanding use of voluntary, incentive-based programs that target private landowners.

International leadership to protect the global environment. We know that America's fight for a healthy environment cannot be waged within our borders alone. Environmental hazards from around the globe reach America through the oceans and the jet streams encircling our planet. And climate change is a major international challenge that requires global leadership from the United States, not abdication. We must restore American leadership on this issue as well as others such as hazardous waste emissions and depleted fisheries

This great land has been placed in our hands for safekeeping. It is our responsibility to protect it. We will exercise that responsibility with the courage to take on special interests, the creativity to promote new technologies, the determination to reassert our global leadership, and the commitment to achieve real results. That is how we will ensure that God's gifts of nature bless all of God's children for generations to come.

A STRONG AMERICAN COMMUNITY

American history is the story of a diverse people striving – sometimes fitfully, but in the end, faithfully – to realize our ideals: a common dream of equality, and opportunity, freedom and community. Each step along that path has made us stronger.

This year we recall two of our country's greatest steps toward equality and inclusion – fifty years ago, Brown v. Board of Education, and forty years ago, the Civil Rights Act of 1964. Those great achievements of the civil rights movement strengthened America immeasurably--by breaking down the legal barriers to equal citizenship for African-Americans and expanding the circle of equal opportunity for all. This year, as we celebrate these anniversaries, we recommit to the spirit of service that secured these breakthroughs and the values they embody: all of our people should have the opportunity to fulfill all of their potential, and each of us should be as equal in the eyes of the law as we are in the eyes of God.

That is the America we believe in. That is the America we are fighting for. That is the America we will build together.

President Bush has a different vision – instead of searching for common ground to bring our people together, he has sought political advantage in driving our people apart. He has neglected the opportunity of most Americans, choosing instead to lavish resources on those who need them least. He has rejected the American vision of greater equality, appointing judges more interested in rolling back rights than protecting them. Perhaps most striking of all, in a time of war, he has abandoned our great tradition of asking Americans to meet shared challenges in a spirit of shared sacrifice. This President has regularly governed for the benefit of special interests, not the public interest.

John Kerry, John Edwards and the Democratic Party believe in a better America, more equal, more free -- *more American.* We believe in common service to our commonwealth. And we will restore the commitment to ethics in government.

Our commitment to civil rights is ironclad. We will restore vigorous federal enforcement of our civil rights laws for all our people, from fair housing to equal employment opportunity, from Title IX to the Americans with Disabilities Act. We support affirmative action to redress discrimination and to achieve the diversity from which all Americans benefit. We believe a day's work is worth a day's pay, and at a time when women still earn 77 cents for every dollar earned by men, we need stronger equal pay laws and stronger enforcement of them. We will enact the bipartisan legislation barring workplace discrimination based on sexual orientation. We are committed to equal treatment of all service members and believe all patriotic Americans should be allowed to serve our country without discrimination, persecution, or violence. We support the appointment of judges who will uphold our laws and constitutional rights, not their own narrow agendas.

Voting is the foundation of democracy, a central act of civic engagement, and an expression of equal citizenship. Voting rights are important precisely because they are protective of all other rights. We will call for legislative action that will fully protect and enforce the fundamental Constitutional right of every American to vote -- to ensure that the Constitution's promise is fully realized and that, in disputed elections, every vote is counted fully and fairly.

To advance these goals, and to guarantee the integrity of our elections and to increase voter confidence, we will seek action to ensure that voting systems are accessible, independently auditable, accurate, and secure. We will support the full funding of programs to realize this goal. Finally, it is the priority of the Democratic Party to fulfill the promise of election reform, reauthorize the expiring provisions of the Voting Rights Act, and vigorously enforce all our voting rights laws.

Our voting procedures are observed by people and nations around the world. Every vote must count and every vote must be counted, including absentee ballots. To achieve all of our goals, we support moving toward a census that duly counts every American. And we support the election of candidates who express the many voices of America.

Because our democracy thrives on public access to diverse sources of information from multiple sources, we support measures to ensure diversity, competition, and localism in media ownership.

We will defend the dignity of all Americans against those who would undermine it. Because we believe in the privacy and equality of women, we stand proudly for a woman's right to choose, consistent with Roe v. Wade, and regardless of her ability to pay. We stand firmly against Republican efforts to undermine that right. At the same time, we strongly support family planning and adoption incentives. Abortion should be safe, legal, and rare.

Racial and religious profiling is wrong and we will work to stamp it out. Hate crimes desecrate sacred spaces and demean good people, and we support a strong national law to punish them.

We will extend the promise of citizenship to those still struggling for freedom. Today's immigration laws do not reflect our values or serve our security, and we will work for real reform. The solution is not to establish a massive new status of second-class workers; that betrays our values and hurts all working people. Undocumented immigrants within our borders who clear a background check, work hard and pay taxes should have a path to earn full participation in America. We will hasten family reunification for parents and children, husbands and wives, and offer more English-language and civic education classes so immigrants can assume all the rights and responsibilities of citizenship. As we undertake these steps, we will work with our neighbors to strengthen our security so we are safer from those who would come here to harm us. We are a nation of immigrants, and from Arab-Americans in California to Latinos in Florida, we share the dream of a better life in the country we love.

We support full inclusion of gay and lesbian families in the life of our nation and seek equal responsibilities, benefits, and protections for these families. In our country, marriage has been defined at the state level for 200 years, and we believe it should continue to be defined there. We repudiate President Bush's divisive effort to politicize the Constitution by pursuing a "Federal Marriage Amendment." Our goal is to bring Americans together, not drive them apart.

We will honor our nation's tradition of equal justice under law. President Bush and Attorney General Ashcroft believe they can claim powers above and beyond the law of the land. As Democrats and Americans, we yield to no one in our commitment to do everything necessary to win the war on terror. But we can and must win that war without sacrificing the values we are defending. America must be strong *and* free.

As we encourage democracy around the world, we must extend democracy here at home. We support equal rights to democratic self-government and Congressional representation for the citizens of our nation's capital.

We believe that four million disenfranchised American citizens residing in Puerto Rico have the right to the permanent and fully democratic status of their choice. The White House and Congress will clarify the realistic status options for Puerto Rico and enable Puerto Ricans to choose among them.

SEC 000978

We support full self-government for the people of Guam, American Samoa, and the Virgin Islands, and their right to decide their future status.

For all those who live under our flag, we support strong economic development and fair and equitable treatment under federal programs.

We honor the sovereignty of American Indians and reaffirm our commitment to respectful and meaningful government-to-government relations. We must renew the trust obligations that this Administration has disregarded, and must improve the education, health, and job opportunities for American Indians who too often face terrible poverty.

We honor the central place of faith in the lives of our people. Like our Founders, we believe that our nation, our communities, and our lives are made vastly stronger and richer by faith and the countless acts of justice and mercy it inspires. We will strengthen the role of faith-based organizations in meeting challenges like homelessness, youth violence, and other social problems. At the same time, we will honor First Amendment protections and not allow public funds to be used to proselytize or discriminate. Throughout history, communities of faith have brought comfort to the afflicted and shaped great movements for justice. We know they will continue to do so, and we will always protect all Americans' freedom to worship.

We pledge to stand up for our beliefs and rally Americans to our cause. But we recognize that disagreements will remain, and we believe disagreement should not mean disrespect. Members of our party have deeply held and differing views on some matters of conscience and faith. We view diversity of views as a source of strength, and we welcome into our ranks all Americans who seek to build a stronger America. We are committed to resolving our differences in a spirit of civility, hope and mutual respect.

That's the America we believe in.

APP Note: The American Presidency Project used the first day of the national nominating convention as the "date" of this platform since the original document is undated.

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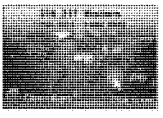

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RENEWING AMERICA'S PROMISE

Preamble

We come together at a defining moment in the history of our nation -- the nation that led the 20th Century, built a thriving middle class, defeated fascism and communism, and provided bountiful opportunity to many. We Democrats have a special commitment to this promise of America. We believe that every American, whatever their background or station in life, should have the chance to get a good education, to work at a good job with good wages, to raise and provide for a family, to live in safe surroundings, and to retire with dignity and security. We believe that quality and affordable health care is a basic right. We believe that each succeeding generation should have the opportunity, through hard work, service and sacrifice, to enjoy a brighter future than the last.

But today, we are at a crossroads. As we meet, we are in the sixth year of a two-front war. Our economy is struggling. Our planet is in peril.

A great nation now demands that its leaders abandon the politics of partisan division and find creative solutions to promote the common good. A people that prizes candor, accountability, and fairness insists that a government of the people must level with them and champion the interests of all American families. A land of historic resourcefulness has lost its patience with elected officials who have failed to lead.

It is time for a change. We can do better.

And so, Democrats -- through the most open platform process in history -- are reaching out today to Republicans, Independents, and all Americans who hunger for a new direction a reason to hope. Today, at a defining moment in our history, the Democratic Party resolves to renew America's promise.

Over the past eight years, our nation's leaders have failed us. Sometimes they invited calamity, rushing us into an ill-considered war in Iraq. But other times, when calamity arrived in the form of hurricanes or financial storms, they sat back, doing too little too late, and too poorly. The list of failures of this Administration is historic.

The American Dream is at risk. Incomes are down and foreclosures are up. Millions of our fellow citizens have no health insurance while families working longer hours are pressed for time to care for their children and aging parents. Gas and home heating costs are squeezing seniors and working families alike. We are less secure and less respected in the world. After September 11, we could have built the foundation for a new American century, but instead we instigated an unnecessary war in Iraq before finishing a necessary war in Afghanistan. Careless policies, inept stewardship and the broken politics of this Administration have taken their toll on our economy, our security and our reputation.

But even worse than the conditions we find ourselves in are the false promises that brought us here. The Republican leadership said they would keep us safe, but they overextended our military and failed to respond to new challenges. They said they would be compassionate conservatives, but they failed to rescue our citizens from the rooftops of New Orleans, neglected our veterans, and denied health insurance to children. They promised fiscal responsibility but instead gave tax cuts to the wealthy few and squandered almost a trillion dollars in Iraq. They promised reform but allowed the oil companies to write our energy agenda and the credit card companies to write the bankruptcy rules.

These are not just policy failures. They are failures of a broken politics --a politics that rewards self-interest over the common interest and the short-term over the long-term, that puts our government at the service of the powerful. A politics that creates a state-of-the-art system for doling out favors and shuts out the voice of the American people.

So, we come together not only to replace this President and his party --and not only to offer policies that will undo the damage they have wrought. Today, we pledge a return to core moral principles like stewardship, service to others, personal responsibility, shared sacrifice and a fair shot for all --values that emanate from the integrity and optimism of our Founders and generations of Americans since. Today, we Democrats offer leaders -- from the White House to the State House -- worthy of this country's trust.

We will start by renewing the American Dream for a new era -- with the same new hope and new ideas that propelled Franklin Delano Roosevelt towards the New Deal and John F. Kennedy to the New Frontier. We will provide immediate relief to working people who have lost their jobs, families who are in danger of losing their homes, and those who -- no matter how hard they work -- are seeing prices go up more than their income. We will invest in America again --in world-class public education, in our infrastructure, and in green technology --so that our economy can generate the good, high-paying jobs of the future. We will end the outrage of unaffordable, unavailable health care, protect Social Security, and help Americans save for retirement. And we will harness American ingenuity to free this nation from the tyranny of oil.

The Democratic Party believes that there is no more important priority than renewing American leadership on the world stage. This will require diplomatic skill as capable as our military might. Instead of refusing to confront our most pressing threats, we will use all elements of American power to keep us safe, prosperous, and free. Instead of alienating our nation from the world, we will enable America --once again --to lead.

For decades, Americans have been told to act for ourselves, by ourselves, on our own. Democrats reject this recipe for division and failure. Today, we commit to renewing our American community by recognizing that solutions to our greatest challenges can only be rooted in common ground and the strength of our civic life. The American people do not want government to solve all our problems; we know that personal responsibility, character, imagination, diligence, hard work and faith ultimately determine individual achievement. But we also know that at every turning point in our nation's

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history, we have demonstrated our love of country by uniting to overcome our challenges--whether ending slavery, fighting two world wars for the cause of freedom or sending a man to the moon. Today, America must unite again--to help our most vulnerable residents get back on their feet and to restore the vitality of both urban centers and family farms --because the success of each depends on the success of the other. And America must challenge us again -- to serve our country and to meet our responsibilities --whether in our families or local governments; our civic organizations or places of worship.

Americans have been promised change before. And too often we have been disappointed. We believe we must change not just our policies, but our politics as well. We cannot keep doing the same things and expect to get different results. That is why today we come together not only to prevent a third Bush term. Today, we pledge to renew American democracy by promoting the use of new technologies to make it easier for Americans to participate in their government. We will shine a light on government spending and Washington lobbying --so that every American is empowered to be a watchdog and a whistle blower. We are the party of inclusion and respect differences of perspective and belief. And so, even when we disagree, we will work together to move this country forward. There can be no Republican or Democratic ideas, only policies that are smart and right and fair and good for America --and those that aren't. We will form a government as decent, candid, purposeful and compassionate as the American people themselves.

This is the essence of what it means to be a patriot: not only to declare our love of this nation, but to show it --by our deeds, our priorities, and the commitments we keep.

If we choose to change, just imagine what we can do. What makes America great has never been its perfection, but the belief that it can be made better. And that people who love this country can change it. This is the country of Abraham Lincoln, Susan B. Anthony, Martin Luther King Jr., Cesar Chavez, and Rosa Parks -- people who had the audacity to believe that their country could be a better place, and the courage to work to make it so. And this Party has always made the biggest difference in the lives of the American people when we summoned the entire nation to a common purpose.

We have a choice to make. We can choose to stay the current failed course. Or we can choose a path that builds upon the best of who and what we are, that reflects our highest values. We can have more of the last eight years, or we can rise together and create a new kind of government. The time for change has come, and America must seize it.

I. Renewing the American Dream

For months the state of our economy has dominated the headlines--and the news has not been good. The sub-prime lending debacle has sent the housing market into a tailspin, and many Americans have lost their homes. By early August, the economy had shed 463,000 jobs over seven straight months of job loss. Health, gas and food prices are rising dramatically.

But the problem goes deeper than the current crisis. Families have seen their incomes go down even as they have been working longer hours and as productivity has grown. At the same time, health costs have risen while companies have shed health insurance coverage and pensions. Worse yet, too many Americans have lost confidence in the fundamental American promise that our children will have a better life than we do.

We are living through an age of fundamental economic transformation. Technology has changed the way we live and the way the world does business. The collapse of the Soviet Union and the advance of capitalism have vanquished old challenges to America's global leadership, but new challenges have emerged. Today, jobs and industries can move to any country with an Internet connection and willing workers.

Leadership on these issues has been sorely lacking these past eight years. In the 1990s, under Bill Clinton's leadership, employment and incomes grew and we built up a budget surplus. However, our current President pursued misguided policies, missed opportunities, and maintained a rigid, ideological adherence to discredited ideas. Our surplus is now a deficit, and almost a decade into this century, we still have no coherent national strategy to compete in a global economy. The price tag for these failures is being passed on to our families.

From the mother working two jobs to pay the bills and the couple struggling to care for young children and aging parents, to the tens of millions of Americans without health insurance and the workers who have seen their jobs shipped overseas, too many Americans have been invisible to our current President and his party for too long. The people who do the work in America have never been invisible to the Democratic Party. It is time to make the American Dream real for them again.

We need a government that stands up for the hopes, values, and interests of working people, and gives everyone willing to work hard the chance to make the most of their God-given potential.

In platform hearings around the country, Americans reaffirmed our belief that this great nation can compete--and succeed--in the 21st Century but only if we take a new approach. One that is both innovative and faithful to the basic economic principles that made this country great. We Democrats want--and we hereby pledge--a government led by Barack Obama that looks out for families in the new economy with health care, retirement security, and help, especially in bad times. Investment in our country--in energy, education, infrastructure, science. A ladder of opportunity for all. Democrats see these as the pillars of a more competitive and fair economy that will allow all Americans to take advantage of the opportunities of our new era.

Jumpstart the Economy and Provide Middle Class Americans Immediate Relief

We will provide an immediate energy rebate to American families struggling with the record price of gasoline and the skyrocketing cost of other necessities -- to spend on those basic needs and energy efficient measures. We will devote $50 billion to jumpstarting the economy, helping economic growth, and preventing another one million jobs from being lost. This will include assistance to states and localities to prevent them from having to cut their vital services like education, health care, and infrastructure. We will quickly implement the housing bill recently passed by Congress and ensure that states and localities that have been hard-hit by the housing crisis can avoid cuts in vital services. We support investments in infrastructure to replenish the highway trust fund, invest in road and bridge maintenance and fund new, fast-tracked projects to repair schools. We believe that it is essential to take immediate steps to stem the loss of manufacturing jobs. Taking these immediate measures will provide good jobs and will help the economy today. But generating truly shared prosperity is only possible if we also address our most significant long-run challenges like the rising cost of health care, energy, and education.

Empowering Families for a New Era

Many Americans once worked 40 hours a week for 40 years for a single employer who provided pay to support a family, health insurance, and a pension. Today, Americans change jobs more frequently than ever and compete against workers around the world for pay and benefits.

The face of America's families is also changing, and so are the challenges they confront. Today, in the majority of families, all parents work. Millions of working Americans are also members of a new "sandwich generation," playing dual roles as working parents and working children, responsible not only for their kids but for their aging mothers and fathers. They are working longer hours than ever, while at the same time having to meet a new and growing set of caregiving responsibilities.

Our government's policies--many designed in the New Deal era--have not kept up with the new economy and the changing nature of people's lives. Democrats believe that it is time for our policies and our expectations to catch up. From health care to pensions, from unemployment insurance to paid leave, we need to modernize our policies in order to provide working Americans the tools they need to meet new realities and challenges.

SFC 000981

Affordable, Quality Health Care Coverage for All Americans

If one thing came through in the platform hearings, it was that Democrats are united around a commitment that every American man, woman, and child be guaranteed affordable, comprehensive healthcare. In meeting after meeting, people expressed moral outrage with a health care crisis that leaves millions of Americans–including nine million children–without health insurance and millions more struggling to pay rising costs for poor quality care. Half of all personal bankruptcies in America are caused by medical bills. We spend more on health care than any other country, but we're ranked 47th in life expectancy and 43rd in child mortality. Our nation faces epidemics of obesity and chronic diseases as well as new threats like pandemic flu and bioterrorism. Yet despite all of this, less than four cents of every health care dollar is spent on prevention and public health.

The American people understand that good health is the foundation of individual achievement and economic prosperity. Ensuring quality, affordable health care for every single American is essential to children's education, workers' productivity and businesses' competitiveness. We believe that covering all is not just a moral imperative, but is necessary to making our health system workable and affordable. Doing so would end cost-shifting from the uninsured, promote prevention and wellness, stop insurance discrimination, help eliminate health care disparities, and achieve savings through competition, choice, innovation, and higher quality care. While there are different approaches within the Democratic Party about how best to achieve the commitment of covering every American, with everyone in and no one left out, we stand united to achieve this fundamental objective through the legislative process.

We therefore oppose those who advocate policies that would thrust millions of Americans out of their current private employer-based coverage without providing them access to an affordable, comprehensive alternative, thereby subjecting them to the kind of insurance discrimination that leads to excessive premiums or coverage denials for older and sicker Americans. We reject those who have steadfastly opposed insurance coverage expansions for millions of our nation's children while they have protected overpayments to insurers and allowed underpayments to our nation's doctors. Our vision of a strengthened and improved health care system for all Americans stands in stark contrast to the Republican Party's and includes:

Covering All Americans and Providing Real Choices of Affordable Health Insurance Options. Families and individuals should have the option of keeping the coverage they have or choosing from a wide array of health insurance plans, including many private health insurance options and a public plan. Coverage should be made affordable for all Americans with subsidies provided through tax credits and other means.

Shared Responsibility. Health care should be a shared responsibility between employers, workers, insurers, providers and government. All Americans should have coverage they can afford; employers should have incentives to provide coverage to their workers; insurers and providers should ensure high quality affordable care; and the government should ensure that health insurance is affordable and provides meaningful coverage. As affordable coverage is made available, individuals should purchase health insurance and take steps to lead healthy lives.

An End to Insurance Discrimination. Health insurance plans should accept all applicants and be prohibited from charging different prices based on pre-existing conditions. They should compete on the cost of providing health care and the quality of that care, not on their ability to avoid or over-charge people who are or may get sick. Premiums collected by insurers should be primarily dedicated to care, not profits.

Portable Insurance. No one should have to worry about losing health coverage if they change or lose their job.

Meaningful Benefits. Families should have health insurance coverage similar to what Members of Congress enjoy. They should not be forced to bear the burden of skyrocketing premiums, unaffordable deductibles or benefit limits that leave them at financial risk when they become sick. We will finally achieve long-overdue mental health and addiction treatment parity.

An Emphasis on Prevention and Wellness. Chronic diseases account for 70 percent of the nation's overall health care spending. We need to promote healthy lifestyles and disease prevention and management especially with health promotion programs at work and physical education in schools. All Americans should be empowered to promote wellness and have access to preventive services to impede the development of costly chronic conditions, such as obesity, diabetes, heart disease, and hypertension. Chronic-care and behavioral health management should be assured for all Americans who require care coordination. This includes assistance for those recovering from traumatic, life-altering injuries and illnesses as well as those with mental health and substance use disorders. We should promote additional tobacco and substance abuse prevention.

A Modernized System That Lowers Cost and Improves the Quality of Care. As Americans struggle with increasing health care costs, we believe a strengthened, uniquely American system should provide the highest-quality, most cost-effective care. This should be advanced by aggressive efforts to cut costs and eliminate waste from our health system, which will save the typical family up to $2,500 per year. These efforts include driving adoption of state-of-the-art health information technology systems, privacy-protected electronic medical records, reimbursement incentives, and an independent organization that reviews drugs, devices, and procedures to ensure that people get the right care at the right time. By working with the medical community to improve quality, these reforms will have the added benefit of reducing the prevalence of lawsuits related to medical errors. We should increase competition in the insurance and drug markets; remove some of the cost burden of catastrophic illness from employers and their employees; and lower drug costs by allowing Medicare to negotiate for lower prices, permitting importation of safe medicines from other developed countries, creating a generic pathway for biologic drugs, and increasing use of generics in public programs.

A Strong Health Care Workforce. Through training and reimbursement incentives, there must be a commitment to sufficient and well-qualified primary care physicians and nurses as well as direct care workers.

Commitment to the Elimination of Disparities in Health Care. We must end health care disparities among minorities, American Indians, women, and low-income people through better research and better funded community-based health centers. We will make our health care system culturally sensitive and accessible to those who speak different languages. We will support programs that diversify the health are *[see AFP note]* workforce to ensure culturally effective care. We will also address the social determinants that fuel health disparities, and empower the communities most impacted by providing them the resources and technical assistance to be their own agents of wellness. We will speed up and improve reimbursements by the Indian Health Service.

Public Health and Research. Health and wellness is a shared responsibility among individuals and families, school systems, employers, the medical and public health workforce and government at all levels. We will ensure that Americans can benefit from healthy environments that allow them to pursue healthy choices. Additionally, as childhood obesity rates have more than doubled in the last 30 years, we will work to ensure healthy environments in our schools.

We must fight HIV/A DS in our country and around the world. We support increased funding into research, care and prevention of HIV/AIDS. We support a comprehensive national strategic plan to combat HIV/AIDS and a Ryan White Care Act designed and funded to meet today's epidemic, that ends ADAP waiting lists and that focuses on the communities such as African Americans and Latino Americans who are disproportionately impacted through an expanded and renewed minority HIV/AIDS initiative, and on new epicenters such as the Southern part of our nation. We support providing Medicaid coverage to more low-income HIV-positive Americans.

Health care reform must also provide adequate incentives for innovation to ensure that Americans have access to evidence-based and cost-effective health care. Research should be based on science, not ideology. For the millions of Americans and their families suffering from debilitating physical and emotional effects of disease, time is a precious commodity, and it is running out. Yet, over the past eight years, the current Administration has not only failed to promote biomedical and stem cell research, it has actively stood in the way of that research. We cannot tolerate any further inaction or obstruction. We need to invest in biomedical research and stem cell research, so that we are at the leading edge of prevention and treatment. This includes adequate funding for research into diseases such as heart disease, Alzheimer's disease, Parkinson's disease, multiple sclerosis, breast cancer, diabetes,

autism and other common and rare diseases, and disorders. We will increase funding to the National Institutes of Health, the National Science Foundation, and the National Cancer Institutes.

A Strong Partnership with States, Local Governments, Tribes, and Territories. Recognizing that considerable progress in health care delivery has been pioneered by state and local governments, necessary nationwide reform should build on successful state models of care.

A Strong Safety-Net. Achieving our health goals requires strengthening the safety-net programs, safety-net providers, and public health infrastructure to fill in gaps and ensure public safety in times of disease outbreak or disaster.

Empowerment and Support of Older Americans and People with Disabilities. Seniors and people with disabilities should have access to quality affordable long-term care services, and those services should be readily available at home and in the community. Americans should not be forced to choose between getting care and living independent and productive lives.

Reproductive Health Care. We oppose the current Administration's consistent attempts to undermine a woman's ability to make her own life choices and obtain reproductive health care, including birth control. We will end health insurance discrimination against contraception and provide compassionate care to rape victims. We will never put ideology above women's health.

Fiscal Responsibility. As we improve and strengthen our health care system, we must do so in a fiscally responsible way that ensures that we get value for the dollars that are invested.

Retirement and Social Security

We will make it a priority to secure for hardworking families the part of the American Dream that includes a secure and healthy retirement. Individuals, employers, and government must all play a role. We will adopt measures to preserve and protect existing public and private pension plans. In the 21st Century, Americans also need better ways to save for retirement. We will automatically enroll every worker in a workplace pension plan that can be carried from job to job and we will match savings for working families who need the help. We will make sure that CEOs can't dump workers' pensions with one hand while they line their own pockets with the other. At platform hearings, Americans made it clear they feel that's an outrage, and it's time we had leaders who treat it as an outrage. We will ensure all employees who have company pensions receive annual disclosures about their pension fund's investments, including full details about which projects have been invested in, the performance of those investments and appropriate details about probable future investments strategies. We also will reform corporate bankruptcy laws so that workers' retirements are a priority for funding and workers are not left with worthless IOU's after years of service. Finally, we will eliminate all federal income taxes for seniors making less than $50,000 per year. Lower- and middle-income seniors already have to worry about high health care and energy costs; they should not have to worry about tax burdens as well.

We reject the notion of the presumptive Republican nominee that Social Security is a disgrace; we believe that it is indispensable. We will fulfill our obligation to strengthen Social Security and to make sure that it provides guaranteed benefits Americans can count on, now and in future generations. We will not privatize it.

Good Jobs with Good Pay

In the platform hearings, Americans expressed dismay that people who are willing to study and work cannot get a job that pays enough to live on in the current economy. Democrats are committed to an economic policy that produces good jobs with good pay and benefits. That is why we support the right to organize. We know that when unions are allowed to do their job of making sure that workers get their fair share, they pull people out of poverty and create a stronger middle class. We will strengthen the ability of workers to organize unions and fight to pass the Employee Free Choice Act. We will restore pro-worker voices to the National Labor Relations Board and the National Mediation Board and we support overturning the NLRB's and NMB's many harmful decisions that undermine the collective bargaining rights of millions of workers. We will ensure that federal employees, including public safety officers who put their lives on the line every day, have the right to bargain collectively, and we will fix the broken bargaining process at the Federal Aviation Administration. We will fight to ban the permanent replacement of striking workers, so that workers can stand up for themselves without worrying about losing their livelihoods. We will continue to vigorously oppose "Right-to-Work" Laws and "paycheck protection" efforts whenever they are proposed. Suspending labor protections during national emergencies compounds the devastation from the emergency. We opposed suspension of Davis-Bacon following Hurricane Katrina, and we support broad application of Davis-Bacon worker protections to all federal projects. We will stop the abuse of privatization of government jobs. We will end the exploitative practice of employers wrongly misclassifying workers as independent contractors.

The Bush Administration Department of Labor has failed in its obligation to stand up and protect American workers. Our Department of Labor will restore and expand overtime rights for millions of Americans, and will actively enforce wage and hour laws. The Bush Administration is the only administration that has never voluntarily issued a significant final standard for workplace safety. Our Occupational Safety and Health Administration will adopt and enforce comprehensive safety standards. Right now, far too many workers – especially those in the construction and mining industries-risk their lives every day just by going to work.

In America, if someone is willing to work, he or she should be able to make ends meet and have the opportunity to prosper. To that end, we will raise the minimum wage and index it to inflation, and increase the Earned Income Tax Credit so that workers can support themselves and their families. We will modernize the unemployment insurance program to close gaps and extend benefits to the workers who now fall outside it.

Work and Family

Over the last few decades, fundamental changes in the way we work and live have trapped too many American families between an economy that's gone global and a government that's gone AWOL. It's time we stop just talking about family values, and start pursuing policies that truly value families. We will expand the Family and Medical Leave Act to reach millions more workers than are currently covered, and we will enable workers to take leave to care for an elderly parent, address domestic violence and sexual assault, or attend a parent-teacher conference. Today 78 percent of the workers who are eligible for leave cannot take it because it's unpaid, so we will work with states and make leave paid. We will also ensure that every American worker is able earn up to seven paid sick days to care for themselves or an ill family member. And we will encourage employers to provide flexible work arrangements—with the federal government leading by example. We will expand the childcare tax credit, provide every child access to quality, affordable early childhood education, and double funding for after-school and summer learning opportunities for children. We will provide assistance to those who need long-term care and to the working men and women of this country who do the heroic job of providing care for their aging relatives. All Americans who are working hard and taking responsibility deserve the chance to do right by their loved ones. That's the America we believe in.

Poverty

When Bobby Kennedy saw the shacks and poverty along the Mississippi Delta, he asked, "How can a country like this allow it?" Forty years later, we're still asking that question. The most American answer we can give is: "We won't allow it." One in eight Americans lives in poverty today all across our country, in our cities, in our suburbs, and in our rural communities. Most of these people work but still can't pay the bills. Nearly thirteen million of the poor are children. We can't allow this kind of suffering and hopelessness to exist in our country. It's not who we are.

Working together, we can cut poverty in half within ten years. We will provide all our children a world-class education, from early childhood through

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college. We will develop innovative transitional job programs that place unemployed people into temporary jobs and train them for permanent ones. To help workers share in our country's productivity, we'll expand the Earned Income Tax Credit, and raise the minimum wage and index it to inflation. The majority of adults in poverty are women, and to combat poverty we must work for fair pay, support for mothers, and policies that promote responsible fatherhood. We'll start letting our unions do what they do best again—organize and lift up our workers. We'll make sure that every American has affordable health care that stays with them no matter what happens. We will assist American Indian communities, since 10 of the 20 poorest counties in the United States are on Indian lands. We'll bring businesses back to our inner-cities, increase the supply of affordable housing, and establish "promise neighborhoods" that provide comprehensive services in areas of concentrated poverty. These will be based on proven models, such as the Harlem Children's Zone in New York City, which seeks to engage all residents with tangible goals such as attendance at parenting schools, retention of meaningful employment, college for every participating student, and strong physical and mental health outcomes for children. The Democratic Party believes that the fight against poverty must be national priority. Eradicating poverty will require the sustained commitment of the President of the United States, and we believe that the White House must offer leadership and resources to advance this agenda.

Opportunity for Women

We, the Democratic Party, are the party that has produced more women Governors, Senators, and Members of Congress than any other. We have produced the first woman Secretary of State, the first woman Speaker of the House of Representatives, and, in 2008, Hillary Rodham Clinton, the first woman in American history to win presidential primaries in our nation. We believe that our daughters should have the same opportunities as our sons; our party is proud that we have put eighteen million cracks in the highest glass ceiling. We know that when America extends its promise to women, the result is increased opportunity for families, communities, and aspiring people everywhere.

When women still earn 76 cents for every dollar that a man earns, it doesn't just hurt women; it hurts families and children. We will pass the "Lilly Ledbetter" Act, which will make it easier to combat pay discrimination; we will pass the Fair Pay Act; and we will modernize the Equal Pay Act. We will invest in women-owned small businesses and remove the capital gains tax on startup small businesses. We will support women in math and science, increasing American competitiveness by retaining the best workers in these fields, regardless of gender. We recognize that women still carry the majority of childrearing responsibilities, so we have created a comprehensive work and family agenda. We recognize that women are the majority of adults who make the minimum wage, and are particularly hard-hit by recession and poverty; we will protect Social Security, increase the minimum wage, and expand programs to combat poverty and improve education so that parents and children can lift themselves out of poverty. We will work to combat violence against women.

We believe that standing up for our country means standing up against sexism and all intolerance. Demeaning portrayals of women cheapen our debates, dampen the dreams of our daughters, and deny us the contributions of too many. Responsibility lies with us all.

Investing in American Competitiveness

At a critical moment of transition like this one, Americans understand that, more than anything else, success will depend on the dynamism, determination, and innovation of the American people. But success also depends on national leadership that can move this country forward with confidence and a common purpose. In platform hearings, Americans called on their government to "invest back" in them and their country. That's what Lincoln did when he pushed for a transcontinental railroad, incorporated our National Academy of Sciences, passed the Homestead Act and created the land grant colleges. That's what Franklin Delano Roosevelt did in creating the Tennessee Valley Authority, electrifying rural America and investing in an Arsenal of Democracy. That's the kind of leadership we intend to provide.

New American Energy

In the local platform hearings, Americans talked about the importance of energy to the economy, to national security, and to the health of our planet. Speaking loud and clear, they said that America needs a new bold and sustainable energy policy to meet the challenges of our time. In the past, America has been stirred to action when faced with new threats to our national security, or new competitive conditions that undercut our economic leadership. The energy threat we face today may be less immediate than threats from dictators, but it is as real and as dangerous. The dangers are eclipsed only by the opportunities that would come with change. We know that the jobs of the 21st Century will be created in developing new energy solutions. The question is whether these jobs will be created in America, or abroad. We should use government procurement policies to incentivize domestic production of clean and renewable energy. Already, we've seen countries like Germany, Spain and Brazil reap the benefits of economic growth from clean energy. But we are decades behind in confronting this challenge.

For the sake of our security–and for every American family that is paying the price at the pump– we will break our addiction to foreign oil. In platform hearings around the country, Americans called for a Manhattan or Apollo Project-level commitment to achieve energy independence. We hear that call and we Democrats commit to fast-track investment of billions of dollars over the next ten years to establish a green energy sector that will create up to five million jobs. Good jobs, like those in Pennsylvania where workers manufacture wind turbines, the ones in the factory in Nevada producing components for solar energy generation plants, or the jobs that will be created when plug-in hybrids start rolling off the assembly line in Michigan. This transition to a clean-energy industry will also benefit low-income communities: we'll create an energy-focused youth job program to give disadvantaged youth job skills for this emerging industry.

It will not be easy, but neither was getting to the moon. We know we can't drill our way to energy independence and so we must summon all of our ingenuity and legendary hard work and we must invest in research and development, and deployment of renewable energy technologies—such as solar, wind, geothermal, as well as technologies to store energy through advanced batteries and clean up our coal plants. And we will call on businesses, government, and the American people to make America 50 percent more energy efficient by 2030, because we know that the most energy efficient economy will also gain the competitive edge for new manufacturing and jobs that stay here at home. We will help pay for all of it by dedicating a portion of the revenues generated by an economy-wide cap and trade program- a step that will also dramatically reduce our greenhouse gas emissions and jumpstart billions in private capital investment in a new energy economy.

We'll dramatically increase the fuel efficiency of automobiles, and we'll help auto manufacturers and parts suppliers convert to build the cars and trucks of the future and their key components in the United States. And we will help workers learn the skills they need to compete in the green economy. We are committed to getting at least 25 percent of our electricity from renewable sources by 2025. Building on the innovative efforts of the private sector, states, cities, and tribes across the country, we will create new federal-local partnerships to scale the success and deployment of new energy solutions, install a smarter grid, build more efficient buildings, and use the power of federal and military purchasing programs to jumpstart promising new markets and technologies. We'll invest in advanced biofuels like cellulosic ethanol which will provide American-grown fuel and help free us from the tyranny of oil. We will use innovative measures to dramatically improve the energy efficiency of buildings.

To lower the price of gasoline, we will crack down on speculators who are driving up prices beyond the natural market rate. We will direct the Federal Trade Commission and Department of Justice to vigorously investigate and prosecute market manipulation in oil futures. And we will help those who are hit hardest by high energy prices by increasing funding for low-income heating assistance and weatherization programs, and by providing energy assistance to help middle-class families make ends meet in this time of inflated energy prices.

This plan will safeguard our economy, our country, and the future of our planet. This plan will create good jobs that pay well and can't be outsourced. With

these policies, we will protect our country from the national security threats created by reliance on foreign oil and global insecurity due to climate change. And this is how we'll solve the problem of four-dollar-a-gallon gas— with a comprehensive plan and investment in clean energy.

A World Class Education for Every Child

In the 21st Century, where the most valuable skill is knowledge, countries that out-educate us today will out-compete us tomorrow. In the platform hearings, Americans made it clear that it is morally and economically unacceptable that our high-schoolers continue to score lower on math and science tests than most other students in the world and continue to drop-out at higher rates than their peers in other industrialized nations. We cannot accept the persistent achievement gap between minority and white students or the harmful disparities that exist between different schools within a state or even a district. Americans know we can and should do better.

The Democratic Party firmly believes that graduation from a quality public school and the opportunity to succeed in college must be the birthright of every child–not the privilege of the few. We must prepare all our students with the 21st Century skills they need to succeed by progressing to a new era of mutual responsibility in education. We must set high standards for our children, but we must also hold ourselves accountable–our schools, our teachers, our parents, business leaders, our community and our elected leaders. And we must come together, form partnerships, and commit to providing the resources and reforms necessary to help every child reach their full potential.

Early Childhood
We will make quality, affordable early childhood care and education available to every American child from the day he or she is born. Our Children's First Agenda, including increases in Head Start and Early Head Start, and investments in high-quality Pre-K, will improve quality and provide learning and support to families with children ages zero to five. Our Presidential Early Learning Council will coordinate these efforts.

K-12
We must ensure that every student has a high-quality teacher and an effective principal. That starts with recruiting a new generation of teachers and principals by making this pledge—if you commit your life to teaching, America will commit to paying for your college education. We'll provide better preparation, mentoring and career ladders. Where there are teachers who are still struggling and underperforming we should provide them with individual help and support. And if they're still underperforming after that, we should find a quick and fair way–consistent with due process–to put another teacher in that classroom.

To reward our teachers, we will follow the lead of school districts and educators that have pioneered innovative ways to increase teacher pay that are developed with teachers, not imposed on them. We will make an unprecedented national investment to provide teachers with better pay and better support to improve their skills, and their students' learning. We'll reward effective teachers who teach in underserved areas, take on added responsibilities like mentoring new teachers, or consistently excel in the classroom.

We will fix the failures and broken promises of No Child Left Behind–while holding to the goal of providing every child access to a world-class education, raising standards, and ensuring accountability for closing the achievement gap. We will end the practice of labeling a school and its students as failures and then throwing our hands up and walking away from them without having provided the resources and supports these students need. But this alone is not an education policy. It's just a starting point. We will work with our nation's governors and educators to create and use assessments that will improve student learning and success in school districts all across America by including the kinds of critical thinking, communication, and problem-solving skills that our children will need. We will address the dropout crisis by investing in intervention strategies in middle schools and high schools and we will invest in after-school programs, summer school, alternative education programs, and youth jobs.

We will promote innovation within our public schools–because research shows that resources alone will not create the schools that we need to help our children succeed. We need to adapt curricula and the school calendar to the needs of the 21st Century; reform the schools of education that produce most of our teachers; promote public charter schools that are accountable; and streamline the certification process for those with valuable skills who want to shift careers and teach.

We will also meet our commitment to special education and to students who are English Language Learners. We support full funding of the Individuals with Disabilities Education Act. We also support transitional bilingual education and will help Limited English Proficient students get ahead by supporting and funding English Language Learner classes. We support teaching students second languages, as well as contributing through education to the revitalization of American Indian languages.

We know that there is no program and no policy that can substitute for parents who are involved in their children's education from day one–who make sure their children are in school on time, help them with their homework, and attend those parent-teacher conferences; who are willing to turn off the TV once in a while, put away the video games, and read to their children. Responsibility for our children's education has to start at home. We have to set high standards for them, and spend time with them, and love them. We have to hold ourselves accountable.

Higher Education

We believe that our universities, community colleges, and other institutions of higher learning must foster among their graduates the skills needed to enhance economic competitiveness. We will work with institutions of higher learning to produce highly skilled graduates in science, technology, engineering, and math disciplines who will become innovative workers prepared for the 21st Century economy.

At community colleges and training programs across the country, we will invest in short-term accelerated training and technical certifications for the unemployed and under-employed to speed their transition to careers in high-demand occupations and emerging industries. We will reward successful community colleges with grants so they can continue their good work. We support education delivery that makes it possible for non-traditional students to receive support and encouragement to obtain a college education, including Internet, distance education, and night and weekend programs.

We must also invest in training and education to prepare incumbent job-holders with skills to meet the rigors of the new economic environment and provide them access to the broad knowledge and concrete tools offered by apprenticeships, internships, and postsecondary education. We need to fully fund joint labor-management apprenticeship programs and reinvigorate our industrial crafts programs to train the next generation of skilled American craft workers.

We recognize the special value and importance of our Historically Black Colleges and Universities and other minority serving institutions in meeting the needs of our increasingly diverse society and will work to ensure their viability and growth.

We will make college affordable for all Americans by creating a new American Opportunity Tax Credit to ensure that the first $4,000 of a college education is completely free for most Americans. In exchange for the credit, students will be expected to perform community service. We will continue to support programs, especially the Pell Grant program, that open the doors of college opportunity to low-income Americans. We will enable families to apply for financial aid simply by checking a box on their tax form.

Our institutions of higher education are also the economic engines of today and tomorrow. We will partner with them to translate new ideas into innovative products, processes and services.

Science, Technology and Innovation

America has long led the world in innovation. But this Administration's hostility to science has taken a toll. At a time when technology helps shape our future, we devote a smaller and smaller share of our national resources to research and development.

It is time again to lead. We took a critical step with the America Competes Act and we will start by implementing that Act —then we will do more. We will make science, technology, engineering, and math education a national priority. We will double federal funding for basic research, invest in a strong and inspirational vision for space exploration, and make the Research and Development Tax Credit permanent. We will invest in the next generation of transformative energy technologies and health IT and we will renew the defense R&D system. We will lift the current Administration's ban on using federal funding for embryonic stem cells– cells that would have otherwise have been discarded and lost forever–for research that could save lives. We will ensure that our patent laws protect legitimate rights while not stifling innovation and creativity. We will end the Bush Administration's war on science, restore scientific integrity, and return to evidence-based decision-making.

In sum, we will strengthen our system, treat science and technology as crucial investments, and use these forces to ensure a future of economic leadership, health well-being and national security.

Invest in Manufacturing and Our Manufacturing Communities

We will invest in American jobs and finally end the tax breaks that ship jobs overseas. We will create an Advanced Manufacturing Fund to provide for our next generation of innovators and job creators; we will expand the Manufacturing Extension Partnerships and create new job training programs for clean technologies. We will bring together government, private industry, workers, and academia to turn around the manufacturing sector of the U.S. economy and provide assistance to automakers and parts companies to encourage retooling of facilities in this country to produce advanced technology vehicles and their key components. We will support efforts like the recently proposed Senate Appropriations measure that gives manufacturers access to low-interest loans to help convert factories to build more fuel-efficient vehicles. And we will invest in a clean energy economy to create up to five million new green-collar jobs.

Our manufacturing communities need immediate relief. And we will help states and localities whose budgets are strained in times of need. We will modernize and expand Trade Adjustment Assistance. We will help workers build a safety net, with health care, retirement security, and a way to stay out of crippling debt. We will partner with community colleges and other higher education institutions, so that we're training workers to meet the demands of local industry, including environmentally-friendly technology.

Creating New Jobs by Rebuilding American Infrastructure

A century ago, Teddy Roosevelt called together leaders from business and government to develop a plan for the next century's infrastructure. It falls to us to do the same. Right now, we are spending less than at any time in recent history and far less than our international competitors on this critical component of our nation's strength. We will start a National Infrastructure Reinvestment Bank that can leverage private investment in infrastructure improvements, and create nearly two million new good jobs. We will undertake projects that maximize our safety and security and ability to compete, which we will fund as we bring the war in Iraq to a responsible close. We will modernize our power grid, which will help conservation and spur the development and distribution of clean energy. We need a national transportation policy, including high-speed rail and light rail. We can invest in our bridges, roads, and public transportation so that people have choices in how they get to work. We will ensure every American has access to highspeed broadband and we will take on special interests in order to unleash the power of the wireless spectrum.

A Connected America

In the 21st Century, our world is more intertwined than at any time in human history. This new connectedness presents us with untold opportunities for innovation, but also new challenges. We will protect the Internet's traditional openness and ensure that it remains a dynamic platform for free speech, innovation, and creativity. We will implement a national broadband strategy (especially in rural areas, and our reservations and territories) that enables every American household, school, library, and hospital to connect to a world-class communications infrastructure. We will rededicate our nation to ensuring that all Americans have access to broadband and the skills to use it effectively. In an increasingly technology-rich, knowledge-based economy, we understand that connectivity is a key part of the solution to many of our most important challenges: job creation, economic growth, energy, health care, and education. We will establish a Chief Technology Officer for the nation, to ensure we use technology to enhance the functioning, transparency, and expertise of government, including establishing a national interoperable public safety communications network to help first responders at the local, state and national level communicate with one another during a crisis.

We will toughen penalties, increase enforcement resources, and spur private sector cooperation with law enforcement to identify and prosecute those who exploit the Internet to try to harm children. We will encourage more educational content on the Web and in our media. We will give parents the tools and information they need to manage what their children see on television and the Internet – in ways fully consistent with the First Amendment. We will strengthen privacy protections in the digital age and will harness the power of technology to hold government and business accountable for violations of personal privacy. We will encourage diversity in the ownership of broadcast media, promote the development of new media outlets for expression of diverse viewpoints, and clarify the public interest obligations of broadcasters who occupy the nation's spectrum.

Support Small Business and Entrepreneurship

Encouraging new industry and creating jobs means giving more support to American entrepreneurs. We will exempt all start-up companies from capital gains taxes and provide them a tax credit for health insurance. We will provide a new tax credit for small businesses that offer quality health insurance to their employees. We will help small businesses facing high energy costs. We will work to remove bureaucratic barriers for small and start-up businesses– for example, by making the patent process more efficient and reliable. Our Small Business Administration will recognize the importance of small business to women, people of color, tribes, and rural America and will work to help nurture entrepreneurship. We will create a national network of public-private business incubators and technical support.

Real Leadership for Rural America

Rural America is home to 60 million Americans. The agricultural sector is critical to the rural economy and to all Americans. We depend on those in agriculture to produce the food, feed, fiber, and fuel that support our society. Thankfully, American farmers possess an unrivaled capacity to produce an abundance of these high-quality products.

In return, we will provide a strong safety net for family farms, a permanent disaster relief program, expansion of agriculture research, and an emphasis on agricultural trade. We will promote economic development in rural and tribal communities by investing in renewable energy, which will transform the rural economy and create millions of new jobs, by upgrading technological and physical infrastructure, by addressing the challenges faced by public schools in rural areas, including forest county schools, supporting higher education opportunities and by attracting quality teachers, doctors and nurses through loan forgiveness programs and other incentive programs. All Americans, urban and rural, hold a shared interest in preserving and increasing the economic vitality of family farms. We will continue to develop and advance policies that promote sustainable and local agriculture, including funding for

soil and water conservation programs.

Economic Stewardship

Since the time of our Founders, we have struggled to balance the same forces that confronted Alexander Hamilton and Thomas Jefferson–self-interest and community; markets and democracy; the concentration of wealth and power, and the necessity of transparency and opportunity for each and every American. Throughout our history, Americans have pursued their dreams within a free market that has been the engine of America's progress. It's a market that has created a prosperity that is the envy of the world, and opportunity for generations of Americans. A market that has provided great rewards to the innovators and risk-takers who have made America a beacon for science, technology, and discovery.

But the American experiment has worked in large part because we have guided the market's invisible hand with a higher principle. Our free market was never meant to be a free license to take whatever you can get, however you can get it. That is why we have put in place rules of the road to make competition fair, open, and honest. We have done this not to stifle–but rather to advance – prosperity and liberty.

In this time of economic transformation and crisis, we must be stewards of this economy more than ever before. We will maintain fiscal responsibility, so that we do not mortgage our children's future on a mountain of debt. We can do this at the same time that we invest in our future. We will restore fairness and responsibility to our tax code. We will bring balance back to the housing markets, so that people do not have to lose their homes. And we will encourage personal savings, so that our economy remains strong and Americans can live well in their retirements.

Restoring Fairness to Our Tax Code

We must reform our tax code. It's thousands of pages long, a monstrosity that high-priced lobbyists have rigged with page after page of special interest loopholes and tax shelters. We will shut down the corporate loopholes and tax havens and use the money so that we can provide an immediate middle-class tax cut that will offer relief to workers and their families. We'll eliminate federal income taxes for millions of retirees, because all seniors deserve to live out their lives with dignity and respect. We will not increase taxes on any family earning under $250,000 and we will offer additional tax cuts for middle class families. For families making more than $250,000, we'll ask them to give back a portion of the Bush tax cuts to invest in health care and other key priorities. We will end the penalty within the current Social Security system for public service that exists in several states. We will expand the Earned Income Tax Credit, and dramatically simplify tax filings so that millions of Americans can do their taxes in less than five minutes.

Housing

The housing crisis has been devastating for many Americans. Minorities have been hit particularly hard—in 2006, more than 40 percent of the home loans made to Hispanic borrowers were subprime, while more than half of those made to African Americans were subprime. We will ensure that the foreclosure prevention program enacted by Congress is implemented quickly and effectively so that at-risk homeowners can get help and hopefully stay in their homes. We will work to reform bankruptcy laws to restore balance between lender and homeowner rights. Because we have an obligation to prevent this crisis from recurring in the future, we will crack down on fraudulent brokers and lenders and invest in financial literacy. We will pass a Homebuyers Bill of Rights, which will include establishing new lending standards to ensure that loans are affordable and fair, provide adequate remedies to make sure the standards are met, and ensure that homeowners have accurate and complete information about their mortgage options. We will support affordable rental housing, which is now more critical than ever. We will implement the newly created Affordable Housing Trust Fund to ensure that it can start to support the development and preservation of affordable housing in mixed-income neighborhoods throughout the country, restore cuts to public housing operating subsidies, and fully fund the Community Development Block Grant program. We will work with local jurisdictions on the problem of vacant and abandoned housing in our communities. We will work to end housing discrimination and to ensure equal housing opportunity. We will combat homelessness and target homelessness among veterans in particular by expanding proven programs and launching innovative preventive services.

Reforming Financial Regulation and Corporate Governance

We have failed to guard against practices that all too often rewarded financial manipulation instead of productivity and sound business practices. We have let the special interests put their thumbs on the economic scales. We do not believe that government should stand in the way of innovation, or turn back the clock to an older era of regulation. But we do believe that government has a role to play in advancing our common prosperity: by providing stable macroeconomic and financial conditions for sustained growth; by demanding transparency; and by ensuring fair competition in the marketplace. We will reform and modernize our regulatory structures and will work to promote a shift in the cultures of our financial institutions and our regulatory agencies. We will ensure shareholders have an advisory vote on executive compensation, in order to spur increased transparency and public debate over pay packages. To make our communities stronger and more livable, and to meet the challenges of increasing global competitiveness, America will lead innovation in corporate responsibility to create jobs and leverage our private sector entrepreneurial leadership to help build a better world.

Consumer Protection

We will establish a Credit Card Bill of Rights to protect consumers and a Credit Card Rating System to improve disclosure. Americans need to pay what they owe, but they should pay what's fair. We'll reform our bankruptcy laws to give Americans in debt a second chance. If people can demonstrate that they went bankrupt because of medical expenses, they will be able to relieve that debt and get back on their feet. We will ban executive bonuses for bankrupt companies. We will crack down on predatory lenders and make it easier for low-income families to buy homes. We will require all non-home-based child care facilities to be lead-safe within five years. We must guarantee that consumer products coming in from other countries are truly safe, and will call on the Federal Trade Commission to ensure vulnerable consumer populations, such as seniors, are addressed.

Savings

The personal saving rate is at its lowest since the Great Depression. Currently, 75 million working Americans—roughly half the workforce—lack employer-based retirement plans. That's why we will create automatic workplace pensions. People can add to their pension, or can opt out at any time; the savings account will be easily transferred between jobs; and people can control it themselves if they become self-employed. We will ensure savings incentives are fair to all workers by matching half of the initial $1000 of savings for families that need help; and employers will have an easy opportunity to match employee savings. We believe this program will increase the saving participation rate for low- and middle-income workers from its current 15 percent to 80 percent. We support good pensions, and will adopt measures to preserve and protect existing public and private pension plans. We will require that employees who have company pensions receive annual disclosures about their pension fund's investments. This will put a secure retirement within reach for millions of working families.

Smart, Strong, and Fair Trade Policies

We believe that trade should strengthen the American economy and create more American jobs, while also laying a foundation for democratic, equitable, and sustainable growth around the world. Trade has been a cornerstone of our growth and global development, but we will not be able to sustain this growth if it favors the few rather than the many. We must build on the wealth that open markets have created, and share its benefits more equitably.

Trade policy must be an integral part of an overall national economic strategy that delivers on the promise of good jobs at home and shared prosperity

abroad. We will enforce trade laws and safeguard our workers, businesses, and farmers from unfair trade practices–including currency manipulation, lax consumer standards, illegal subsidies, and violations of workers' rights and environmental standards. We must also show leadership at the World Trade Organization to improve transparency and accountability, and to ensure it acts effectively to stop countries from continuing unfair government subsidies to foreign exporters and non-tariff barriers on U.S. exports.

We need tougher negotiators on our side of the table–to strike bargains that are good not just for Wall Street, but also for Main Street. We will negotiate bilateral trade agreements that open markets to U.S. exports and include enforceable international labor and environmental standards; we pledge to enforce those standards consistently and fairly. We will not negotiate bilateral trade agreements that stop the government from protecting the environment, food safety, or the health of its citizens; give greater rights to foreign investors than to U.S. investors; require the privatization of our vital public services; or prevent developing country governments from adopting humanitarian licensing policies to improve access to life-saving medications. We will stand firm against bilateral agreements that fail to live up to these important benchmarks, and will strive to achieve them in the multilateral framework. We will work with Canada and Mexico to amend the North American Free Trade Agreement so that it works better for all three North American countries. We will work together with other countries to achieve a successful completion of the Doha Round Agreement that would increase U.S. exports, support good jobs in America, protect worker rights and the environment, benefit our businesses and our farms, strengthen the rules-based multilateral system, and advance development of the world's poorest countries.

Just as important, we will invest in a world-class infrastructure, skilled workforce, and cutting-edge technology so that we can compete successfully on high-value-added products, not sweatshop wages and conditions. We will end tax breaks for companies that ship American jobs overseas, and provide incentives for companies that keep and maintain good jobs here in the United States. We will also provide access to affordable health insurance and enhance retirement security, and we will update and expand Trade Adjustment Assistance to help workers in industries vulnerable to international competition, as well as service sector and public sector workers impacted by trade, and we will improve TAA's health care benefits. The United States should renew its own commitment to respect for workers' fundamental human rights, and at the same time strengthen the ILO's ability to promote workers' rights abroad through technical assistance and capacity building.

Fiscal Responsibility

Our agenda is ambitious–particularly in light of the current Administration's policies that have run up the national debt to over $4 trillion. Just as America cannot afford to continue to run up huge deficits, so too can we not afford to short-change investments. The key is to make the tough choices, in particular enforcing pay-as-you-go budgeting rules. We will honor these rules by our plan to end the Iraq war responsibly, eliminate waste in existing government programs, generate revenue by charging polluters for the greenhouse gases they are releasing, and put an end to the reckless, special interest driven corporate loopholes and tax cuts for the wealthy that have been the centerpiece of the Bush Administration's economic policy. We will not raise taxes on people making less than $250,000, and we will eliminate federal income taxes for seniors making less than $50,000. We recognize that Social Security is not in crisis and we should do everything we can to strengthen this vital program, including asking those making over $250,000 to pay a bit more. The real long-run fiscal challenge is rooted in the rising spending on health care, but we cannot address this in a way that puts our most vulnerable families in jeopardy. Instead, we must strengthen our public programs by bringing down the cost of health care and reducing waste while making strategic investments that emphasize quality, efficiency, and prevention. In the name of our children, we reject the proposals of those who want to continue George Bush's disastrous economic policies.

II. Renewing American Leadership

At moments of great peril in the last century, American leaders such as Franklin Roosevelt, Harry Truman, and John F. Kennedy managed both to protect the American people and to expand opportunity for the next generation. They ensured that America, by deed and example, led and lifted the world–that we stood for and fought for the freedoms sought by billions of people beyond our borders. They used our strengths to show people everywhere America at its best. Just as John Kennedy said that after Hoover we needed Franklin Roosevelt, so too after our experience of the last eight years we need Barack Obama.

Today, we are again called to provide visionary leadership. This century's threats are at least as dangerous as, and in some ways more complex than, those we have confronted in the past. They come from weapons that can kill on a mass scale and from violent extremists who exploit alienation and perceived injustice to spread terror. They come from rogue states allied to terrorists and from rising powers that could challenge both America and the international foundation of liberal democracy. They come from weak states that cannot control their territory or provide for their people. They come from an addiction to oil that helps fund the extremism we must fight and empowers repressive regimes. And they come from a warming planet that will spur new diseases, spawn more devastating natural disasters, and catalyze deadly conflicts.

We will confront these threats head on while working with our allies and restoring our standing in the world. We will pursue a tough, smart, and principled national security strategy. It is a strategy that recognizes that we have interests not just in Baghdad, but in Kandahar and Karachi, in Beijing, Berlin, Brasilia and Bamako. It is a strategy that contends with the many disparate forces shaping this century, including: the fundamentalist challenge to freedom; the emergence of new powers like China, India, Russia, and a united Europe; the spread of lethal weapons; uncertain supplies of energy, food, and water; the persistence of poverty and the growing gap between rich and poor; and extraordinary new technologies that send people, ideas, and money across the globe at ever faster speeds.

Barack Obama will focus this strategy on seven goals: (i) ending the war in Iraq responsibly; (ii) defeating Al Qaeda and combating violent extremism; (iii) securing nuclear weapons and materials from terrorists; (iv) revitalizing and supporting our military; (v) renewing our partnerships to promote our common security; (vi) advancing democracy and development; and (vii) protecting our planet by achieving energy security and combating climate change.

Ending the War in Iraq

To renew American leadership in the world, we must first bring the Iraq war to a responsible end. Our men and women in uniform have performed admirably while sacrificing immeasurably. Our civilian leaders have failed them. Iraq was a diversion from the fight against the terrorists who struck us on 9-11, and incompetent prosecution of the war by civilian leaders compounded the strategic blunder of choosing to wage it in the first place.

We will re-center American foreign policy by responsibly redeploying our combat forces from Iraq and refocusing them on urgent missions. We will give our military a new mission: ending this war and giving Iraq back to its people. We will be as careful getting out of Iraq as we were careless getting in. We can safely remove our combat brigades at the pace of one to two per month and expect to complete redeployment within sixteen months. After this redeployment, we will keep a residual force in Iraq to perform specific missions: targeting terrorists; protecting our embassy and civil personnel; and advising and supporting Iraq's Security Forces, provided the Iraqis make political progress.

At the same time, we will provide generous assistance to Iraqi refugees and internally displaced persons. We will launch a comprehensive regional and international diplomatic surge to help broker a lasting political settlement in Iraq, which is the only path to a sustainable peace. We will make clear that we seek no permanent bases in Iraq. We will encourage Iraq's government to devote its oil revenues and budget surplus to reconstruction and development. This is the future the American people want. This is the future that Iraqis want. This is what our common interests demand.

Defeating Al Qaeda and Combating Terrorism

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The central front in the war on terror is not Iraq, and it never was. We will defeat Al Qaeda in Afghanistan and Pakistan, where those who actually attacked us on 9-11 reside and are resurgent.

Win in Afghanistan

Our troops are performing heroically in Afghanistan, but as countless military commanders and the Chairman of the Joint Chiefs of Staff acknowledge, we lack the resources to finish the job because of our commitment to Iraq. We will finally make the fight against Al Qaeda and the Taliban the top priority that it should be.

We will send at least two additional combat brigades to Afghanistan, and use this commitment to seek greater contributions--with fewer restrictions--from our NATO allies. We will focus on building up our special forces and intelligence capacity, training, equipping and advising Afghan security forces, building Afghan governmental capacity, and promoting the rule of law. We will bolster our State Department's Provincial Reconstruction Teams and our other government agencies helping the Afghan people. We will help Afghans educate their children, including their girls, provide basic human services to their population, and grow their economy from the bottom up, with an additional $1 billion in non-military assistance each year--including investments in alternative livelihoods to poppy-growing for Afghan farmers--just as we crack down on trafficking and corruption. Afghanistan must not be lost to a future of narco-terrorism--or become again a haven for terrorists.

Seek a New Partnership with Pakistan

The greatest threat to the security of the Afghan people--and the American people--lies in the tribal regions of Pakistan, where terrorists train, plot attacks, and strike into Afghanistan and move back across the border. We cannot tolerate a sanctuary for Al Qaeda. We need a stronger and sustained partnership between Afghanistan, Pakistan, and NATO--including necessary assets like satellites and predator drones--to better secure the border, to take out terrorist camps, and to crack down on cross-border insurgents. We must help Pakistan develop its own counter-terrorism and counter-insurgency capacity. We will invest in the long-term development of the Pashtun border region, so that the extremists' program of hate is met with an agenda of hope.

We will ask more of the Pakistani government, rather than offer a blank check to an undemocratic President. We will significantly increase non-military aid to the Pakistani people and sustain it for a decade, while ensuring that the military assistance we provide is actually used to fight extremists. We must move beyond an alliance built on individual leaders, or we will face mounting opposition in a nuclear-armed nation at the nexus of terror, extremism, and the instability wrought by autocracy.

Combat Terrorism

Beyond Afghanistan and Pakistan, we must forge a more effective global response to terrorism. There must be no safe haven for those who plot to kill Americans. We need a comprehensive strategy to defeat global terrorists--one that draws on the full range of American power, including but not limited to our military might. We will create a properly resourced Shared Security Partnership to enhance counter-terrorism cooperation with countries around the world, including through information sharing as well as funding for training, operations, border security, anti-corruption programs, technology, and targeting terrorist financing.

We will pursue policies to undermine extremism, recognizing that this contest is also between two competing ideas and visions of the future. A crucial debate is occurring within Islam. The vast majority of Muslims believe in a future of peace, tolerance, development, and democratization. A small minority embrace a rigid and violent intolerance of personal liberty and the world at large. To empower forces of moderation, America must live up to our values, respect civil liberties, reject torture, and lead by example. We will make every effort to export hope and opportunity--access to education, that opens minds to tolerance, not extremism; secure food and water supplies; and health care, trade, capital, and investment. We will provide steady support for political reformers, democratic institutions, and civil society that is necessary to uphold human rights and build respect for the rule of law.

Secure the Homeland

Here at home, we will strengthen our security and protect the critical infrastructure on which the entire world depends. We will fully fund and implement the recommendations of the bipartisan 9-11 Commission. We will spend homeland security dollars on the basis of risk. This means investing more resources to defend mass transit, closing the gaps in our aviation security by screening all cargo on passenger airliners and checking all passengers against a reliable and comprehensive watch list, and upgrading plant security and port security by ensuring that cargo is screened for radiation. To ensure that resources are targeted, we will establish a Quadrennial Review at the Department of Homeland Security to undertake a top to bottom assessment of the threats we face and our ability to confront them. And we will develop a comprehensive National Infrastructure Protection Plan that draws on both local know-how and national priorities. We will ensure direct coordination with state, local, and tribal jurisdictions so that first responders are always resourced and prepared.

Pursue Intelligence Reform

To succeed, our homeland security and counter-terrorism actions must be linked to an intelligence community that deals effectively with the threats we face. Today, we rely largely on the same institutions and practices that were in place before 9-11. Barack Obama will depoliticize intelligence by appointing a Director of National Intelligence with a fixed term, create a bipartisan Consultative Group of congressional leaders on national security, and establish a National Declassification Center to ensure openness. To keep pace with highly adaptable enemies, we need technologies and practices that enable us to efficiently collect and share information within and across our intelligence agencies. We must invest still more in human intelligence and deploy additional trained operatives with specialized knowledge of local cultures and languages. And we will institutionalize the practice of developing competitive assessments of critical threats and strengthen our methodologies of analysis.

Preventing the Spread and Use of Weapons of Mass Destruction

We will urgently seek to reduce dramatically the risks from three potentially catastrophic threats: nuclear weapons, biological attacks, and cyber warfare. In an age of terrorism, these dangers take on new dimensions. Nuclear, biological, and cyber attacks all pose the potential for large-scale damage and destruction to our people, to our economy and to our way of life. The capacity to inflict such damage is spreading not only to other countries, but also potentially to terrorist groups.

A World Without Nuclear Weapons

America will seek a world with no nuclear weapons and take concrete actions to move in this direction. We face the growing threat of terrorists acquiring nuclear weapons or the materials to make them, as more countries seek nuclear weapons and nuclear materials remain unsecured in too many places. As George Shultz, Bill Perry, Henry Kissinger, and Sam Nunn have warned, current measures are not adequate to address these dangers. We will maintain a strong and reliable deterrent as long as nuclear weapons exist, but America will be safer in a world that is reducing reliance on nuclear weapons and ultimately eliminates all of them. We will make the goal of eliminating nuclear weapons worldwide a central element of U.S. nuclear weapons policy.

Secure Nuclear Weapons and the Materials to Make Them

We will work with other nations to secure, eliminate, and stop the spread of nuclear weapons and materials to dramatically reduce the dangers to our nation and the world. There are nuclear weapons materials in 40 countries, and we will lead a global effort to work with other countries to secure all nuclear weapons material at vulnerable sites within four years. We will work with nations to increase security for nuclear weapons. We will convene a summit in 2009 (and regularly thereafter) of leaders of Permanent Members of the U.N. Security Council and other key countries to agree on implementing many of these measures on a global basis.

End the Production of Fissile Material

We will negotiate a verifiable global ban on the production of fissile material for nuclear weapons. We will work to prevent the spread of nuclear weapons technology so that countries cannot build--or come to the brink of building--a weapons program under the guise of developing peaceful nuclear power. We will seek to double the International Atomic Energy Agency's budget, support the creation of an IAEA-controlled nuclear fuel bank to guarantee fuel supply to countries that do not build enrichment facilities, and work to strengthen the Nuclear Non-Proliferation Treaty.

End Cold War Nuclear Postures

To enhance our security and help meet our commitments under the Non-Proliferation Treaty, we will seek deep, verifiable reductions in United States and Russian nuclear weapons and work with other nuclear powers to reduce global stockpiles dramatically. We will work with Russia to take as many weapons as possible off Cold War, quick-launch status, and extend key provisions of the START Treaty, including its essential monitoring and verification requirements. We will not develop new nuclear weapons, and will work to create a bipartisan consensus to support ratification of the Comprehensive Nuclear Test Ban Treaty, which will strengthen the NPT and aid international monitoring of nuclear activities.

Prevent Iran from Acquiring Nuclear Weapons

The world must prevent Iran from acquiring nuclear weapons. That starts with tougher sanctions and aggressive, principled, and direct high-level diplomacy, without preconditions. We will pursue this strengthened diplomacy alongside our European allies, and with no illusions about the Iranian regime. We will present Iran with a clear choice: if you abandon your nuclear weapons program, support for terror, and threats to Israel, you will receive meaningful incentives; so long as you refuse, the United States and the international community will further ratchet up the pressure, with stronger unilateral sanctions; stronger multilateral sanctions inside and outside the U.N. Security Council, and sustained action to isolate the Iranian regime. The Iranian people and the international community must know that it is Iran, not the United States, choosing isolation over cooperation. By going the extra diplomatic mile, while keeping all options on the table, we make it more likely the rest of the world will stand with us to increase pressure on Iran, if diplomacy is failing.

De-Nuclearize North Korea

We support the belated diplomatic effort to secure a verifiable end to North Korea's nuclear weapons program and to fully account for and secure any fissile material or weapons North Korea has produced to date. We will continue direct diplomacy and are committed to working with our partners through the six-party talks to ensure that all agreements are fully implemented in the effort to achieve a verifiably nuclear-free Korean peninsula.

Biological and Chemical Weapons

We will strengthen U.S. intelligence collection overseas to identify and interdict would-be bioterrorists before they strike. We will also build greater capacity to mitigate the consequences of bio-terror attacks, ensuring that the federal government does all it can to get citizens the information and resources they need to help protect themselves and their families. We will accelerate the development of new medicines, vaccines, and production capabilities, and lead an international effort to detect and diminish the impact of major infectious disease epidemics. And we will fully fund our contribution to the Organization for the Prohibition of Chemical Weapons and work to ensure that remaining stockpiles of chemical weapons are destroyed swiftly, safely, and securely.

Stronger Cyber-Security

We will work with private industry, the research community and our citizens, to build a trustworthy and accountable cyber-infrastructure that is resilient, protects America's competitive advantage, and advances our national and homeland security.

Revitalizing and Supporting the Military, Keeping Faith With Veterans

To renew American leadership in the world, we must revitalize our military. A strong military is, more than anything, necessary to sustain peace.

Ending the war in Iraq will be the beginning, but not the end, of addressing our defense challenges. We will use this moment both to rebuild our military and to prepare it for the missions of the future. We must retain the capacity to swiftly defeat any conventional threat to our country and our vital interests. But we must also become better prepared to take on foes that fight asymmetrical and highly adaptive campaigns on a global scale.

We will not hesitate to use force to protect the American people or our vital interests whenever we are attacked or imminently threatened. But we will use our armed forces wisely, with others when we can, unilaterally when we must. When we send our men and women into harm's way, we must clearly define the mission, listen to the advice of our military commanders, objectively evaluate intelligence, and ensure that our troops have the strategy, resources, and support they need to prevail.

We believe we must also be willing to consider using military force in circumstances beyond self-defense in order to provide for the common security that underpins global stability--to support friends, participate in stability and reconstruction operations, or confront mass atrocities. But when we do use force in situations other than self-defense, we should make every effort to garner the clear support and participation of others. The consequences of forgetting that lesson in the context of the current conflict in Iraq have been grave.

Expand the Armed Forces

We support plans to increase the size of the Army by 65,000 troops and the Marines by 27,000 troops. Increasing our end strength will help units retrain and re-equip properly between deployments and decrease the strain on military families.

Recruit and Retain

A nation of 300 million people should not struggle to find additional qualified personnel to serve. Recruitment and retention problems have been swept under the rug, including by applying inconsistent standards and using the "Stop Loss" program to keep our servicemen and women in the force after their enlistment has expired. We will reach out to youth, as well as to the parents, teachers, coaches, and community and religious leaders who influence them, and make it an imperative to restore the ethic of public service, whether it be serving their local communities in such roles as teachers or first responders, or serving in the military and reserve forces or diplomatic corps that keep our nation free and safe.

Rebuild the Military for 21st-Century Tasks

We will rebuild our armed forces to meet the full spectrum needs of the new century. We will strongly support efforts to: build up our special operations forces, civil affairs, information operations, engineers, foreign area officers, and other units and capabilities that remain in chronic short supply; invest in foreign language training, cultural awareness, human intelligence, and other needed counter-insurgency and stabilization skill sets; and create a specialized military advisor corps, which will enable us to better build up local allies' capacities to take on mutual threats. We also will ensure that military personnel have sufficient training time before they are sent into battle. This is not the case at the moment, when American forces are being rushed to Iraq and Afghanistan, often with less individual and unit training than is required.

Develop Civilian Capacity to Promote Global Stability and Improve Emergency Response

We will build the capacity of U.S. civilian agencies to deploy personnel and area experts where they are needed, so that we no longer have to ask our men and women in uniform to perform non-military functions. The creation of a volunteer Civilian Assistance Corps of skilled experts (e.g., doctors, lawyers, engineers, city planners, agriculture specialists, police) who are pre-trained and willing to aid in emergencies will involve more Americans in public service and provide our nation with a pool of talent to assist America in times of need at home and abroad.

Do Right by Our Veterans and Their Families

We believe that every servicemember is a hero who deserves our respect and gratitude, not just on Veterans Day or Memorial Day, but every day. When they put on their uniforms, these servicemembers all become all of our daughters and all of our sons, and it is time we started treating them as such. As the shameful events at Walter Reed hospital and the recent reports on growing numbers of homeless and unemployed veterans show, this Administration that has asked so much of them has not repaid their sacrifice.

We will build a 21st century Department of Veterans Affairs that reflects the reality of America's all volunteer military and has the resources, without returning every year to fight the same battles, to uphold America's sacred trust with our veterans. We will make sure that members of our Armed Forces have a fair shot at the American Dream by implementing the new GI Bill. We will ensure that every veteran has access to quality health care for injuries both physical and mental, and we will require that health professionals screen all servicemembers upon their return from combat. We will aggressively address Post-Traumatic Stress Disorder and Traumatic Brain Injury. We will work to ensure that every veteran receives the benefits he or she has earned and the assistance he or she needs by making the disability benefits process more fair, efficient, and equitable. We will dramatically reduce the backlog of disability claims. We will combat homelessness, unemployment, and underemployment among veterans and improve the transition for servicemen between the Departments of Defense and Veterans Affairs. We will continue to honor our promises to all veterans, including the Filipino veterans, especially with regards to citizenship and family reunification.

Lift Burdens on Our Troops and Their Families

We must better support those families of whom we are asking so much. We will create a Military Families Advisory Board to help identify and develop practical policies to ease the burden on spouses and families.

We will protect our military families from losing their homes to foreclosure. We will work for pay parity so that compensation for military service is more in line with that of the private sector. We will end the stop-loss and reserve recall policies that allow an individual to be forced to remain on active duty well after his or her enlistment has expired, and we will establish regularity in deployments so that active duty and reserve troops know what they must expect and their families can plan for it.

Support the Readiness of the Guard and Reserve

Democrats will provide the National Guard with the equipment it needs for foreign and domestic emergencies and provide time and support to restore and refit between deployments. We will also ensure that reservists and Guard members are treated fairly when it comes to employment, health, education benefits, deployment, and reintegration. We will do this by adequately funding reintegration programs to assist returning service members and by enforcing the Service Members Civil Relief Act and the Uniformed Service Employment Rights and Readjustment Act, laws too often observed in the breach today. To ensure that the concerns of our citizen soldiers reach the level they mandate, Democrats will elevate the Chief of the National Guard to be a member of the Joint Chiefs of Staff.

Allow All Americans to Serve

We will also put national security above divisive politics. More than 12,500 service men and women have been discharged on the basis of sexual orientation since the "Don't Ask, Don't Tell" policy was implemented, at a cost of over $360 million. Many of those forced out had special skills in high demand, such as translators, engineers, and pilots. At a time when the military is having a tough time recruiting and retaining troops, it is wrong to deny our country the service of brave, qualified people. We support the repeal of "Don't Ask Don't Tell" and the implementation of policies to allow qualified men and women to serve openly regardless of sexual orientation

Reform Contracting Practices and Make Contractors Accountable

We believe taxpayer dollars should be spent to invest in our fighting men and women, not to fatten the pockets of private companies. We will instruct the Defense and State Departments to develop a strategy for determining when contracting makes sense, and when certain functions are "inherently governmental" and should not be contracted out. We will establish the legal status of contractor personnel, making possible prosecution of any abuses committed by private military contractors, and create a system of improved oversight and management, so that government can restore honesty, openness, and efficiency to contracting and procurement.

Working for Our Common Security

To renew American leadership in the world, we will rebuild the alliances, partnerships, and institutions necessary to confront common threats and enhance common security. Needed reform of these alliances and institutions will not come by bullying other countries to ratify American demands. It will come when we convince other governments and peoples that they too have a stake in effective partnerships. It is only leadership if others join America in working toward our common security.

Too often, in recent years, we have sent the opposite signal to our international partners. In the case of Europe, we dismissed European reservations about the wisdom and necessity of the Iraq war and their concerns about climate change. In Asia, we belittled South Korean efforts to improve relations with the North. In Latin America, from Mexico to Argentina, we failed to address concerns about immigration and equity and economic growth. In Africa, we have allowed genocide to persist for over five years in Darfur and have not done nearly enough to answer the United Nation's call for more support to stop the killing. Under Barack Obama, we will rebuild our ties to our allies in Europe and Asia and strengthen our partnerships throughout the Americas and Africa.

Support Africa's Democratic Development

U.S. engagement with Africa should reflect its vital significance to the U.S. as well as its emerging role in the global economy. We recognize Africa's promise as a trade and investment partner and the importance of policies that can contribute to sustainable economic growth, job creation, and poverty alleviation. We are committed to bringing the full weight of American leadership to bear in unlocking the spirit of entrepreneurship and economic independence that is sweeping across markets of Africa.

We believe that sustainable economic growth and development will mitigate and even help to reverse such chronic and debilitating challenges as poverty, hunger, conflict, and HIV/AIDS. We are committed to bringing the full weight of American leadership to bear to work in partnership with Africa to confront these crises. We will work with the United Nations and Africa's regional organizations to prevent and resolve conflict and to build the capacity of Africa's weak and failing states. We must respond effectively when there is a humanitarian crisis–particularly at this moment in Sudan where genocide persists in Darfur and the Comprehensive Peace Agreement is threatened.

Many African countries have embraced democratization and economic liberalization. We will help strengthen Africa's democratic development and respect for human rights, while encouraging political and economic reforms that result in improved transparency and accountability. We will defend democracy and stand up for rule of law when it is under assault, such as in Zimbabwe.

Recommit to an Alliance of the Americas

We recognize that the security and prosperity of the United States is fundamentally tied to the future of the Americas. We believe that in the 21st Century, the U.S. must treat Latin America and the Caribbean as full partners, just as our neighbors to the south should reject the bombast of authoritarian bullies. Our relationship with Canada, our long-time ally, should be strengthened and enhanced. An alliance of the Americas will only succeed if it is founded on the bedrock of mutual respect and works to advance democracy, opportunity, and security from the bottom-up. We must turn the page on the arrogance in Washington and the anti-Americanism across the region that stands in the way of progress. We must work with close partners like Mexico, Brazil, and Colombia on issues like ending the drug trade, fighting poverty and inequality, and immigration. We must work with the Caribbean community to help restore stability and the rule of law to Haiti, to improve the lives of its people, and to strengthen its democracy. And we must build ties to the people of Cuba and help advance their liberty by allowing unlimited family visits and remittances to the island, while presenting the Cuban regime with a clear choice: if it takes significant steps toward democracy, beginning with the unconditional release of all political prisoners, we will be prepared to take steps to begin normalizing relations.

Lead in Asia

We are committed to U.S. engagement in Asia. This begins with maintaining strong relationships with allies like Japan, Australia, South Korea, Thailand, and the Philippines, and deepening our ties to vital democratic partners, like India, in order to create a stable and prosperous Asia. We must also forge a more effective framework in Asia that goes beyond bilateral agreements, occasional summits, and ad hoc diplomatic arrangements.

We need an open and inclusive infrastructure with the countries in Asia that can promote stability, prosperity, and human rights, and help confront transnational threats, from terrorist cells in the Philippines to avian flu in Indonesia. We will encourage China to play a responsible role as a growing power—to help lead in addressing the common problems of the 21st century. We are committed to a "One China" policy and the Taiwan Relations Act, and will continue to support a peaceful resolution of cross- Straits issues that is consistent with the wishes and best interests of the people of Taiwan. It's time to engage China on common interests like climate change, trade, and energy, even as we continue to encourage its shift to a more open society and a market-based economy, and promote greater respect for human rights, including freedom of speech, press, assembly, religion, uncensored use of the internet, and Chinese workers' right to freedom of association, as well as the rights of Tibetans.

Strengthen Transatlantic Relations

Europe remains America's indispensable partner. We support the historic project to build a strong European Union that can be an even stronger partner for the United States. NATO has made tremendous strides over the last fifteen years, transforming itself from a Cold War security structure into a partnership for peace. But today, NATO's challenge in Afghanistan has exposed a gap between its missions and its capabilities. To close this gap, we will invest more in NATO's mission in Afghanistan and use that investment to leverage our NATO allies to contribute more resources to collective security operations and to invest more in reconstruction and stabilization capabilities. As we promote democracy and accountability in Russia, we must work with the country in areas of common interest–above all, in making sure that nuclear weapons and materials are secure. We will insist that Russia abide by international law and respect the sovereignty and territorial integrity of its neighbors. We are committed to active Presidential leadership in the full implementation of the Irish Good Friday Agreement and St. Andrews Accords. We will seek to strengthen and broaden our strategic partnership with Turkey, end the division of Cyprus, and continue to support a close U.S. relationship with states that seek to strengthen their ties to NATO and the West, such as Georgia and Ukraine.

Stand with Allies and Pursue Diplomacy in the Middle East

For more than three decades, Israelis, Palestinians, Arab leaders, and the rest of the world have looked to America to lead the effort to build the road to a secure and lasting peace. Our starting point must always be our special relationship with Israel, grounded in shared interests and shared values, and a clear, strong, fundamental commitment to the security of Israel, our strongest ally in the region and its only established democracy. That commitment, which requires us to ensure that Israel retains a qualitative edge for its national security and its right to self-defense, is all the more important as we contend with growing threats in the region–a strengthened Iran, a chaotic Iraq, the resurgence of Al Qaeda, the reinvigoration of Hamas and Hezbollah. We support the implementation of the memorandum of understanding that pledges $30 billion in assistance to Israel over the next decade to enhance and ensure its security.

It is in the best interests of all parties, including the United States, that we take an active role to help secure a lasting settlement of the Israeli-Palestinian conflict with a democratic, viable Palestinian state dedicated to living in peace and security side by side with the Jewish State of Israel. To do so, we must help Israel identify and strengthen those partners who are truly committed to peace, while isolating those who seek conflict and instability, and stand with Israel against those who seek its destruction. The United States and its Quartet partners should continue to isolate Hamas until it renounces terrorism, recognizes Israel's right to exist, and abides by past agreements. Sustained American leadership for peace and security will require patient efforts and the personal commitment of the President of the United States. The creation of a Palestinian state through final status negotiations, together with an international compensation mechanism, should resolve the issue of Palestinian refugees by allowing them to settle there, rather than in Israel. All understand that it is unrealistic to expect the outcome of final status negotiations to be a full and complete return to the armistice lines of 1949. Jerusalem is and will remain the capital of Israel. The parties have agreed that Jerusalem is a matter for final status negotiations. It should remain an undivided city accessible to people of all faiths.

Deepen Ties with Emerging Powers

We also will pursue effective collaboration on pressing global issues among all the major powers–including such newly emerging ones as China, India, Russia, Brazil, Nigeria, and South Africa. With India, we will build on the close partnership developed over the past decade. As two of the world's great,

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multi-ethnic democracies, the U.S. and India are natural strategic allies, and we must work together to advance our common interests and to combat the common threats of the 21st Century. We believe it is in the United States' interest that all of these emerging powers and others assume a greater stake in promoting international peace and respect for human rights, including through their more constructive participation in key global institutions.

Revitalize Global Institutions

To enhance global cooperation on issues from weapons proliferation to climate change, we need stronger international institutions. We believe that the United Nations is indispensable but requires far-reaching reform. The U.N. Secretariat's management practices remain inadequate. Peacekeeping operations are overextended. The new U.N. Human Rights Council remains biased and ineffective. Yet none of these problems will be solved unless America rededicates itself to the organization and its mission. We support reforming key global institutions —such as the U.N. Security Council and the G-8—so they will be more reflective of 21st Century realities.

Advancing Democracy, Development, and Respect for Human Rights

No country in the world has benefited more from the worldwide expansion of democracy than the United States. Democracies are our best trading partners, our most valuable allies, and the nations with which we share our deepest values. The United States must join with our democratic partners around the world to meet common security challenges and uphold our shared values whenever they are threatened by autocratic practices, coups, human rights abuses, or genocide.

Build Democratic Institutions

The Democratic Party reaffirms its longstanding commitment to support democratic institutions and practices worldwide. A more democratic world is a more peaceful and prosperous place. Yet democracy cannot be imposed by force from the outside; it must be nurtured with moderates on the inside by building democratic institutions.

The United States must be a relentless advocate for democracy and put forward a vision of democracy that goes beyond the ballot box. We will increase our support for strong legislatures, independent judiciaries, free press, vibrant civil society, honest police forces, religious freedom, equality for women and minorities, and the rule of law. In new democracies, we will support the development of civil society and representative institutions that can protect fundamental human rights and improve the quality of life for all citizens, including independent and democratic unions. In non-democratic countries, we pledge to work with international partners to assist the efforts of those struggling to promote peaceful political reforms. Ongoing funding to the National Endowment for Democracy and other U.S. government-funded democracy programs reflects American values and serves our interests.

Invest in Our Common Humanity

To renew American leadership in the world, we will strengthen our common security by investing in our common humanity. In countries wracked by poverty and conflict, citizens long to enjoy freedom from want. Because extremely poor societies and weak states provide optimal breeding grounds for terrorism, disease, and conflict, the United States has a direct national security interest in dramatically reducing global poverty and joining with our allies in sharing more of our riches to help those most in need.

It is time to make the U.N. Millennium Development Goals, which aim to cut extreme poverty in half by 2015, America's goals as well. We need to invest in building capable, democratic states that can establish healthy and educated communities, develop markets, and generate wealth. Such states would also have greater institutional capacities to fight terrorism, halt the spread of deadly weapons, and build health-care infrastructures to prevent, detect, and treat deadly diseases such as HIV/AIDS, malaria, and avian flu.

We will double our annual investment in meeting these challenges to $50 billion by 2012 and ensure that those new resources are directed toward worthwhile goals. We will work with philanthropic organizations and the private sector to invest in development and poverty reduction. But if America is going to help others build more just and secure societies, our trade deals, debt relief, and foreign aid must not come as blank checks. We will recognize the fragility of small nations in the Caribbean, the Americas, Africa, and Asia and work with them to successfully transition to a new global economy. We will couple our support with an insistent call for reform, to combat the corruption that rots societies and governments from within. As part of this new funding, we will create a $2 billion Global Education Fund that will bring the world together in eliminating the global education deficit with the goal of supporting a free, quality, basic education for every child in the world. Education increases incomes, reduces poverty, strengthens communities, prevents the spread of disease, improves child and maternal health, and empowers women and girls. We cannot hope to shape a world where opportunity outweighs danger unless we ensure that every child everywhere is taught to build and not to destroy.

Our policies will recognize that human rights are women's rights and that women's rights are human rights. Women make up the majority of the poor in the world. So we will expand access to women's economic development opportunities and seek to expand microcredit. Women produce half of the world's food but only own one percent of the land upon which it is grown. We will work to ensure that women have equal protection under the law and are not denied rights and therefore locked into poverty.

We will modernize our foreign assistance policies, tools, and operations in an elevated, empowered, consolidated, and streamlined U.S. development agency. Development and diplomacy will be reinforced as key pillars of U.S. foreign policy, and our civilian agencies will be staffed, resourced, and equipped to address effectively new global challenges.

American leadership on human rights is essential to making the world safer, more just, and more humane. Such leadership must begin with steps to undo the damage of the Bush years. But we also must go much further. We should work with others to shape human rights institutions and instruments tailored to the 21st Century. We must make the United Nations' human rights organs more objective, energetic, and effective. The U.S. must lead global efforts to promote international humanitarian standards and to protect civilians from indiscriminate violence during warfare. We will champion accountability for genocide and war crimes, ending the scourge of impunity for massive human rights abuses. We will stand up for oppressed people from Cuba to North Korea and from Burma to Zimbabwe and Sudan. We will accord greater weight to human rights, including the rights of women and children, in our relationships with other global powers, recognizing that America's long-term strategic interests are more likely to be advanced when our partners are rights-respecting.

Global Health

Democrats will invest in improving global health. It is a human shame that many of the diseases which compound the problem of global poverty are treatable, but they are yet to be treated.

The HIV/AIDS pandemic is a massive human tragedy. It is also a security risk of the highest order that threatens to plunge nations into chaos. There are an estimated 33 million people across the planet infected with HIV/AIDS, including more than one million people in the U.S. Nearly 8,000 people die every day of AIDS. We must do more to fight the global HIV/AIDS pandemic, as well as malaria, tuberculosis, and neglected tropical diseases. We will provide $50 billion over five years to strengthen existing U.S. programs and expand them to new regions of the world, including Southeast Asia, India, and parts of Europe, where the HIV/AIDS burden is growing. We will increase U.S. contributions to the Global Fund to ensure that global efforts to fight endemic

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disease continue to move ahead.

We also support the adoption of humanitarian licensing policies that ensure medications developed with the U.S. taxpayer dollars are available off patent in developing countries. We will repeal the global gag rule and reinstate funding to the United Nations Population Fund (UNFPA). We will expand access to health care and nutrition for women and reduce the burden of maternal mortality.

We will leverage the engagement of the private sector and private philanthropy to launch Health Infrastructure 2020–a global effort to work with developing countries to invest in the full range of infrastructure needed to improve and protect both American and global health.

Human Trafficking

We will address human trafficking—both labor and sex trafficking–through strong legislation and enforcement to ensure that trafficking victims are protected and traffickers are brought to justice. We will also address the root causes of human trafficking, including poverty, discrimination, and gender inequality, as well as the demand for prostitution.

Protecting our Security and Saving our Planet

We must end the tyranny of oil in our time. This immediate danger is eclipsed only by the longer-term threat from climate change, which will lead to devastating weather patterns, terrible storms, drought, conflict, and famine. That means people competing for food and water in the next fifty years in the very places that have known horrific violence in the last fifty: Africa, the Middle East, and South Asia. That could also mean destructive storms on our shores, and the disappearance of our coastline.

We understand that climate change is not just an economic issue or an environmental concern– this is a national security crisis.

Establish Energy Security

Not since the 1970s has America's national security been so threatened by its energy insecurity, and, as we have learned the hard way over the past eight years, achieving energy security in the 21st century requires far more than simply expending our economic and political resources to keep oil flowing steadily out of unstable and even hostile countries and regions.

Rather, energy security requires stemming the flow of money to oil rich regimes that are hostile to America and its allies; it requires combating climate change and preparing for its impacts both at home and abroad; it requires making international energy markets work for us and not against us; it requires standing up to the oil companies that spend hundreds of millions of dollars on lobbying and political contributions; it requires addressing nuclear safety, waste, and proliferation challenges around the world; and more.

Democrats will halt this dangerous trend, and take the necessary steps to achieving energy independence. We will make it a top priority to reduce oil consumption by at least 35 percent, or ten million barrels per day, by 2030. This will more than offset the amount of oil we are expected to import from OPEC nations in 2030.

Lead to Combat Climate Change

We will lead to defeat the epochal, man-made threat to the planet: climate change. Without dramatic changes, rising sea levels will flood coastal regions around the world. Warmer temperatures and declining rainfall will reduce crop yields, increasing conflict, famine, disease, and poverty. By 2050, famine could displace more than 250 million people worldwide. That means increased instability in some of the most volatile parts of the world.

Never again will we sit on the sidelines, or stand in the way of collective action to tackle this global challenge. Getting our own house in order is only a first step. We will invest in efficient and clean technologies at home while using our assistance policies and export promotions to help developing countries preserve biodiversity, curb deforestation, and leapfrog the carbon-energy-intensive stage of development.

We will reach out to the leaders of the biggest carbon emitting nations and ask them to join a new Global Energy Forum that will lay the foundation for the next generation of climate protocols. China has replaced America as the world's largest emitter of greenhouse gases. Clean energy development must be a central focus in our relationships with major countries in Europe and Asia. We need a global response to climate change that includes binding and enforceable commitments to reducing emissions, especially for those that pollute the most: the United States, China, India, the European Union, and Russia.

This challenge is massive, but rising to it will also bring new benefits to America. By 2050, global demand for low-carbon energy could create an annual market worth $500 billion. Meeting that demand would open new frontiers for American entrepreneurs and workers.

Seizing the Opportunity

It is time for a new generation to tell the next great American story. If we act with boldness and foresight, we will be able to tell our grandchildren that this was the time we confronted climate change and secured the weapons that could destroy the human race. This was the time we defeated global terrorists and brought opportunity to forgotten corners of the world. This was the time when we helped forge peace in the Middle East. This was the time when we renewed the America that has led generations of weary travelers from all over the world to find opportunity and liberty and hope on our doorstep.

It was not all that long ago that farmers in Venezuela and Indonesia welcomed American doctors to their villages and hung pictures of John F. Kennedy on their living room walls, when millions waited every day for a letter in the mail that would grant them the privilege to come to America to study, work, live, or just be free.

We can be this America again. This is our moment to renew the trust and faith of our people– and all people–in an America that battles immediate evils, promotes an ultimate good, and leads the world once more.

III. Renewing the American Community

In local platform hearings around the country and the world, Americans talked of the need for compassion, empathy, a commitment to our values, and the importance of being united in order to take on the challenges and opportunities of the new century. They sounded the same themes we have heard since the campaign began, whether in town halls in Nevada, policy roundtables in Philadelphia, or online gatherings held by Democrats Abroad. They said that they valued Barack Obama's message that alongside Americans' famous individualism, there's another ingredient in the American saga: a belief that we are connected to each other. We could all choose to focus on our own concerns and live our lives in a way that tries to keep our individual stories separate from the larger story of America. But that is not who we are. That is not our American story. If there's a child on the south side of Chicago who can't read, that matters to us, even if it's not our child. Similarly, if there's a senior citizen in Elko, Nevada who has to choose between medicine and the rent, that makes our lives poorer, even if it's not our grandmother. Because it is only when we join together in something larger than ourselves that we can write the next great chapter in America's story.

Service

The future of our country will be determined not only by our government and our policies but through the efforts of the American people. That is why we will ask all Americans to be actively involved in meeting the challenges of the new century. In this young century, our military has answered the call to serve, even as that call has come too often. We must now make it possible for all citizens to serve. We will expand AmeriCorps, double the size of the Peace Corps, enable more to serve in the military, create new opportunities for international service, integrate service into primary education, and create new opportunities for experienced and retired persons to serve. And if you invest in America, America will invest in you: we will increase support for service-learning, establish tax incentives for college students who serve, and create scholarships for students who pledge to become teachers. We will use the Internet to better match volunteers to service opportunities. In these ways, we will unleash the power of service to meet America's challenges in a uniquely American way.

Immigration

America has always been a nation of immigrants. Over the years, millions of people have come here in the hope that in America, you can make it if you try. Each successive wave of immigrants has contributed to our country's rich culture, economy and spirit. Like the immigrants that came before them, today's immigrants will shape their own destinies and enrich our country.

Nonetheless, our current immigration system has been broken for far too long. We need comprehensive immigration reform, not just piecemeal efforts. We must work together to pass immigration reform in a way that unites this country, not in a way that divides us by playing on our worst instincts and fears. We are committed to pursuing tough, practical, and humane immigration reform in the first year of the next administration.

We cannot continue to allow people to enter the United States undetected, undocumented, and unchecked. The American people are a welcoming and generous people, but those who enter our country's borders illegally, and those who employ them, disrespect the rule of the law. We need to secure our borders, and support additional personnel, infrastructure, and technology on the border and at our ports of entry. We need additional Customs and Border Protection agents equipped with better technology and real-time intelligence. We need to dismantle human smuggling organizations, combating the crime associated with this trade. We also need to do more to promote economic development in migrant-sending nations, to reduce incentives to come to the United States illegally. And we need to crack down on employers who hire undocumented immigrants. It's a problem when we only enforce our laws against the immigrants themselves, with raids that are ineffective, tear apart families, and leave people detained without adequate access to counsel. We realize that employers need a method to verify whether their employees are legally eligible to work in the United States, and we will ensure that our system is accurate, fair to legal workers, safeguards people's privacy, and cannot be used to discriminate against workers.

We must also improve the legal immigration system, and make our nation's naturalization process fair and accessible to the thousands of legal permanent residents who are eager to become full Americans. We should fix the dysfunctional immigration bureaucracy that hampers family reunification, the cornerstone of our immigration policy for years. Given the importance of both keeping families together and supporting American businesses, we will increase the number of immigration visas for family members of people living here and for immigrants who meet the demand for jobs that employers cannot fill, as long as appropriate labor market protections and standards are in place. We will fight discrimination against Americans who have always played by our immigration rules but are sometimes treated as if they had not.

For the millions living here illegally but otherwise playing by the rules, we must require them to come out of the shadows and get right with the law. We support a system that requires undocumented immigrants who are in good standing to pay a fine, pay taxes, learn English, and go to the back of the line for the opportunity to become citizens. They are our neighbors, and we can help them become full tax-paying, law-abiding, productive members of society.

Hurricane Katrina

For many in America, Hurricane Katrina conjures up the memory of a time when America's government failed its citizens. When the winds blew and the floodwaters came, we learned that for all of our wealth and power, something wasn't right with Washington. Our government's response during Hurricane Katrina is a national shame—and yet three years later, the government has still failed to keep its promise to rebuild.

The people of New Orleans and the Gulf Coast are heroes for returning and rebuilding, and they shouldn't face these challenges alone. We will partner with the people of the Gulf Coast to assist the victims of Hurricane Katrina and restore the region economically. We will create jobs and training opportunities for returning and displaced workers as well as contracting opportunities for local businesses to help create stronger, safer, and more equitable communities. We will increase funding for affordable housing and home ownership opportunities for returning families, workers, and residents moving out of unsafe trailers. We will reinvest in infrastructure in New Orleans: we will construct levees that work, fight crime by rebuilding local police departments and courthouses, invest in hospitals, and rebuild the public school system.

We also commit to the rebuilding and restoration of the Iowa communities affected by the floods of 2008.

Preventing and Responding to Future Catastrophes

We will also work to prevent future catastrophic response failures, whether the emergency comes from hurricanes, earthquakes, floods, tornadoes, wild fires, drought, bridge collapses, or any other natural or man-made disaster. Maintaining our levees and dams is not pork barrel spending—it is an urgent priority. We will fix governmental agencies like the Federal Emergency Management Agency, ensure that they are staffed with professionals, and create integrated communication and response plans. We will reform the Small Business Administration bureaucracy, and develop a real National Response Plan.

We will develop a National Catastrophic Insurance Fund to offer an affordable insurance mechanism for high-risk catastrophes that no single private insurer can cover by itself for fear of bankruptcy. This will allow states and territories to deal comprehensively with the economic dislocation of natural disasters.

Stewardship of Our Planet and Natural Resources

Global climate change is the planet's greatest threat, and our response will determine the very future of life on this earth. Despite the efforts of our current Administration to deny the science of climate change and the need to act, we still believe that America can be earth's best hope. We will implement a market-based cap and trade system to reduce carbon emissions by the amount scientists say is necessary to avoid catastrophic change and we will set interim targets along the way to ensure that we meet our goal. We will invest in advanced energy technologies, to build the clean energy economy and create millions of new, good "Green Collar" American jobs. Because the environment is a truly global concern, the United States must be a leader in combating climate change around the world, including exporting climate-friendly technologies to developing countries. We will use innovative measures to dramatically improve the energy efficiency of buildings, including establishing a grant program for early adopters and providing incentives for energy conservation. We will encourage local initiatives, sustainable communities, personal responsibility, and environmental stewardship and education nationwide.

We will help local communities in the American West preserve water to meet their fast growing needs. We support a comprehensive solution for restoring our national treasures—such as the Great Lakes, Everglades, and Chesapeake Bay—including expanded scientific research and protections for species and habitats there. We will reinvigorate the Environmental Protection Agency so that we can work with communities to reduce air and water pollution and

protect our children from environmental toxins, and never sacrifice science to politics. We will protect Nevada and its communities from the high-level nuclear waste dump at Yucca Mountain, which has not been proven to be safe by sound science. We will restore the "polluter pays" principle to fund the cleanup of the most polluted sites, so that those who cause environmental problems pay to fix them.

Federal Lands

We will create a new vision for conservation that works with local communities to conserve our existing publicly-owned lands while dramatically expanding investments in conserving and restoring forests, grasslands, and wetlands across America for generations to come. Unlike the current Administration, we will reinvest in our nation's forests by providing federal agencies with resources to reduce the threat of wildland fires, promote sustainable forest product industries for rural economic development and ensure that national resources are in place to respond to catastrophic wildland fires. We will treat our national parks with the same respect that millions of families show each year when they visit. We will recognize that our parks are national treasnres, and will ensure that they are protected as part of the overall natural system so they are here for generations to come. We are committed to conserving the lands used by hunters and anglers, and we will open millions of new acres of land to public hunting and fishing.

Metropolitan and Urban Policy

We believe that strong cities are the building blocks of strong regions, and strong regions are essential for a strong America. To build vibrant and diverse cities and regions, we support equitable development strategies that create opportunities for those traditionally left behind by economic development efforts.

For the past eight years, the current Administration has ignored urban areas. We look forward to greater partnership with urban America. We will strengthen federal commitment to cities, including by creating a new White House Office on Urbau Policy and fully funding the Community Development Block Grant. We support community-based initiatives, such as micro-loans, business assistanee centers, community economic development corporations, and community development financial institutions. To help regional business development we will double federal funding for basic research, expand the ideployment of broadband technology, increase access to capital for businesses in underserved areas, create a national network of public-private business incubators, and provide grants to support regional innovation clusters. Since businesses can only function when workers can get to their place of employment, we will invest in public transportation including rail, expand transportation options for low-income communities, and strengthen core infrastructure like our roads and bridges. We will provide cities the support they need to perform public safety and national security functions, reinvest in Community Oriented Policing Services, and keep children off the streets by supporting expanded after-school and summer opportunities. Finally, we will work to make cities greener and more livable by training employees to work in skilled clean technologies industries, improving the environmental efficiency of city buildings, and taking smart growth principles into account when designing transportation.

Firearms

We recognize that the right to bear arms is an important part of the American tradition, and we will preserve Americans' Second Amendment right to own and use firearms. We believe that the right to own firearms is subject to reasonable regulation, but we know that what works in Chicago may not work in Cheyenne. We can work together to enact and enforce commonsense laws and improvements – like closing the gun show loophole, improving our background check system, and reinstating the assault weapons ban, so that guns do not fall into the hands of terrorists or criminals. Acting responsibly and with respect for differing views on this issue, we can both protect the constitutional right to bear arms and keep our communities and our children safe.

Faith

We honor the central place of faith in our lives. Like our Founders, we believe that our nation, our communities, and our lives are made vastly stronger and richer by faith and the countless acts of justice and mercy it inspires. We believe that change comes not from the top-down, but from the bottom-up, and that few are closer to the people than our churches, synagogues, temples, and mosques. To face today's challenges–from saving our planet to ending poverty– we need all hands on deck. Faith-based groups are not a replacement for government or secular non-profit programs; rather, they are yet another sector working to meet the challenges of the 21st Century. We will empower grassroots faith-based and community groups to help meet challenges like poverty, ex-offender reentry, and illiteracy. At the same time, we can ensure that these partnerships do not endanger First Amendment protections – because there is no conflict between supporting faith-based institutions and respecting our Constitutiou. We will ensure that public funds are not used to proselytize or discriminate. We will also ensure that taxpayer dollars are only used on programs that actually work.

The Arts

Investment in the arts is an investment in our creativity and cultural heritage, in our diversity, in our communities, and in our humanity. We support art in schools and increased public funding for the National Endowment for the Arts and the National Endowment for the Humanities. We support the cultural exchange of artists around the world, spreading democracy and renewing America's status as a cultural and artistic center.

Americans with Disabllities

We will once again reclaim our role as world leaders in protecting the rights of people with disabilities. We will lead the United States in ratifying the U.N. Convention on the Rights of Persons with Disabilities, the first human rights treaty approved in the United Nations in the 21st century. We will ensure there is snfficient funding to empower Americans with disabilities to succeed in school and beyond. We will fully fund and increase staffing for the Equal Employment Opportunity Commissinn. We will restore dignity for Americans with disabilities by signing the Community Choice Act into law, which will allow them the choice of living in their communities rather than being warehoused in nursing homes or other institutions.

Children and Families

If we are to renew America, we must do a better job of investing in the next generation of Americans. For parents, the first and most sacred responsibility is to support our children: setting an example of excellence, turning off the TV, and helping with the homework. But we must also support parents as they strive to raise their children in a new era. We must make it easier for working parents to spend time with their families when they need to. We will make an unprecedented national investment to guarantee that every child has access to high-quality early education, including investments in Pre-K, Head Start, and Early Head Start, and we will help pay for child care. We will ensure that every child has health insurance, invest in playgrounds to promote healtby and active lifestyles, and protect children from lead poisoning in their homes and toys. Improving maternal health also improves children's health, so we will provide access to home visits by medical professionals to low-income expectant first-time mothers. We must protect our most vulnerable children, by supporting and supplementing our struggling foster care system, enhancing adoption programs for all caring parents, and protecting children from violence and neglect. Online and on TV, we will give parents tools to block content they find objectionable. We also must recognize that caring for family members and managing a household is real and valuable work.

Fatherhood

Too many fathers are missing–missing from too many lives and too many homes. Children who grow up without a father are five times more likely to live

in poverty and are more likely to commit crime, drop out of school, abuse drugs, and end up in prison. We need more fathers to realize that responsibility does not end at conception. We need them to understand that what makes a man is not the ability to have a child–it's the courage to raise one. We will support fathers by providing transitional training to get jobs, removing tax penalties on married families, and expanding maternity and paternity leave. We will reward those who are responsibly supporting their children by giving them a tax credit and we will crack down on men who avoid child support payments and ensure those payments go directly to families instead of bureaucracies.

Seniors

We will protect and strengthen Medicare by cutting costs, protecting seniors from fraud, and fixing Medicare's prescription drug program. We will repeal the prohibition on negotiating prescription drug prices, ban drug companies from paying generic producers to refrain from entering drug markets, and eliminate drug company interference with generic competition–and we will dedicate all of the savings from these measures towards closing the donut hole. We will end special preferences for insurance companies and private plans like Medicare Advantage to force them to compete on a level playing field. We will address the challenges that older Americans who are not yet eligible for Medicare face in finding affordable and quality health insurance.

We will take steps to ensure that our seniors have meaningful long-term care options that are consistent with their individual needs, including the option of home care. We believe that we must pay caregivers a fair wage and train more nurses and health care workers so as to improve the availability and quality of long-term care. We must reform the financing of long-term care to ease the burden on seniors and their families. We will safeguard Social Security. We will develop new retirement plans and pension protections that will give Americans a secure, portable way to save for retirement. We will ensure a safe and dignified retirement. We will work to end abuse of the elderly. We will safeguard from discrimination those who choose to work past the age of 65.

Choice

The Democratic Party strongly and unequivocally supports *Roe v. Wade* and a woman's right to choose a safe and legal abortion, regardless of ability to pay, and we oppose any and all efforts to weaken or undermine that right.

The Democratic Party also strongly supports access to comprehensive affordable family planning services and age-appropriate sex education which empower people to make informed choices and live healthy lives. We also recognize that such health care and education help reduce the number of unintended pregnancies and thereby also reduce the need for abortions.

The Democratic Party also strongly supports a woman's decision to have a child by ensuring access to and availability of programs for pre- and post-natal health care, parenting skills, income support, and caring adoption programs.

Criminal Justice

As Democrats, we are committed to being smart on crime. That means being tough on violent crime, funding strategic, and effective community policing, and holding offenders accountable, and it means getting tough on the root causes of crime by investing in successful crime prevention, including proven initiatives that get youth and nonviolent offenders back on track. We will support communities as they work to save their residents from the violence that plagues our streets. We will reverse the policy of cutting resources for the brave men and women who protect our communities every day. At a time when our nation's officers are being asked both to provide traditional law enforcement services and to help protect the homeland, taking police off of the street is neither tough nor smart; we reject this disastrous approach. We support and will restore funding to our courageous police officers and will ensure that they are equipped with the best technology, equipment, and innovative strategies to prevent and fight crimes.

We will end the dangerous cycle of violence, especially youth violence, with proven community-based law enforcement programs such as the Community Oriented Policing Services. We will reduce recidivism in our neighborhoods by supporting local prison-to-work programs. We will continue to fight inequalities in our criminal justice system. We believe that the death penalty must not be arbitrary. DNA testing should be used in all appropriate circumstances, defendants should have effective assistance of counsel. In all death row cases, and thorough post-conviction reviews should be available.

We must help state, local, and tribal law enforcement work together to combat and prevent drug crime and drug and alcohol abuse, which are a blight on our communities. We will restore funding for the Byrne Justice Assistance Grant Program and expand the use of drug courts and rehabilitation programs for first-time, non-violent drug offenders.

We support the rights of victims to be respected, to be heard, and to be compensated.

Ending violence against women must be a top priority. We will create a special advisor to the president regarding violence against women. We will increase funding to domestic violence and sexual assault prevention programs. We will strengthen sexual assault and domestic violence laws, support the Violence Against Women Act, and provide job security to survivors. Our foreign policy will be sensitive to issues of aggression against women around the world.

A More Perfect Union

We believe in the essential American ideal that we are not constrained by the circumstances of birth but can make of our lives what we will. Unfortunately, for too many, that ideal is not a reality. We have more work to do. Democrats will fight to end discrimination based on race, sex, ethnicity, national origin, language, religion, sexual orientation, gender identity, age, and disability in every corner of our country, because that's the America we believe in.

We all have to do our part to lift up this country, and that means changing hearts and changing minds, and making sure that every American is treated equally under the law. We will restore professionalism over partisanship at the Department of Justice, and staff the civil rights division with civil rights lawyers, not ideologues. We will restore vigorous federal enforcement of civil rights laws in order to provide every American an equal chance at employment, housing, health, contracts, and pay. We are committed to banning racial, ethnic, and religious profiling and requiring federal, state, and local enforcement agencies to take steps to eliminate the practice.

We are committed to ensuring full equality for women: we reaffirm our support for the Equal Rights Amendment, recommit to enforcing Title IX, and will urge passage of the Convention on the Elimination of All Forms of Discrimination Against Women. We will pursue a unified foreign and domestic policy that promotes civil rights and human rights, for women and minorities, at home and abroad. We will pass the Local Law Enforcement Hate Crimes Prevention Act. We will restore and support the White House Initiative on Asian-American and Pacific Islanders, including enforcement on disaggregation of Census data. We will make the Census more culturally sensitive, including outreach, language assistance, and increased confidentiality protections to ensure accurate counting of the growing Latino and Asian American, and Pacific Islander populations, and continue working on efforts to be more inclusive. We will sign the

U.N. Convention on the Rights of Persons with Disabilities and restore the original intent of the Americans with Disabilities Act. That is the America we believe in.

It is not enough to look back in wonder at how far we have come; those who came before us did not strike a blow against injustice only so that we would allow injustice to fester in our time. That means removing the barriers of prejudice and misunderstanding that still exist in America. We support the full inclusion of all families, including same-sex couples, in the life of our nation, and support equal responsibility, benefits, and protections. We will enact a comprehensive bipartisan employment non-discrimination act. We oppose the Defense of Marriage Act and all attempts to use this issue to divide us.

But it is no good to be able to ride the bus when you can't afford the bus fare. We will work to provide real opportunities for all Americans suffering from disadvantage; we will pioneer new policies and remedies against poverty and violence that address real human needs and we will close the achievement gap in education and provide every child a world-class education. We support affirmative action, including in federal contracting and higher education, to make sure that those locked out of the doors of opportunity will be able to walk through those doors in the future. As the late Ann Richards said, "We offer a vision where opportunity knows no race, no gender, no color, a glimpse of what can happen in government if we simply open the doors let the people in."

IV. Renewing American Democracy

Americans of every political stripe are hungry for a new kind of government. We want a government that favors common sense over ideology, honesty over spin, that worries less about losing the next election and more about winning the battles we owe to the next generation.

The over 30,000 Americans who attended 1645 local platform hearings demonstrated their commitment to reasserting government of, by, and for the people. So too did the millions of Americans who turned out in primaries and caucuses, and the record-breaking number of Americans abroad who participated – including men and the women who serve in our military. Democrats want to continue the momentum of the election. Only by doing so can we bring the change necessary to restore the promise of America.

The government we create will open up democracy to the people and protect our civil liberties. We'll invite the service and participation of American citizens, and use the tools of government and technology to lead us into a new era of connectedness, teamwork, and progress. A Barack Obama Administration will make it clear to the special interests that their days of setting the agenda in Washington are over, because the American people are not the problem in the 21st Century—they are the solution. We'll make every vote count, because in America, everyone's voice matters in the political process.

Open, Accountable, and Ethical Government

In Barack Obama's Administration, we will open up the doors of democracy. We will use technology to make government more transparent, accountable, and inclusive. Rather than obstruct people's use of the Freedom of Information Act, we will require that agencies conduct significant business in public and release all relevant information unless an agency reasonably foresees harm to a protected interest.

We will lift the veil of secret deals in Washington by publishing searchable, online information about federal grants, contracts, earmarks, loans, and lobbyist contacts with government officials. We will make government data available online and will have an online video archive of significant agency meetings. We will put all non-emergency bills that Congress has passed online for five days, to allow the American public to review and comment on them before they are signed into law. We will require Cabinet officials to have periodic national online town hall meetings to discuss issues before their agencies.

Implementing our Party's agenda will require running competent, innovative, and efficient public agencies at all levels of government with the resources necessary to get results. We will develop a comprehensive management agenda to prevent operational breakdowns in government and ensure that government provides the level of service that the American people deserve. Because we understand that good government depends on good people, we will work to rebuild and reengage our federal workforce and encourage state and local governments to do the same. We will make government a more attractive place to work. Our hiring will be based only on qualification and experience, and not on ideology or party affiliation. We will pay for our new spending, eliminate waste in government programs, demand, and measure results, and stop funding programs that don't work. We will not privatize public services for the sake of privatizing. We will use carefully crafted guidelines when determining whether to contract out any government service and whether a function is "inherently governmental." We will provide improved accountability, oversight, and management in the contracting process to protect the public.

We are committed to a participatory government. We will use the most current technology available to improve the quality of government decision-making and make government less beholden to special interest groups and lobbyists. We will enhance the flow of information between citizens and government—in both directions—by involving the public in the work of government agencies. We will not simply solicit opinions, but will also use new technology to tap into the vast expertise of the American citizenry, for the benefit of government and our democracy.

Americans want real reform that will help them pay their medical bills and put the country on the path to energy independence. They are tired of lobbyists standing in their way. So we'll end the abuse of no-bid contracts by requiring nearly all contract orders over $25,000 to be competitively awarded and tell the drug companies and the oil companies and the insurance industry that, while they may get a seat at the table in Washington, they don't get to buy every chair. We will institute a gift ban so that no lobbyist can curry favor with the Administration. We will close the revolving door that has allowed people to use their position in the Administration as a stepping-stone to further their lobbying careers. We support campaign finance reform to reduce the influence of moneyed special interests, including public financing of campaigns combined with free television and radio time. We will have the wisdom to put the public interest above special interests. As a national party, we will not take any contributions from Political Action Committees during this election.

Reclaiming Our Constitution and Our Liberties

As we combat terrorism, we must not sacrifice the American values we are fighting to protect. In recent years, we've seen an Administration put forward a false choice between the liberties we cherish and the security we demand. The Democratic Party rejects this dichotomy. We will restore our constitutional traditions, and recover our nation's founding commitment to liberty under law.

We support constitutional protections and judicial oversight on any surveillance program involving Americans. We will review the current Administration's warrantless wiretapping program. We reject illegal wiretapping of American citizens, wherever they live.

We reject the use of national security letters to spy on citizens who are not suspected of a crime. We reject the tracking of citizens who do nothing more than protest a misguided war. We reject torture. We reject sweeping claims of "inherent" presidential power. We will revisit the Patriot Act and overturn unconstitutional executive decisions issued during the past eight years. We will not use signing statements to nullify or undermine duly enacted law. And we will ensure that law-abiding Americans of any origin, including Arab-Americans and Muslim-Americans, do not become the scapegoats of national security fears.

We believe that our Constitution, our courts, our institutions, and our traditions work.

In its operations overseas, while claiming to spread freedom throughout the world, the current Administration has tragically helped give rise to a new generation of potential adversaries who threaten to make America less secure. We will provide our intelligence and law enforcement agencies with the tools to hunt down and take out terrorists without undermining our Constitution, our freedom, and our privacy.

To build a freer and safer world, we will lead in ways that reflect the decency and aspirations of the American people. We will not ship away prisoners in the dead of night to be tortured in far-off countries, or detain without trial or charge prisoners who can and should be brought to justice for their crimes, or maintain a network of secret prisons to jail people beyond the reach of the law. We will respect the time-honored principle of habeas corpus, the seven century-old right of individuals to challenge the terms of their own detention that was recently reaffirmed by our Supreme Court. We will close the detention camp in Guantanamo Bay, the location of so many of the worst constitutional abuses in recent years. With these necessary changes, the attention of the world will be directed where it belongs: on what terrorists have done to us, not on how we treat suspects.

We recognize what leaders on the front lines of the struggle against terrorism have long known: to win this fight, we must maintain the moral high

ground. When millions around the world see America living up to its highest ideals, we win friends and allies in this struggle for our safety and our lives, and our enemies lose ground.

For our Judiciary, we will select and confirm judges who are men and women of unquestionable talent and character, who firmly respect the rule of law, who listen to and are respectful of different points of view, and who represent the diversity of America. We support the appointment of judges who respect our system of checks and balances and the separation of power among the Executive Branch, Congress, and the Judiciary–and who understand that the Constitution protects not only the powerful, but also the disadvantaged and the powerless.

Our Constitution is not a nuisance. It is the foundation of our democracy. It makes freedom and self-governance possible, and helps to protect our security. The Democratic Party will restore our Constitution to its proper place in our government and return our Nation to our best traditions–including our commitment to government by law.

Voting Rights

Voting rights are fundamental rights because they are protective of all other rights. We will work to fully protect and enforce the fundamental Constitutional right of every American vote—to ensure that the Constitution's promise is fully realized. We will fully fund the Help America Vote Act and work to fulfill the promise of election reform, including fighting to end long lines at voting booths and ensuring that all registration materials, voting materials, polling places, and voting machines are truly accessible to seniors, Americans with disabilities, and citizens with limited English proficiency. We will call for a national standard for voting that includes voter-verified paper ballots. We will ensure that absentee ballots are accessible and accurately counted. We will vigorously enforce our voting rights laws instead of making them tools of partisan political agendas; we oppose laws that require identification in order to vote or register to vote, which create discriminatory barriers to the right to vote and disenfranchise many eligible voters; and we oppose tactics which purge eligible voters from voter rolls. We are committed to passing the Count Every Vote Act. Finally, we will enact legislation that establishes harsh penalties for those who engage in voter intimidation and creates a process for providing accurate information to misinformed voters so they can cast their votes in time.

Partnerships with States

Given the economic crisis across the country, states, and territories today face serious difficulties. More than half of our states face a combined billions of dollars in shortfalls. As a result, states have had to innovate and take matters into their own hands—and they have done an extraordinary job. Yet they should not have to do it alone. We will provide significant and immediate temporary funding to state and local governments, as well as territories and tribes. We will give these governmental entities a partner in the federal government, and a president who understand that prosperity comes not only from Wall Street and Washington, but from the perseverance of the American people. County and municipal governments, as well as territories and tribes, are also key partners with the federal government. These partnerships need to be revitalized to address their critical needs.

Partnership with Civic Institutions

Social entrepreneurs and leading nonprofit organizations are assisting schools, lifting families out of poverty, filling health care gaps, and inspiring others to lead change in their own communities. To support these results-oriented innovators, we will create a Social Investment Fund Network that invests in ideas that work, tests their impact, and expands the most successful programs. We will create an office to coordinate government and nonprofit efforts.

District of Columbia

Our civil rights leaders and many Americans of every background have sacrificed too much for us to tolerate continuing denial to the nearly 600,000 residents of our nation's capital of the benefits of full citizenship, especially the vote, that are accorded to citizens of every state. We support equal rights to democratic self-government and congressional representation for the citizens of our nation's capital.

Tribal Sovereignty

American Indian and Alaska Native tribes have always been sovereign, self-governing communities, and we affirm their inherent right to self-government as well as the unique government-to-government relationship they share with the United States. In exchange for millions of acres of land, our nation pledged to provide certain services in perpetuity; we will honor our nation's treaty and trust obligations by increasing resources for economic development, health care, Indian education, and other important services. We will respect American Indian cultural rights and sacred places. We will reexamine the legal framework that allows extreme rates of violent crime in Indian country; we will create a White House advisor on Indian Affairs; and we will host an annual summit with Indian leaders.

We support the efforts for self-determination and sovereignty of Native Hawaiians, consistent with principles enumerated in the Apology Resolution and the Native Hawaiian Government Reorganization Act. We will increase federal resources for economic development, education, health, and other important services. We will respect Native Hawaiian culture rights and sacred places.

Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the U.S. Virgin Islands

We recognize and honor the contributions and the sacrifices made in service of our country by the people living in Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the U.S. Virgin Islands. We believe that the people of Puerto Rico have the right to the political status of their choice, obtained through a fair, neutral, and democratic process of self-determination. The White House and Congress will work with all groups in Puerto Rico to enable the question of Puerto Rico's status to be resolved during the next four years. We also believe that economic conditions in Puerto Rico call for effective and equitable programs to maximize job creation and financial investment. Furthermore, in order to provide fair assistance to those in greatest need, the U.S. citizens in Puerto Rico should receive treatment under federal programs that is comparable to that of citizens in the States. We will phase-out the cap on Medicaid funding and phase-in equal participation in other federal health care assistance programs. Moreover, we will provide equitable treatment to the U.S. citizens in Puerto Rico on programs providing refundable tax credits to working families. We believe that U.S. citizens in Guam, American Samoa, the Northern Mariana Islands, and the U.S. Virgin Islands should receive similar treatment.

We support full self-government and self-determination for the people of Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands, and their right to decide their future status. We will seek input from Guam on relevant military matters and we acknowledge the unique health care challenges that Pacific Island communities face. For all those who live under our flag, we support strong economic development and fair and equitable treatment under federal programs.

APP Note: The American Presidency Project used the first day of the national nominating convention as the "date" of this platform since the original document is undated.

The typo "health are" rather than "health care" appeared in the original published document. APP policy is to reproduce the original

published document as accurately as possible including any errors. SFC 000999

Citation: Democrat c Party Platforms: "2008 Democrat c Party Platform," August 25, 2008. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. http://www.pres dency.ucsb.edu/ws/?pid=78283.

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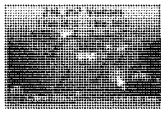

SFC 001000

THE COMMON LAW IS THE WILL OF Mankind ISSUING FROM THE Life OF THE People

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PUBLIC INTEGRITY SECTION

The Public Integrity Section (PIN) oversees the federal effort to combat corruption through the prosecution of elected and appointed public officials at all levels of government. The Section has exclusive jurisdiction over allegations of criminal misconduct on the part of federal judges and also supervises the nationwide investigation and prosecution of election crimes. Section attorneys prosecute selected cases against federal, state, and local officials, and are available as a source of advice and expertise to other prosecutors and investigators.

Reports to Congress on the Activities and Operations of PIN

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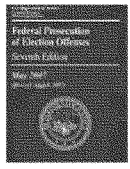
Federal Prosecution of Election Offenses



Seventh Edition May 2007 *(Revised August 2007)*

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PUBLIC INTEGRITY SECTION

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SFC 001001

From: Mark Tornwall
Sent: Wed Sep 04 12:47:23 2013
To: 'Lois Lerner'
Subject: RE: Howdy
Importance: Normal

SFC [redacted]

Also, I just heard about the fatal knifing at Spring High School. Gang violence. Thank God I was always more interested in being a lover than a fighter.
Except for playing football, I never liked the idea of physical violence – never wanted to hurt anyone or be hurt by them. I guess I'm just a WWW (white wine wimp). Speaking of WWW – remember Wally White the Postman customer we had at the shop? He had quite the crush on you – one of millions, I'm sure. I hope Wally is doing OK these days.

Glad to hear you're enjoying your retirement. One of these days I'll hang it up and move back to New England. Its still 97 degrees every day down here – not likely to cool-off much for another 3 weeks.

Take care
M M

From: Lois Lerner SFC [redacted]
Sent: Wednesday, September 04, 2013 12:17 PM
To: Mark Tornwall
Subject: Re: Howdy

You learn something every day. Have you signed up for Medicare yet? Just had to learn all about supplemental coverage for my mother in law. Could they have made it anymore complicated. Politics makes our lives harder than need be.

I must say aside from the "stuff" I am not unhappy about not working. It makes me wonder why I was hanging in there so long after I was eligible to retire.

An watching TV news. Apparently you had a school murder in Spring near Houston. I can't believe how this keeps happening. We are such a brutal society.
Anyway--keep in touch as will I

Sent from my iPhone

On Sep 4, 2013, at 12:42 PM, "Mark Tornwall" SFC [redacted] wrote:

LNG = Liquified Natural Gas.

TThe gas is supercooled/compressed to something like 1/600th of its normal volume. Its then stored in refrigerated tanks and transported by tanker to the destination where the process is reversed and the LNG returned to gas.

Altogether it's a safer, cheaper and environmentally more friendly product. And, there is a lot of it – like in the US since we've gotten into the 'fracking' business (which may not be so environmentally friendly). For instance, you will remember my initial assignment to Lake Chuck for M W Kellogg 1979 - 81. AT that time, shortly after the ENERGY CRISIS of the 1970s, Kellogg built a terminal to import LNG from Algeria. Now, that same facility at Lake Chuck is going to retro-fitted to become an LNG exporting terminal. That's quite a turnaround. Who would've thunk it?

As for me – hopefully KBR will allow me to keep working through at least April 2015 – at which time,a assuming I make it, I will be 67 + yrs old.
At this point, I think of myself as being a young 65 and not slowing down much. But, there are times I do feel more tired then I'd like to feel and I could do without the constant stress.
We'll see how it goes.

Hopefully you won't go broke as a result of the BS you're having to deal with.

M M

From: Lois Lerner[SFC redacted]
Sent: Tuesday, September 03, 2013 7:39 PM
To: Mark Tornwall
Subject: Re: Howdy

LNG????? I can give you plenty of govt and IRS acronyms, but I don't know the energy ones. Glad to hear your company is busy though--means you'll continue to get paid! (-: So sorry you can't help with the cat--it is a challenge. I made an appointment with the vet, so we'll see if he is sick and if not--what words of wisdom she has to impart. Dogs are so easy--give them food and love and they will do whatever you want and won't do what you don't want. Being the controlling type--that sounds good to me!

On Tue, Sep 3, 2013 at 5:45 PM, Mark Tornwall <[SFC redacted]> wrote:
L L

Very pleased to get your e mail.
Naturally, I'm sympathetic to your plight. And, also to your unfortunate cat issue.
Sorry, do not have any helpful 'cat hints'. Although, it strikes me as odd because all the cats I've had have been very tidy in their personal habits.
Obviously, though, the cat is not happy and that's how its expressing itself – probably not too thrilled with the new environment. Good luck with that.
I think you're being tolerant to the max of other people's pets.

Sorry about not sending……I've had good intentions but I've been so overloaded at work I've not had time to get out and do some things I've wanted to do.
That is still on the list, though.

I find I'm not all that concerned about current events – the Syria thing and all, that is. Events in Iraq, Egypt, Libya,

Yemen, Syria, Palestine lead me to believe those people are just so many hopeless cases.
What's happening in Syria is terrible – but, its like, tribal war. I doubt that the US can do anything to stop it and as usual the Russians can be counted on to keep stirring the pot.

Generally speaking I'm good and so is my spouse. I'm working on a number of projects; Canada, Australia, Algeria so staying real busy at work. Its all LNG – the latest rage. KBR has more LNG experience (by far) of any engineering and construction contractor so we're right in the middle of all the action. And, these LNG plants are hugely expensive. Opening bid is around $6 billion for the base model. Our business unit is the 800 lb gorilla in the room – accounting and finance gets attention in proportion to the size and value of the projects – in other words, a LOT.

But, I'm always really glad to hear from you. Don't forget that, OK?

Cheers,
M M

From: Lois Lerner[redacted]
Sent: Tuesday, September 03, 2013 10:45 AM

To: Mark Tornwall
Subject: Re: Howdy

I believe I was the last to email, but perhaps I'm wrong. Also, you said something about sending something to my mailing address, but I never got anything. Things are pretty much the same. As you can see from the attached article, The Tea Party has decided this is a wonderful fundraising event for them so they keep on trying to keep it alive. Although nothing corroborating their version of the story has come out, they have asked for my home emails because, according to their letter, they now believe I was breaking the federal records act by "doing govt business from a private computer"--not so, all records I worked on were sent from IRS computer and sent back again. They are now also focused on Holly Paz, who worked for me and, thus far, has been very cooperative--having testified before several committees and staff. So, they just sent her a letter alleging her testimony is inconsistent with other staff testimony. But guess what, they won't provide her with her own transcripts or the transcripts of the staff who supposedly said different things--even though they have provided them to the press. No good deed goes unpunished.

We have had a 3rd civil suit filed against us. So, far DOJ has said it will provide representation in 2 of the suits, but they will only pay for 2 lawyers for 14 people--not a good ratio. At least they are good lawyers.

Still have not heard anything from DOJ re: criminal investigation or IRS re: personnel investigation. The Acting Commissioner is gone as of Oct.1, so I assume he will just let it ride until he leave and leave the next guy to make the hard decisions. But, my legal bills continue to mount t a ridiculous pace. It's worse than student loans-- I'll be paying this off when I die.

Meanwhile, Congress has bigger fish to fry right now--whether to do something in Syria and, in October, whether to raise the debt ceiling. Not sure whether or how those will affect us.

Other than that, I actually enjoyed the last 2 weeks while all of DC was out of town. But, things have started popping. My civil lawyer wants to meet. I'm actually relieved that this is moving--it won't be pretty., I'm sure.

My youngest daughter moved home last week. She is applying to graduate school to become a physician assistant, and needs to save some cash. It's very competitive, so I hope she gets in. Also needs to find a job here, which may not be so easy. BUT worst of all, she has a cat that is peeing all over my house. I don't hate the cat, but have no clue how to handle this. I had a friend who was out of work live with us for a year, and while he was here, his very old dog peed so much that after having the carpets cleaned 3 times, they still smelled, so we replaced several of them. Now the cat is peeing on the new ones--and a Chinese oriental. I don't think it's the dogs--they all just seem to ignore each other. Got any helpful cat hints? I made a vet appointment to be sure he isn't sick, so we'll see what the vet says.

What's up with you? Hope you are feeling well.

On Tue, Sep 3, 2013 at 11:11 AM, Mark Tornwall <SFC [redacted]> wrote:
L L
I've been wondering how things have been going for you.
As you can see its been almost two months since our last e mails.
If you have time I would very much appreciate hearing from you.

Looking forward to that.

Cheers,
M M

From: Lois Lerner SFC [redacted]
Sent: Tuesday, July 09, 2013 8:39 AM

To: Mark Tornwall
Subject: Re: Howdy

Yes, it has been quite a ride. And yes, it is costing a fortune for no reason at all. Many good people have had their careers/lives ruined with no "there", there. The good news is I have heard fro almost 200 people who have known me throughout my life and career, who have sent good wishes and confirmed my integrity--that has been really helpful in keeping my perspective. My address is:
SFC [redacted]

Sorry you are having to work so hard. Hopefully things will slow down soon.

On Mon, Jul 8, 2013 at 3:51 PM, Mark Tornwall <SFC [redacted]> wrote:

L L

How did your July 4th go? Mine was not so great.....I had to work for a good part of the day. This because quarter-end is a big deal for public companies.

But, we've never been asked to work on July 4th before and the quarter always ends at the same time. Not sure why this year was different. On Friday 05 July I ws here at 6:30 AM and did not get to leave until after 7 PM. I am getting a little tired of working so much.

Other than that I'm OK. SFC [redacted]

SFC

So, this year at least (knock on wood) at least I'm not sick so I'm having a much better July. Of course its super hot and super humid in Houston so its never all that much fun except until after the sun goes down.

As for your situation. I hope it gets better soon. Whether its is deserved or not, and of course I'm thinking NOT, you have acquired quite a notoriety. Couldn't believe seeing your full screen photo one night on the PBS Nightly News. I suppose its caused you much worry and anxiety not to mention $$$$$$.

If you would send me your mailing address I'll send you something that might cheer you up a little bit.

Take care and good luck.

M M

From: Lois Lerner SFC [redacted]
Sent: Wednesday, July 03, 2013 11:28 AM
To: Mark Tornwall
Subject: Re: Howdy

Have a good 4th

On Wed, Jul 3, 2013 at 11:51 AM, Mark Tornwall <SFC [redacted]> wrote:

Actually, not like Houston. Super hot here and no rain.

Sorry, have an extremely tight schedule today. Will get back to you after 04 July.

Too bad about your dilemma. It's a conspiracy on the part of the Republicans entirely for political purposes. 'Tis a real shame.

Good luck.

From: Lois Lerner SFC [redacted]
Sent: Wednesday, July 03, 2013 9:49 AM
To: Mark Tornwall

Subject: Howdy

So, I'm sure you've read the whole mess. I'm happy to answer any questions I can, but bottom line is that I have been placed on administrative leave, am being criminally investigated, have taken the 5th before a Congressional--that most recently voted that I had waived my privilege (not a legal finding), and I am being sued personally in 2 different cases. Other than that--all is well!

The "good news" is, I am not alone--many of my colleagues are in the same place, and I have gotten about 250 cards and emails from people who have known me over the years, both personally and professionally, who have confirmed my integrity and have sent me their supportive wished. Of course, that doesn't pay the legal bills--which right now are my main concern. Layers aren't cheap--(-:

So, what's up with you? Did you enjoy your vacation? Sorry, but I can't remember where you were going--California? Montreal was fine the first 2 days before the //// hit the fan, but it was cold and rainy. We ate wonderful food though. Speaking of rain, it has rained every day here for the last 2 weeks. It's like a tropical rain forest! 80 to 90 degrees and 80% humidity until it rains and then it's 100%. Everything is slimy and I'm guessing the tomatoes will soon rot. Sound like Houston--huh?

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SFC 001007

From: Lois Lerner
Sent: Thu Jun 26 16:17:53 2014
To: Mark Tornwall
Subject: Re: In The News (again)
Importance: Normal

Truth be told--it was a very rewarding 30plus years--always hard and always worked with mostly quality people. This was the first time politics overshadowed the work--but I think that is just the stage of our country--somehow the government is now evil and they want to stamp it out. I wonder if they realize they, too are part of the government? Sigh

On Thu, Jun 26, 2014 at 2:26 PM, Mark Tornwall < SFC [redacted] > wrote:

Appreciate your reply.
I'm glad I didn't go into public service.

From: Lois Lerner [SFC [redacted]
Sent: Thursday, June 26, 2014 10:08 AM

To: Mark Tornwall
Subject: Re: In The News (again)

The 5th. OK--they sent us all letters "inviting" us to come up and talk to them in a hearing. Recall the president had just announced he was ordering the Justice Department to open a criminal investigation into what happened. My letter, unlike anyone else's accused me of violating criminal law on 4 specific occasions when I spoke to Congressional staff. When you are accused of a crime, anyone who is a lawyer or has watched TV should know, you don't talk. Ordinarily if a government employee decides to take the 5th--it happens all the time--Congress doesn't require them to show up. They can just put an affidavit into the record. Not with this. When my lawyer told them and asked for the usual treatment, instead they issued me a subpoena requiring to be there and take th 5th on national TV. All the bugaboo about my statement being a waiver of the privilege is crap and they know it. If they really wanted to talk to me, they either could give me immunity or, if they truly believed I waved the privilege, they could have held me in CIVIL contempt and the issue would have gone to a judge who either would order me to talk or determine I had not waived. Instead--for showmanship reasons, they had the entire House hold me in CRIMINAl contempt. If you are found guilty of criminal contempt--they don't make you talk--they just throw you in jail. All Congress can do though, is refer the matter to the US attorney's office. They did that, so they could argue that "Obama;s Justice Department wasn't pursuing this because it is all part of the "grand conspiracy.
The problem with the public is that they don't get separation of powers, nor d they understand that Congress can say and do anything without repercussion--the courts are a different and fair ballgame--Congress is NOT!

On Thu, Jun 26, 2014 at 10:59 AM, Mark Tornwall < SFC [redacted] > wrote:

I'm already familiar with the story and the motives of the conservative Republicans and I am supportive and I'm glad you're fine. I guess it's the part about 'taking the fifth' that puzzles me. That seems to have opened the door for all this garbage you've been having to deal with. I have to believe you had excellent legal advice when you made that decision.

I assumed that SFC had something to do with dogs.

Also, I still have happy memories of our time together 'back in the day'. Wasn't it great fun having the shop and visiting the Little Man in Haverhill on Friday mornings or going to Col Hall's auctions in Avon on Monday nights?

Sometimes I look at antique furni for sale on EBAY. I'm amazed at how low the prices are for many of the things we prized so highly back then.

Take care and good luck.

M M

From: Lois Lerner [SFC
Sent: Thursday, June 26, 2014 9:30 AM
To: Mark Tornwall
Subject: Re: In The News (again)

How I got involved in this is simply because I was the person who announced that the IRS had used organization names (both conservative and liberal) to select applications for additional review. The conservative Republicans were sure they had a Watergate on their hands and went into overdrive to prove it. $50Million later and hundreds of documents and interviews and they still don't have any evidence of their theory--because there never was any conspiracy or "plan." Having said that--me taking the 5th and refusing to talk to them was a great fundraising effort for them so now they spend all their time learning about every aspect of my life and posting it on-line. If you want to see a photo of my house and find out how much it's worth--it's on-line. They called my Dad's second wife to ask her if my father was a patriotic American and when she said yes, they asked what he would have thought about his daughter's refusal to talk to them! They know I have dogs because when they first looked at my emails sent to my home email from the office, they wanted to accuse me of improperly sharing private taxpayer information with someone named Toby Miles. I had to explain that Toby Miles was my dead dog's name. SFC is a combination of the names of my 2 dead golden retrievers.

As to the lost emails--there is a whole trail of emails from me begging IRS IT folks to try and recover the emails--I'm guessing you haven't seen those! Why the IRS was unable to retrieve them when my computer crashed, I have no clue--I'm not an IT person, but my emails clearly show that I wasn't happy about it at the time.

As to the cartoon--they took some really awful photos of me at the first hearing last year--I hadn't slept for a week, was being accused of criminal activity and thought I'd lose everything--hence I looked like

crap. I don't look like that anymore, but it serves their purposes of hate mongering to continue to use those images
I was never a political person--this whole fiasco has only made me lose all respect politics and politicians. I am merely a pawn in their game to take over the Senate. Every time they get some email they see as incriminating, they roil up their base and get lots of contributions and spread their hateful message about how the government is out to get people.

I do not read the crap anymore--I don't really give two seconds to it. I can't do a thing to change their rants--they lie openly and provide pieces of information to the public that look one way when if they would provide all the information, it would look differently.

Bottom line--they have ruined my reputation, caused my family to receive death threats and other disgusting communications, lied about what they know isn't true and cost us a fortune in legal fees. I can't change any of that. All I can do is not let their crap get to me. Luckily, I have lots of folks who know me that have been supportive. So, contrary to what you might think--I pay no attention unless I have to do something for my lawyers and I am fine.

On Thu, Jun 26, 2014 at 10:05 AM, Mark Tornwall <[redacted]> wrote:
L L
I've attached a cartoon that was in the Houston Chronicle on Monday which references your lost e-mails situation? You've probably seen this already but maybe not.
How did they know you have dogs ? And, even more importantly, how did you ever manage to get in this mess you're in? Its surreal.

Its not a very flattering depiction of you either. Happily, I remember you from your earlier, better days.

Last week there was another cartoon in the Chronicle with a reference to L. Lerner lost e mails. Getting to be old hat.

And what the heck is [redacted]?

Take care,
M M

-----Original Message-----
From: Mark.Tornwall[redacted] [mailto:[redacted]
Sent: Thursday, June 26, 2014 7:37 AM
To: Mark Tornwall
Subject: Scan from a Xerox WorkCentre

Please open the attached document. It was scanned and sent to you using a Xerox WorkCentre.

Attachment File Type: PDF, Multi-Page

WorkCentre Location: SFC [redacted] SFC [redacted]
Device Name: SFC [redacted]

SFC [redacted]

THANK YOU!

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SFC 001011

From: Lois Lerner
Sent: Thu Mar 06 17:19:58 2014
To: Mark Tornwall
Subject: Re: Press follow up
Importance: Normal

Look my view is that Lincoln was our worst president not out best. He should 'be let the south go. We really do seem to have 2 totally different mind sets. Why isn't Perry running. Can you only do one term in Texas? Apparently Abbot wasn't so stupid if he's likely to win again. They seem to " "forgive" their own, but don't cut anyone outside the clan even a tiny break. Finish your work. We'll talk later. One more thing. Had a dream about you the other night. You screwed me over again! Don't worry, the feeling doesn't hang on. (-:

Sent from my iPhone

On Mar 6, 2014, at 5:51 PM, "Mark Tornwall" < SFC [redacted] > wrote:

> Don't really have time now. Am up against a deadline.
>
> But in a nutshell, Greg Abbott the wheelchair-bound current Attorney General is the Republican candidate for governor seeking to replace our much beloved (ha,ha) Gov. Rick Perry. Anyway Greg Abbott is , of course, appealing to the Tea Party base and decides it would be a good idea to take Ted Nugent (former rock n- roller-turned right-wing-extremist-gun-rights-advocate) on his campaign tour. Not such a good idea considering Nugent has publicly referred to Pres Obama as a 'sub-human mongrel' Communist something-or- other (many more ugly things too), has an admitted-to history of having sex with groupie girls as young as 13, plus has a generally misogynist mindset (has said very unkind things in public about Hillary Clinton). So Greg Abbott, who must be complete moron for having done this, is still likely to be the next Governor of Texas simply because he claims to be in favor of gun rights and against same-sex marriage.
>
> You can look it up for all the gory details.
>
> As you can see, the Lone Star State is just pathetic as far as political attitudes are concerned.
>
> Cheeers,
> M M
> **From:** Lois Lerner [SFC [redacted]
> **Sent:** Thursday, March 06, 2014 4:08 PM
> **To:** Mark Tornwall
> **Subject:** Re: Press follow up
>
> No. Tell me what happened
>
> Sent from my iPhone

SFC 001012

On Mar 6, 2014, at 4:22 PM, "Mark Tornwall" < SFC [redacted] > wrote:
Our elected officials have no problem with their own bad (deceitful) behavior – its called politics, or sometimes, pandering to their base - so they can their own corrupt butts re-elected.

This Republican crap has become really bad in Texas. Did you hear about the Greg Abbot/Ted Nugent fiasco? Apparently the only thing that matters in Texas is being able to carry your firearms 24/7. Its truly nauseating.

From: Lois Lerner [SFC [redacted]]
Sent: Thursday, March 06, 2014 2:21 PM
To: Mark Tornwall
Subject: Fwd: FW: Press follow up

Howdy--don't know if the news travels down your way, but yesterday was a doozy. They called me back to testify on the IRS "scandal," and I tool the 5th again because they had been so evil and dishonest in my lawyer's dealings with them. Meant to send this with it Take a look at the video--this is very bad behavior on the part of our elected officials.

Here are the stories that ran yesterday from press members who were at the briefing:

USA Today
http://www.usatoday.com/story/news/politics/2014/03/05/lois-lerner-oversight-issa-irs/6070401/

POLITICO (originally filed before the briefing, and then updated post)

http://www.politico.com/story/2014/03/irs-hearing-lois-lerner-contempt-104293.html

Reuters

http://news.yahoo.com/u-house-hearing-irs-scandal-dissolves-shouting-173454008--finance.html

Associated Press (this story has almost 10,000 comments)

http://news.yahoo.com/former-irs-official-refuses-testify-hearing-144624481--finance.html

The Hill

http://thehill.com/blogs/on-the-money/domestic-taxes/199997-lois-lerners-lawyer-gop-seeking-to-vilify-her

Huff Post Politics:

http://www.huffingtonpost.com/2014/03/05/lois-lerner-death-threats_n_4906603.html?&ncid=tweetlnkushpmg00000016

NPR

http://wuwm.com/post/irs-hearing-begins-refusals-answer-and-ends-shouting

Wall Street Journal

http://blogs.wsj.com/washwire/2014/03/05/cummings-issa-do-battle-at-irs-hearing/?KEYWORDS=lois+lerner

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SFC 001014

From: Downing Nanette M
Sent: Wednesday, June 20, 2012 8:58 AM
To: Lerner Lois G
Subject: FW: Mon. NY Times editorial

The entity was established in June 2010. Since September 2010, EO Classification has received total of 16 referrals about this entity. All referrals state the same allegation that the entity misused 501(c)(4) status to engage in political activities.

1. Regular and PACI committee members reviewed ten of the referral s in June 2010. Committees decided to not select the entity for examination since the entity had not been recognized as an exempt organization and had a pending determination application. EO Classification has forwarded some referral information to Cincinnati to be associated with the determination application file.

2. After the initial 10 were reviewed, EO Classification closed three subsequent referrals as "Closed Multiple" based on the prior committees' comments and the closeness in date and issues to the other referrals.

3. With new dual track procedures, three open subsequent referrals have been consolidated and will be sent to ROO for review as part of dual track program (including the last referral received in May 31, 2012). The entity filed the first Form 990 for the tax year of 2011 in March 2012 and declared it as a 501(c)(4) organization with a pending application.

From: Lerner Lois G
Sent: Monday, June 04, 2012 11:33 AM
To: Kindell Judith E; Lowe Justin; Downing Nanette M
Subject: FW: Mon. NY Times editorial
Importance: High

Nan, when you get back, can I get status of whether we have had referrals on this and what happened--thanks

Lois G. Lerner
Director of Exempt Organizations

From: Lemons Terry L
Sent: Monday, June 04, 2012 12:32 AM
To: Lerner Lois G
Subject: Mon. NY Times editorial

Sent from my BlackBerry Wireless Handheld

From: Terry and Jane Lemons [redacted]
Sent: Monday, June 04, 2012 12:27 AM
To: Lemons Terry L

SFC 001015

Subject: Times editorial

June 3, 2012

Whose Welfare?

Every week the campaign dollars pile up, by the tens of millions, by the hundreds of millions, to a level never before seen in American political life. Outside groups now say they plan to spend $1 billion on behalf of Republicans in the November electiou, which will probably be twice the level raised by groups supporting Democrats. Even the slush-funders of the Watergate era would have been slack-jawed at the number of seven- and eight-figure checks pouring into groups with names like Crossroads and Americans for Prosperity.

The reason for these staggering numbers — and for the growing iubalance between the parties — is that the vast financial power of the business world has been loosed as a political tool by the federal courts. Iu pursuit of lower taxes and less regulation, businesses, led by the United States Chamber of Commerce, are determined to remove President Obama from office and return full control of Congress to the Republican Party. Executives and companies are the principal source of the unlimited checks that are fueling the rise of these outside groups.

Many of the executives are giving mouey to "super PACs," which have to disclose their names. But because businesses usually don't want the public to know of their political activity, they prefer to launder their political contributions through the Chamber or through "social welfare organizations," which can keep the names a secret.

The law that permits these undisclosed contributions also puts explicit limits on these organizations' activities. Tax-exempt social welfare groups, known by their Internal Revenue Code section number as 501(c)(4)'s, cannot be organized for the "primary" purpose of political activity. So far, the I.R.S. is looking the other way.

But if not political activity, what is the primary purpose of a group like Crossroads GPS, the 501(c)(4) organized by Karl Rove, which plans to spend more than $100 million this year? It has already run at least a dozen ads this year, 11 of which accuse President Obama of breaking promises or committing serious policy errors. "Obama added almost $16,000 in debt for every American," says the latest, a classic iu misleading political hyperbole.

As Jeremy Peters recently reported in The Times, that ad is part of a $25 million campaign that was hased on 18 focus groups and field tests conducted by Crossroads, all to determine the most effective attack lines against the president. Is that the action of a tax-exempt social welfare group not primarily active in politics?

The I.R.S. generally makes that kind of assessment by examining a 501(c)(4)'s activity over a calendar year, so a full reckoning of this year's campaign finance travesty won't happen before 2013. But some of these groups, including Crossroads, have been operating with the tax agency's implicit consent since 2010. Even a cursory audit would show how little they deserve to call themselves a "social welfare group" and claim a tax exemption.

Removing the 501(c)(4) exemption would he serious: it would force Crossroads to either retain its tax exemption hy converting to a super PAC and disclosing its donors, or pay taxes on its tens of millions in donations. American voters would win either way: they might learn who is behind those millions, and the disclosure and tax requirements would reduce the shadowy money pouring into the campaign

If the I.R.S. had stood up to this farce last year, it would have had a hugely beneficial effect on this year's campaign. Though it needs more resources and better legal tools, it mostly requires the will to enforce the law.

[redacted]

[redacted]

[redacted]

[redacted]!

From: Chen, Edgar (OLA)
Sent: Wednesday, November 28, 2012 07:18 PM
To: 'Florence, Justin (Judiciary-Dem)' <[redacted]@Judiciary-dem.senate.gov>
Cc: Griffin, Ayo (Judiciary-Dem) <[redacted]@Judiciary-dem.senate.gov>; Erb, William (OLA); Aguilar, Rita C. (OLA)
Subject: RE: campaign finance criminal investigations & prosecutions

Thanks – I have flagged for Bill and am copying Rita here as well who handles Tax – it may be more of tax code issue, but we'll run this down. What's your sense on timing?

(Also, on the Leahy Dale Long amd. – I had not realized his amd was wholly different from his original introduced S. 385) and is much better.

Thanks!
Edgar

From: Florence, Justin (Judiciary-Dem) [mailto:[redacted]@Judiciary-dem.senate.gov]
Sent: Wednesday, November 28, 2012 6:52 PM
To: Chen, Edgar (OLA)
Cc: Griffin, Ayo (Judiciary-Dem)
Subject: campaign finance criminal investigations & prosecutions

Hey Edgar –

As we mentioned on the phone, we would like to get an informal staff briefing from relevant experts at the Department about authorities, tools, and priorities for criminal investigations and prosecutions involving campaign finance and related violations. We are particularly interested in investigations/prosecutions of groups such as 501(c)(4)s and super PACs that make independent expenditures. Some of the kinds of potential violations we have in mind, aside from bribery, would be violations of campaign finance anti-coordination laws and bans on accepting foreign contributions for campaign spending, as well as potential tax code violations by organizations misrepresenting their political activity to the IRS or engaging in similar conduct. We much appreciate any help on this.

-Justin Florence and Ayo Griffin
(Office of Sen. Whitehouse)

[redacted]

[redacted]

SFC 001018

-----Original Message-----
[redacted]

----- Original Message -----
From: Griffin, Ayo (Judiciary-Dem) [mailto:[redacted]@Judiciary-dem.senate.gov]
Sent: Monday, January 28, 2013 10:59 AM
To: Aguilar, Rita C. (OLA)
Subject: RE: Campaign fin briefing

Hi Rita,
Our proposed agenda is essentially the same as what we initially asked about (see attached). Our focus is on the activities of groups attempting to influence elections through independent expenditures and electioneering communications, and some of the potential violations that we would be most interested in learning about the Department of Justice's approach to and investigation or prosecution of include:

1. Material false statements to the IRS regarding political activity in order to obtain and maintain 501(c)(4) status. 26 U.S.C. § 7206.

[redacted]

2. Knowing and willful violations of FECA prohibitions on coordination between independent organizations and candidates or parties. 2 U.S.C. § 441a(a).
3. Knowing and willful violations of disclosure rules, such as prohibitions on contributing money in the name of another person. 2 U.S.C. § 441f.
4. Knowing and willful violations of prohibitions on political expenditures by foreign nationals, or the acceptance of funds from foreign nationals to be spent to influence federal elections. 2 U.S.C. § 441e.

Enforcement and penalties for FECA violations can generally be found in 2 U.S.C. § 437g.

As for attendance, it will be staff only. We may be joined by Stephen Lilley, the Subcommittee's Chief Counsel, and Justin Florence, another counsel.

Thanks,
Ayo

-----Original Message-----
From: Aguilar, Rita C. (OLA) [mailto:[redacted]@usdoj.gov]
Sent: Saturday, January 26, 2013 2:11 PM
To: Griffin, Ayo (Judiciary-Dem)
Subject: Campaign fin briefing

Can you please send me an updated proposed agenda for this meeting and confirm that it will be staff only (you and who else)? I am trying to lock in a date on my end, possibly on Friday afternoon, but need a few more details. Thanks, Rita

[redacted] [redacted]

SFC 001020

[redacted]

From: Griffin, Ayo (Judiciary-Dem) [mailto:[redacted]@Judiciary-dem.senate.gov]
Sent: Tuesday, March 12, 2013 3:52 PM
To: Erb, William (OLA)
Cc: Lilley, Stephen (Judiciary-Dem)
Subject: RE: Hearing on Campaign Finance Investigation

Hi Bill,

Thanks for the message. I see your point, but while part of Sen. Whitehouse's interest is focused on certain conduct by 501(c)(4) groups, I don't think that we could really say that for the purposes of this hearing that interest extends to oversight and regulation of these groups, or the regulatory scheme surrounding these groups.

For the purpose of this hearing, Sen. Whitehouse's interest in 501(c)(4) groups is narrowly focused on criminal enforcement of potential material misstatements made under penalty of perjury. He is specifically interested in learning more about the Department of Justice's approach to these cases, as he is for the variety of non-tax issues that we've also discussed. By contrast, Sen. Whitehouse would not ask Ms. Raman about, for instance, what the appropriate limitations are on political spending by 501 (c)(4) groups.

Since Sen. Whitehouse isn't planning to seek justifications for or explanations of the framework governing 501(c)(4) groups from a government witness, and since the majority of the issues that he's interested in don't relate to taxes or the IRS at all, we're not inclined to invite a Treasury Dept. witness to the hearing at this point. In part, we wouldn't want to have to deal with potential committee jurisdictional issues when IRS/Treasury issues aren't the main focus of the hearing. Hopefully this isn't a problem for you, but we're happy to work through any concerns you may have.

Thanks,

Ayo

[redacted]

SFC 001021

[redacted]

From: Griffin, Ayo (Judiciary-Dem) [mailto:[redacted]@Judiciary-dem.senate.gov]
Sent: Wednesday, March 06, 2013 12:56 PM
To: Erb, William (OLA)
Cc: Lilley, Stephen (Judiciary-Dem) <[redacted]@Judiciary-dem.senate.gov>
Subject: RE: Hearing on Campaign Finance Investigation

Hi Bill,

Yes, we can confirm that the hearing will not take place on 3/20, or during that week. We are now seeking to confirm a date during the week of 4/8, and I will let you know as soon as we have that date finalized.

We are talking to a number of experts, both academics and campaign finance lawyers, about appearing as witnesses, but have not confirmed anyone yet. We will let you know when we get the witnesses set.

I'm generally available and happy to discuss further, but I don't think we really have any updated information on our end aside from what I mentioned above, so I'd hate for you to have to find time during your trip. If you would like to talk, Friday morning before 10:30am EST would be good (I assume that with the time difference, morning times would be preferable to you).

Best,

Ayo

From: Erb, William (OLA) [mailto:[redacted]@usdoj.gov]
Sent: Wednesday, March 06, 2013 12:34 PM
To: Griffin, Ayo (Judiciary-Dem)
Cc: Lilley, Stephen (Judiciary-Dem)
Subject: Re: Hearing on Campaign Finance Investigation

Ayo, I am still in Italy and I was unaware that Stephen spoke to Jonathan W recently about the hearing being possible schedulded for the week of April the 8th. Can you at this point confirm that the hearing will not occur during the week of 3/20? Do you have a few seconds to discuss? If so, when would be a good time to call? Also, do you have any idea who the other witnesses might be? Thanks, Bill.

From: Griffin, Ayo (Judiciary-Dem) [mailto:[redacted]@Judiciary-dem.senate.gov]
Sent: Tuesday, March 05, 2013 06:30 PM
To: Erb, William (OLA)
Subject: RE: Hearing on Campaign Finance Investigation

Hi Bill,
That's what we had in mind, so that works fine for us. Also, I think Stephen may have mentioned this to Jonathan Wroblewski, but we're now looking at the week of Apr. 8 for the hearing, so it will be a few weeks later than we had previously thought. I'll let you know as soon as I know the specific date.
Thanks,

Ayo

From: Erb, William (OLA) [mailto:[redacted]@usdoj.gov]
Sent: Tuesday, March 05, 2013 1:49 PM
To: Griffin, Ayo (Judiciary-Dem)
Subject: Re: Hearing on Campaign Finance Investigation

Ayo, let us know. Also, as we discussed and as usual practice, our witness will testify by themselves or with a "government" panel. Thanks, Bill.

From: Griffin, Ayo (Judiciary-Dem) [mailto:[redacted]@Judiciary-dem.senate.gov]
Sent: Monday, March 04, 2013 06:07 PM
To: Erb, William (OLA)
Subject: RE: Hearing on Campaign Finance Investigation

That's great, Bill. Thanks very much. We're getting the final details nailed down on our end and will get back to you once we've confirmed our date.

From: Erb, William (OLA) [mailto:[redacted]@usdoj.gov]
Sent: Monday, March 04, 2013 6:03 PM
To: Griffin, Ayo (Judiciary-Dem)
Subject: Re: Hearing on Campaign Finance Investigation

Ayo, I confirmed that we are willing to participate with a witness in the upcoming campaign finance hearing, depending on the availability of our witness once you announce the hearing and we receive two weeks advance written notice. Thanks, Bill.

From: Griffin, Ayo (Judiciary-Dem) [mailto:[redacted]@Judiciary-dem.senate.gov]
Sent: Friday, March 01, 2013 07:09 PM
To: Erb, William (OLA)
Subject: RE: Hearing on Campaign Finance Investigation

Will do. Thanks. Have a great trip.

From: Erb, William (OLA) [mailto:[redacted]@usdoj.gov]
Sent: Friday, March 01, 2013 5:20 PM
To: Griffin, Ayo (Judiciary-Dem)
Subject: Re: Hearing on Campaign Finance Investigation

Ayo, please also include [redacted]@usdoj.gov and [redacted]@usdoj.gov if you do send us an invite. Thanks, Bill.

From: Griffin, Ayo (Judiciary-Dem) [mailto:[redacted]@Judiciary-dem.senate.gov]
Sent: Wednesday, February 27, 2013 09:47 AM
To: Erb, William (OLA)
Subject: Hearing on Campaign Finance Investigation

Hi Bill,

It was good talking with you yesterday. As we discussed, Sen. Whitehouse would like to convene a subcommittee hearing to look into issues surrounding investigation and prosecution of criminal campaign finance violations by outside groups following Citizens United, and would like to invite a witness from DoJ to testify on the Department's approach to these kinds of potential violations, and to any barriers to effective investigation or prosecution. As I mentioned when we spoke, we have not yet set a hearing date with Chairman Leahy's office, but we are hopeful that we will be able to schedule something for this work period, most likely the week of Mar. 18.

The scope of the hearing will be similar to that for the very helpful briefing that you recently organized for us. Sen. Whitehouse would like to focus on the activities of groups attempting to influence elections through independent expenditures and electioneering communications. Some of the potential violations that he most interested in learning about the investigation of include:

1. Knowing and willful violations of FECA prohibitions on coordination between independent organizations and candidates or parties. 2 U.S.C. § 441a(a).

2. Knowing and willful violations of disclosure rules, such as prohibitions on contributing money in the name of another person. 2 U.S.C. § 441f.

3. Knowing and willful violations of prohibitions on political expenditures by foreign nationals, or the acceptance of funds from foreign nationals to be spent to influence federal elections. 2 U.S.C. § 441e.

4. Material false statements to the IRS regarding political activity in order to obtain and maintain 501(c)(4) status. 26 U.S.C. § 7206.

The overarching context here is that with unprecedented amounts of money being raised and spent to influence elections in the wake of Citizens United, and particularly being raised and spent by outside groups like super PACs and 501(c)(4) groups, which are less tightly regulated than candidates, parties, and conventional PACs, Sen. Whitehouse wants to make sure that the Department is able to effectively investigate, and when necessary, prosecute, the conduct of these groups.

With all of the public accounts about, for instance, shell companies being used to hide donor identities, or groups apparently misrepresenting their activities to the IRS, it would be helpful to know how the Department approaches these cases.

It would be particularly helpful if the witness could convey some of the points that came across in the briefing. One point that particularly resonated during the briefing was that the lack of disclosure in the fundraising of these groups makes it difficult to "follow the money" in the context of conduit transfer cases and foreign donation cases. Other issues raised that would be relevant include, for instance, that coordination cases can be challenging to prosecute because the coordination statute is not as clear as it might be; the high bar posed by knowing and willful standards; and privacy considerations when bringing a tax enforcement case. These are just some initial thoughts. We look forward to having a dialogue about what your people think would be informative and appropriate.

I hope this is helpful as you begin to make inquiries, and let's stay in touch as we both develop more information going forward.

Thanks,

Ayo

Ayo Griffin

Counsel

Subcommittee on Crime and Terrorism

Senator Sheldon Whitehouse, Chair

U.S. Senate Committee on the Judiciary

(202) [redacted]

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[1] Michael Beckel, Nonprofit spends big on politics despite IRS limitation, NBC News, Jan. 28, 2013.

[2] AFF Form 1024.

[3] Letter to the IRS from AFF, August 18, 2008, at 3.

[4] Andy Kroll, Ex-IRS Director on Dark-Money Groups: "Investigate Them and Prosecute Them", Mother Jones, Jan. 14, 2013.

[5] American Future Fund, "Independent," YouTube (March 18, 2008).

[6] OpenSecrets.org, American Future Fund.

[7] OpenSecrets.org, 2012 Outside Spending, by Group.

[8] Beckel, supra note 13.

[9] Viveca Novak & Robert Maguire, Mystery Health Care Group Funneled Millions to Conservative Nonprofits, OpenSecrets.org.

[10] Crossroads GPS Form 1024 Part II Question 1.

[11] OpenSecrets.org, Crossroads GPS.

[12] Id.

[13] Americans for Responsible Leadership Form 1024.

[14] OpenSecrets.org, Americans for Responsible Leadership.

[15] Kim Barker, Controversial Dark Money Group Among Five That Told IRS They Would Stay Out of Politics, Then Didn't, ProPublica, Jan. 2, 2013.

[16] Chris Detrick, A peek at who's behind pro-Hatch nonprofit group, Salt Lake Tribune.

[17] OpenSecrets.org, Freedom Path.

[18] Rightchange.com II Form 1024.

[19] OpenSecrets.org, RightChange.com II.

[20] America is Not Stupid, Inc. Form 1024.

[21] OpenSecrets.org, America is Not Stupid.

[22] A Better America Now Form 1024.

[23] OpenSecrets.org, A Better America Now.

Re: Reference

SEC 001027

From: Lerner Lois G
Sent: 12/24/2012 7:05:02 PM +0000
To: SFC [redacted]@aol.com'
Subject: Re: Reference

I'd be more than happy to "tAlk you up!" Don't blame you for being nervous although it sounds exciting and I am a wee bit envious. So glad Sarah is doing well--it was a bad scare, so good to know she is feeling better. Please give her my regards. We're in Ohio for the holiday and waiting to go over the fiscal cliff! I truly believe this country is out of its head with ridiculousness! We really need to split in two--we are so polarized that we can't do anything constructive. On the brighter side, the family is fine and together and I have 5 days off of work--doesn't get much better. Have a wonderful new year and I'll let you know if they reach out to me about you. Keep me posted on the progress of your new career.
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

----- Original Message -----
From: lisa klein [SFC [redacted]@aol.com]
Sent: Sunday, December 23, 2012 03:58 AM
To: Lerner Lois G
Subject: Reference

Ho ho ho, Lois!

I have had to give your name as a former boss on my application to be a consultant for SFC [redacted] I hope you can find a couple of soothing words to say about me should you be contacted.

All well here. Sarah doing very well. Thank heavens. They have found my replacement at work so I will be ending my stint there at the end of Feb... Nervous but excited.

Card in post to you for the new year but happy holidays via email.
Lisa

PR_RIM_MSG_ON_DEVICE_3_6:	true
PR_RIM_MSG_REF_ID:	1472374083
PR_RIM_PAGER_TX_FLAG:	false
PR_RIM_MSG_FOLDER_ID:	-4
PR_RIM_MSG_STATUS:	1
PR_RIM_INTERNET_MESSAGE_ID:	<D68307FFFD316345A83210A7F20F72B09B619244@MTB0120CP3XF14.ds.irsnet.gov>

SFC 001028

From: Kall Jason C <[redacted]SFC
Sent: 11/15/2012 4:08:08 PM +00:00
To: Lerner Lois G <[redacted]SFC
CC: Downing Nanette M <[redacted]SFC
Subject: RE: GIK

Lois,

We are good. Greg and Rocky are going to come back to me with a plan on how we want to triage the cases which ROO already looked at - about 14, along with the about 25-30 cases ROO has not looked at, then I will run that by Nan before we go forward. Counsel has said they could help.

I agree, we need to find the connection to a significant issue(s), such as excessive comp, as a result of their jacking up their 990s.

ROO does look at the 1023s if they are available on TEDs.

We will look at things that we might be able to report out on or come up with a potential message on, and if we find things, will feed that up to you.

Jason Kall

Manager, EO Compliance Strategies and Critical Initiatives
[redacted]SFC

From: Lerner Lois G
Sent: Wednesday, November 14, 2012 3:15 PM
To: Kall Jason C
Cc: Downing Nanette M
Subject: GIK
Importance: High

Hope I didn't upset the Exam team. I'm just trying to put you in a position where we can actually do something. Strange behavior without more isn't good enough. Add to that the difficulties we have generally with valuation and compensation and I just feel there may be more profitable areas. We need to tie it to non-compliance we can pursue. Just as they got Al Capone on tax evasion instead of drugs, prostitution and murder, we need to do the same! One thing I wondered--did we look at their 1023s to see what they told us they would be doing? You might want to look at that in your triage.

By the way, even if we couldn't "get" any of them because of hazards with valuation or comp, that wouldn't stop me from putting something out that says we looked at these and it appears.....

Lois G Lerner
Director of Exempt Organizations

Message Headers:

[redacted]SFC

[redacted]SFC

SFC 001029

From: Brown Brent E
Sent: Thursday, November 29, 2012 2:37 PM
To: Lerner Lois G
Cc: Marx Dawn R
Subject: 2012 NBU Ratings Spreadsheets w Bonus Amount
Attachments: 2012 Mgmt Official Performance Awards EO.xls; 2012 Sr Mgr Performance Awards EO.xls; 2012 Front Line Mgr Performance Awards EO.xls

Lois, attached are the Senior Manager, Frontline Manager and Management Official spreadsheets with approved final ratings and bonus amounts. Please share Senior Manager and Management Official ratings/bonus amounts as appropriate.

I will send the Frontline Manager spreadsheets to Holly and Nan in separate emails.

Brent E. Brown Jr.
Internal Revenue Service
Tax Exempt & Government Entities (TEGE)
Headquarters, Human Resources Staff
SFC [redacted]

SFC 001030

SFC [redacted]

From: Duval Catherine
Sent: Monday, February 03, 2014 1:37 PM
To: Manning Stephen (DCIO)
Cc: Sterner Christopher B; Kane Thomas J SFC [redacted]
Subject: Lerner email issue

Follow Up Flag: Follow up
Flag Status: Flagged

This is to confirm our discussion in today's meeting concerning the apparent lack of Lois Lerner email from before May 9, 2011. As discussed, your office will do the following as soon as possible:

- Confirm that Lerner's government laptop is secured;
- Ensure that the earliest possible network back-up tapes are available for review;
- Confirm that no back-up tapes have been recycled since the hold on recycling was instituted last spring;
- Conduct an analysis to determine whether any Lerner emails were inadvertently omitted from the collection, processing, or production to Clearwell; and
- Determine whether any missing emails can be retrieved.

Thank you for your help. Please let us know if any questions arise or if there is anything that we can do to help expedite any of the above.

Kate Duval
Counselor to the Commissioner
SFC [redacted]

SFC 001031

SFC [redacted]

From: SFC [redacted]@fec.gov
Sent: Tuesday, November 26, 2013 12:43 PM
To: SFC [redacted] (Finance)
Cc: SFC [redacted] (Finance); SFC [redacted]@fec.gov
Subject: FEC response to Letter from Senator Hatch
Attachments: FECOGC000001-204.pdf

Dear SFC [redacted]

Attached is the complete set of responsive documents that the Federal Election Commission is producing in response to Senator Hatch's request of November 18, 2013. These documents are bates numbered in the bottom left hand corner FECOGC 000001-204. The bates number in the lower right hand corner reflects the prior production of these documents to the House Administration Committee and the House Oversight and Government Reform Committee, in response to earlier requests from those two Congressional committees.

This production includes, as requested, documents reflecting communications between FEC employees William Powers and Wade Sovonick and any employee of the Department of Treasury, dating back to January 1, 2006. The attached production is not a waiver of attorney client or work product privileges.

Please feel free to give me a call if you have any questions or have problems opening the attached file. I would appreciate it if you could confirm receipt of this production.

Lisa J. Stevenson
Deputy General Counsel - Law
Federal Election Commission
SFC [redacted]

From: Duane Pugh/FEC/US
To: Lisa Stevenson/FEC/US,
Date: 11/25/2013 04:18 PM
Subject: Fw: Letter to FEC from Senator Hatch

----- Forwarded by Duane Pugh/FEC/US on 11/25/2013 04:18 PM -----

SFC [redacted]

11/18/2013 06:04 PM

To SFC [redacted]@fec.gov"'SFC [redacted]
cc SFC [redacted] (Finance)"SFC [redacted]
Subject Letter to FEC from Senator Hatch

Dear Mr. Pugh – Attached please find a letter from Ranking Member Orrin Hatch of the Senate Finance Committee requesting the

FEC's immediate assistance in producing documents related to an ongoing bi-partisan investigation being conducted by the Committee. A hard copy of the letter is forthcoming via regular mail. If you have any questions about the request please contact SFC Investigative Counsel for the Committee, at SFC. He is also cc'd on this email. Thanks in advance for your cooperation. SFC

[redacted]
Chief Oversight Counsel
U.S. Senate Finance Committee, Minority Staff
219 Dirksen Senate Office Building
Washington, DC 20510
SFC
[attachment "11 18 13 OGH to FEC.pdf" deleted by Lisa Stevenson/FEC/US]

SFC 001033

Coon, Justin (Finance)

From: Seidell Thomas F TIGTA
Sent: Friday, May 10, 2013 9:51 AM
To: Medina Cheryl J TIGTA
Subject: FW: Review of E-Mails

Purpose: To document results of OI search of IRS emails.

From: Kutz Gregory D TIGTA
Sent: Tuesday, May 07, 2013 8:39 AM
To: Paterson Troy D TIGTA; Seidell Thomas F TIGTA
Subject: FW: Review of E-Mails

See below. I forgot to ask, but did we remove reference to OI in the footnotes and the related referral?

From: Camus Timothy P TIGTA
Sent: Friday, May 03, 2013 3:34 PM
To: Phillips Michael R TIGTA; McKenney Michael E TIGTA; McCarthy Michael T TIGTA; Kutz Gregory D TIGTA
Cc: Silvis Randy M TIGTA; Jackson James S TIGTA
Subject: Review of E-Mails

Gentlemen,

As a result of our meeting with Russell a couple of weeks ago, we agreed to pull e-mails from identified staff members of the EO organization in Cincinnati to find out 1). If an e-mail existed that directed the staff to "target" Tea Party and other political organizations and 2). If there was a conspiracy or effort to hide e-mails about the alleged directive.

Audit provided us with a list of employees in question, key word search terms and a timeframe for the e-mails. We pulled the available IRS e-mails, which resulted in 5,500 responsive e-mails.

Review of these e-mails revealed that there was a lot of discussion between the employees on how to process the Tea Party and other political organization applications. There was a Be On the Lookout (BOLO) list specifically naming these groups; however, the e-mails indicated the organizations needed to be pulled because the IRS employees were not sure how to process them, not because they wanted to stall or hinder the application. There was no indication that pulling these selected applications was politically motivated. The e-mail traffic indicated there were unclear processing directions and the group wanted to make sure they had guidance on processing the applications so they pulled them. This is a very important nuance.

Tim

Timothy Camus
Deputy Inspector General for Investigations
Treasury Inspector General for Tax Administration
1401 H St. NW, Suite 469
Washington, DC 20005

SFC 001034

From: Paterson Troy D TIGTA
To: Hawkins Gerald T TIGTA; Seidell Thomas F TIGTA; Westcott James V TIGTA
Subject: This Week's Festivities!
Date: Monday, April 30, 2012 6:25:00 AM

Tom, Jim, and Tom,

Good morning. I hope everyone enjoyed the weekend. It was beautiful here in the Atlanta area.

I'll be at the Senior Auditor training on Tuesday through Thursday, but I'll be checking messages.

Here are my thoughts on the jobs. Please provide feedback.

Atlanta

My goals this week – Could you send me a schedule status report for all four of your reviews? We'll finish our two-thirds fieldwork completion meeting on SFC this morning. Also, I believe you and Julie were looking to hold a report meeting with me this week. Just let me know when you would like to meet. Also, I'll be sending the SF report back to you and the team today. I'd like to get the report up to Russ this week for his review.

Upcoming Milestones – April 23, 2012 (SFC ⅔ Fieldwork Completion), April 27, 2012 (SFC Discussion Draft Comments from Director to Team), May 15, 2012 (SFC Fieldwork Report Meeting), May 28, 2012 (SFC Receive IRS Response)

Notes – Are there any project or administrative issues I need to be aware of?

Cincinnati

My goals this week – Could you send me a schedule status report for the onboarding audit? Once you get the final documents from Debbie, please finalize the SFC audits. Also, I'll be responding to some Counsel comments on the SFC report this morning. Otherwise, the big charge of the week is to get the onboarding report into referencing as quickly as possible this week. Could you ask Steve to let me know when the report has gone to Peggy for referencing?

Upcoming Milestones – April 19, 2012 (SFC Final Report Issued), April 30, 2012 (SFC Receive Draft Report Response), May 2, 2012 (SFC Begins), May 8, 2012

(Periodic SFC [redacted] Assessment Brainstorming Session)

Notes – Are there any project or administrative issues I need to be aware of?

Stoneham

My goals this week – You and the 501(c)(4)-(6) team will be in Cincinnati this week. With all your jobs hitting planning at the same time, I'm thinking it might be a good time to come up to Stoneham for a visit on the week of May 14th. Will everyone be available on the 15th and 16th?

Upcoming Milestones – May 8, 2012 (SFC [redacted] Issue Final Report), May 9, 2012 (SFC [redacted] Audit Lead to Director), May 14, 2012 (SFC [redacted] Receive IRS Response), May 15, 2012 (SFC [redacted] Brainstorming Meeting), May 16, 2012 (SFC [redacted] Brainstorming Meeting)

Notes – Are there any project or administrative issues I need to be aware of?

Troy

SFC [redacted]

SFC 001036

Paterson Troy D TIGTA

From: Nakamura Nancy A TIGTA
Sent: Friday, March 02, 2012 12:56 PM
To: Paterson Troy D TIGTA
Subject: FW: (link to article) congressional query

Troy, FYI.

From: Sutphen Matthew S TIGTA
Sent: Friday, March 02, 2012 12:53 PM
To: Nakamura Nancy A TIGTA
Subject: FW: congressional query

Nancy,

http://dailycaller.com/2012/02/22/congressional-investigations-sought-over-irs-assault-on-tea-party-groups/?print=1

This is the article that is the driving force behind the staffer's inquiry.

From: Sutphen Matthew S TIGTA
Sent: Friday, March 02, 2012 11:17 AM
To: Nakamura Nancy A TIGTA
Cc: McKenney Michael E TIGTA
Subject: FW: congressional query

Good morning Nancy,

Have you had an opportunity to review my question? Also, has OA done any audit work on the IRS's tax-exempt approval process/ screening process? Please advise me at your earliest convenience.

Chris Hixon, staffer with House Oversight, is interested in setting up a conference call or having a meeting sometime next week to learn about the IRS's handling of tax-exempt applications. So, please advise me on who would be the subject matter expert(s) on this topic.

Thank you!

Matthew

From: McKenney Michael E TIGTA
Sent: Thursday, March 01, 2012 4:48 PM

SFC 001037

To: Nakamura Nancy A TIGTA
Cc: Sutphen Matthew S TIGTA; Paterson Troy D TIGTA
Subject: FW: congressional query

Nancy, this looks like your area.

From: Sutphen Matthew S TIGTA
Sent: Thursday, March 01, 2012 4:43 PM
To: McKenney Michael E TIGTA
Subject: FW: congressional query

Mike,

Per Mr. Phillips instructions, please see below.

Thank you!

From: Sutphen Matthew S TIGTA
Sent: Thursday, March 01, 2012 4:41 PM
To: Phillips Michael R TIGTA
Subject: congressional query

Good afternoon Mr. Phillips,

As if you were not busy enough, I have another question for you. Or, I would greatly appreciate it if you could point me in the right direction.

I received an inquiry from a staffer with the House Oversight committee regarding whether the IRS has reported anything to TIGTA pursuant to 26 U.S.C. Section 7217. The staffer specifically asked if TIGTA has received any reports from the IRS regarding applicable persons instructing the IRS to look into tax-exempt organizations.

If you are not familiar with Section 7217, it states in pertinent part:

> It shall be unlawful for any *applicable person* to request any employee of the IRS to conduct or terminate an audit or other investigation of any particular taxpayer with respect to the tax liability of such taxpayer.
>
> Any employee of the IRS receiving said request shall report the receipt of such request to TIGTA.
>
> Applicable person means –
> (1) The president, the VP, any employee of the executive office of the President, and any employee of the executive office of the VP; and
> (2) Any individual (other than the Attorney General) serving in a position specified in Section 5312 of title 5, United States Code.
>
> Title 4 U.S.C. Section 5312 lists the following positions:

Secretary of State.
Secretary of the Treasury.
Secretary of Defense.
Attorney General.
Secretary of the Interior.
Secretary of Agriculture.
Secretary of Commerce.
Secretary of Labor.
Secretary of Health and Human Services.
Secretary of Housing and Urban Development.
Secretary of Transportation.
United States Trade Representative.
Secretary of Energy.
Secretary of Education.
Secretary of Veterans Affairs.
Secretary of Homeland Security.
Director of the Office of Management and Budget.
Commissioner of Social Security, Social Security Administration.
Director of National Drug Control Policy.
Chairman, Board of Governors of the Federal Reserve System.
Director of National Intelligence

Paterson Troy D TIGTA

From: Nakamura Nancy A TIGTA
Sent: Thursday, March 08, 2012 10:23 AM
To: Paterson Troy D TIGTA; Kisler Debra L TIGTA
Subject: FW: Room for the House Oversight briefing?

Troy,

Here's the room number for the briefing.

Debbie, we confirmed the meeting Tuesday night, and it is scheduled for later today (if you need to let Elaine know).

Thanks,
Nancy

From: Sutphen Matthew S TIGTA
Sent: Thursday, March 08, 2012 9:50 AM
To: Nakamura Nancy A TIGTA
Subject: RE: Room for the House Oversight briefing?

Good morning Nancy,

The meeting will be held in 2157 Rayburn

From: Nakamura Nancy A TIGTA
Sent: Thursday, March 08, 2012 9:29 AM
To: Sutphen Matthew S TIGTA
Subject: Room for the House Oversight briefing?

Hi Matthew,

Which room are we meeting in for our 2 pm briefing for House Oversight? Troy and I will meet you there about 5-10 minutes prior.

Thanks,
Nancy

29044232281

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 5988
American Future Fund	)	

AMENDED CERTIFICATION

I, Mary W. Dove, recording secretary of the Federal Election Commission executive session, do hereby certify that on February 25, 2009, the Commission took the following actions in the above-captioned matter:

1. Decided by a vote of 6-0 to

find no reason to believe that American Future Fund violated 2 U.S.C. §§ 433 and 434, and approve an appropriate Factual and Legal Analysis.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

2. Failed by a vote of 3-3 to

a. Find reason to believe that American Future Fund violated 2 U.S.C. § 441b(a).

b. Find reason to believe that American Future Fund violated 2 U.S.C. § 434(c) and 11 C.F.R. §109.10.

c. Find reason to believe that American Fund violated 2 U.S.C. §§ 441d(a)(3) and (d)(2).

d. Approve the Factual and Legal Analysis.

e. Authorize the use of compulsory process in this matter.

f. Approve the appropriate letters.

Commissioners Bauerly, Walther, and Weintraub voting affirmatively for the decision. Commissioners Hunter, McGahn II, and Petersen dissented.

3. Decided by a vote of 4-2 to

take no further action.

Commissioners Hunter, McGahn II, Petersen, and Walther voted affirmatively for the decision. Commissioners Bauerly and Weintraub dissented.

4. Decided by a vote of 6-0 to

close the file and send the appropriate letters.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther and Weintraub voted affirmatively for the decision.

29044232282

Attest:

March 17 2009
Date

Mary W. Dove
Mary W. Dove
Secretary of the Commission

SFC 001042

BEFORE THE
FEDERAL ELECTION COMMISSION

SENSITIVE

Democracy 21
1875 I Street, NW, Suite 500
Washington, DC 20006
202-429-2008

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2008 OCT 10 A 11:42

13044333578

v.

MUR No. 6094

American Issues Project, Inc.
301 W. Platt Street #353
Tampa, Florida 33606

American Leadership Project
2261 Market Street PMB 319
San Francisco, California 94114

COMPLAINT

1. In March, 2002, Congress enacted the Bipartisan Campaign Reform Act of 2002 (BCRA) to prevent the raising and spending of soft money by federal candidates and political party committees to influence federal elections. The soft money provisions in Title I of BCRA were upheld by the Supreme Court in *McConnell v. FEC*, 540 U.S. 93 (2003).

2. After the enactment of BCRA, a number of political and party operatives, and others, engaged in illegal schemes in the 2004 and 2006 federal elections to use soft money to influence those elections. These illegal schemes were conducted primarily through the use of so-called "section 527 groups" — entities registered as "political organizations" under section 527 of the Internal Revenue Code (IRC), 26 U.S.C. § 527.

3. Democracy 21 and other reform organizations filed multiple complaints with the Commission in 2004 and 2006, seeking enforcement of the law against these illegal schemes. In

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response to these complaints, the Commission instituted a number of enforcement actions and found that four large 527 groups active in the 2004 campaign engaged in massive violations of the campaign finance law by failing to register as political committees and failing to abide by the contribution limits, source prohibitions and reporting requirements that apply to political committees. The violations by these four 527 groups in the 2004 election, cumulatively, resulted in FEC findings of more than $200 million in illegal soft money expenditures to influence the 2004 presidential election.

4. The American Issues Project, Inc. (AIP) and the American Leadership Project (ALP) have been engaged in activities to influence the 2008 presidential election that are similar to the activities found illegal by the Commission following the 2004 campaign. AIP is a corporation organized under section 501(c)(4) of the Internal Revenue Code. ALP is organized under section 527 of the IRC.

5. Neither AIP nor ALP is registered with the Commission as a political committee. However, on information and belief, each group has made "expenditures" or received "contributions" in excess $1,000 and has a "major purpose" to influence federal elections. As such, they are federal political committees. AIP and ALP are therefore required to register with the Commission under the federal campaign finance laws, 2 U.S.C. §432, and are subject to the federal contribution limits, source prohibitions and reporting requirements on the funds they receive. As political committees, each of these groups may not receive more than $5,000 per year from an individual donor, and may not receive any union or corporate treasury funds whatsoever. 2 U.S.C. § 441a(a)(1)(C), 441b(a). These limits and prohibitions apply to all "political committees," including those that engage in independent spending. 11 C.F.R. §

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110.1(n). Furthermore, as political committees, each of these groups is required to file periodic reports with the Commission, disclosing all receipts and disbursements. 2 U.S.C. § 434.

6. It is essential for the Commission to continue the enforcement actions it began after the 2004 elections against outside groups making illegal soft money expenditures. The Commission must do so in order to ensure that violators are held accountable and understand that there are consequences for breaking the law. The Commission should take appropriate actions to ensure that all groups which qualify as federal political committees register and operate pursuant to the laws that apply to such political committees.

Standard for "political committee" status

7. Section 431(4) of Title 2 defines the term "political committee" to mean "any committee, club, association or other group of persons which receives contributions aggregating in excess of $1,000 during a calendar year or which makes expenditures aggregating in excess of $1,000 during a calendar year." 2 U.S.C. § 431(4); *see also* 11 C.F.R. § 100.5(a). An "expenditure" is defined as "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office...." 2 U.S.C. § 431(9)(A). Similarly, a "contribution," is defined as "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office...." 2 U.S.C. § 431(8)(A). In addition, FEC regulations define a "contribution" to include funds received "in response to any communication ... if the communication indicates that any portion of the funds received will be used to support or oppose the election of a clearly identified Federal candidate." 11 C.F.R. § 100.57(a).

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8. Any entity which meets the definition of a "political committee" must file a "statement of organization" with the Federal Election Commission, 2 U.S.C. § 433, and periodic disclosure reports of its receipts and disbursements. 2 U.S.C. § 434. In addition, a "political committee" is subject to contribution limits, 2 U.S.C. §§ 441a(a)(1), 441a(a)(2), and source prohibitions, 2 U.S.C. § 441b(a), on the contributions it may receive and make. 2 U.S.C. § 441a(f). These rules apply even if the political committee is engaged only in independent spending. 11 C.F.R. § 110.1(n).

9. In *Buckley v. Valeo*, 424 U.S. 1 (1976), the Supreme Court construed the term "political committee" to "only encompass organizations that are under the control of a candidate or the major purpose of which is the nomination or election of a candidate." 424 U.S. at 79 (emphasis added). Again, in *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238 (1986), the Court invoked the "major purpose" test and noted that if an incorporated non-profit group's independent spending activities "become so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee." 479 U.S. at 262 (emphasis added). In that instance, the Court continued, it would become subject to the "obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns." *Id.* (emphasis added). The Court in *MoCounell* restated the "major purpose" test for political committee status as iterated in *Buckley*. 540 U.S. at 170 n.64.

10. For the reasons set forth above, there is a two prong test for "political committee" status under the federal campaign finance laws: (1) whether an entity or other group of persons has the "major purpose" of influencing the "nomination or election of a candidate," as stated by *Buckley*, and if so, (2) whether the entity or other group of persons receives "contributions" or makes "expenditures" of at least $1,000 or more in a calendar year.

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The American Issues Project, Inc.

11. According to press reports, American Issues Project, Inc., was originally incorporated in May, 2007 in the State of Delaware under the name "Citizens for the Republic, Inc." *See* Certificate of Incorporation (Exh. A); W. Evans and P. Overby, "Obama Goes After Conservative Group" (National Public Radio) (Aug. 27, 2008) (Exh. B). Its incorporation papers state that it was organized for "the promotion of social welfare" under section 501(c)(4) of the IRC. In a Certificate of Amendment signed on March 19, 2008, and filed with the State of Delaware on April 2, 2008, "Citizens for the Republic, Inc." changed its name to "Avenger, Inc." (Exh. C). In a Certificate of Amendment signed on August 4, 2008, and filed with the State of Delaware on August 6, 2008, "Avenger, Inc." changed its name to "American Issues Project, Inc." (Exh. D).

12. According to its filings with the State of Delaware, the directors for Citizens for the Republic, Inc (CFTC), were Paul Erickson, Stephen Moore and Richard Sharp. A press report discusses the name change for the corporation and states:

> Erickson says Avenger, Inc. was just a placeholder name, and that CFTR has nothing to do with American Issues Project. He said AIP has completely separate leadership and simply used the corporate "shell" of Citizens for the Republic after it disbanded. As to why AIP would take the corporate shell instead of forming a new one, Erickson said he could only guess that there were cost savings involved.

Evans and Overby, *supra* (Exh. B). The same article notes:

> Perhaps another benefit was that Citizens for the Republic already had received 501(c)(4) nonprofit tax status from the Internal Revenue Service. Inheriting 501(c)(4) status from the get-go would allow American Issues Project to claim a special exemption and do what few other political organizations can do: expressly advocate for the defeat of a candidate, namely Obama, without any contribution limits.

13. The "major purpose" test applies to the entity, not to the name of the entity. Thus, in this case, AIP was incorporated in 2007 as a section 501(c)(4) corporation, and that

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corporation with that tax status has been in existence for all of 2008. For purposes of determining the corporation's "major purpose" in 2008, its activities during the 2008 campaign must be taken into consideration, even though for some portion of 2008 the corporate entity operated under different names.

14. According to a letter from an attorney for AIP to the Department of Justice, AIP operates as a qualified nonprofit corporation under 11 C.F.R. § 114.10, otherwise known as an "MCFL group." Letter from Cleta Mitchell to Mr. John C. Keeney, Esq. (Aug. 26, 2008) (Exh. E).

15. On August 19, 2008, AIP filed with the Commission a "Report of Independent Expenditures Made and Contributions Received" (Form 5). (Exh. F). The report indicated that AIP spent $2.86 million on independent expenditures on August 18, 2008. The report indicated that all of this spending was funded by a single donation from one individual, Harold Simmons, who made a donation to AIP of $2,878,872 on August 12, 2008.

16. According to press reports, Simmons "was also a primary backer of the Swift Boat Veterans for Truth group that attacked Democratic presidential nominee John Kerry in 2004." T.W. Farnum, "Legal Controversy Erupts Over TV Ads Linking Obama to '60s Radical," *The Wall Street Journal* (Aug. 29, 2008) (Exh. G). One press report stated that Simmons was Swift Boat's second largest donor, giving $3 million. D. Morain, "Billionaire behind Swift Boat ads funded anti-Obama spot," *Los Angeles Times* (Aug. 23, 2008) (Exh. H).

17. In response to a complaint filed by Democracy 21 and other reform organizations, the Commission in 2006 found that Swift Boat Veterans for Truth (SBVT) violated the campaign finance laws by conducting activities to influence the 2004 presidential election without registering as a political committee and without abiding by the contribution limits and source

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prohibitions that apply to political committees. The Commission imposed a civil penalty of $299,500 on SBVT. Conciliation Agreement, MURs 5511 and 5525 (Dec. 4, 2006).

18. In addition to Simmons, who was apparently the sole donor to AIP for the independent expenditures that AIP made in August, 2008, and who was a major donor to Swift Boat, another key player in the activities of Swift Boat is also involved with AIP. According to a press report, AIP "was launched by Chris LaCivita, who was intimately involved with the Swift boat campaign, and Tony Feather, one of the co-founders of Progress for America, which spent tens of millions backing Bush in 2004." M. Mosk and C. Cillizza, "Group with Swift Boat Alumni Readies Ads Attacking Obama," *The Washington Post* (Sept. 14, 2008) (Exh. I). The Commission found in 2007 that Progress for America (PFA), the group Feather worked with in 2004, violated the campaign finance laws for similar activities to influence the 2004 presidential election without registering as a political committee and complying with the contribution limits and source prohibitions that apply to political committees. PFA paid a civil penalty of $750,000. Conciliation Agreement, MUR 5487 (Feb. 22, 2007).

19. According to press reports, the independent expenditure sponsored by AIP was an ad called "Know Enough?" which attacked Democratic presidential nominee Barack Obama. The text of the ad is as follows:

> *Narrator*: "Beyond his speeches, how much do you know about Barack Obama? What does he really believe?
>
> Consider this: United 93 never hit the Capitol on 9/11. But the Capitol was bombed 30 years before by an American terrorist group called Weather Underground that declared war on the U.S. -- targeting the Capitol, the Pentagon, police stations and more.
>
> One of the group's leaders, William Ayers, admits to the bombings, proudly saying later, 'We didn't do enough.' Some members of the group Ayers founded even went on to kill police.

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> But Barack Obama is friends with Ayers, defending him as 'respectable' and 'mainstream.' Obama's political career was launched in Ayers' home. And the two served together on a left-wing board.
>
> Why would Barack Obama be friends with someone who bombed the Capitol and is proud of it? Do you know enough to elect Barack Obama?
>
> American Issues Project is responsible for the content of this ad."[1]

20. In a release published on its website, AIP said that this ad, "Know Enough?", ran 7,307 times during the period from August 21 through August 29, 2008 on 69 stations in 14 markets in Michigan, Ohio, Pennsylvania and Virginia, all presidential battleground states in the 2008 election. (Exh. J). In touting the effectiveness of the ad, AIP president Ed Martin described the political impact of the ad by saying, "American Issues Project clearly has struck a nerve inside the Obama campaign, but even more important is the reaction of the American people, who are starting to question why Sen. Obama would have such a close relationship with an unrepentant domestic terrorist." *Id.*

Count 1

21. On information and belief, AIP meets the test for "political committee" status. On information and belief, it has made more than $1,000 in "expenditures" or received more than $1,000 in "contributions" and its "major purpose" is to influence federal elections. AIP has not registered as a political committee and has not complied with the contribution limits and reporting requirements applicable to political committees.

1. Expenditure/Contribution prongs

22. AIP's ad "Know Enough?" contains express advocacy under both subpart (a) and subpart (b) of section 100.22 of the Commission's regulations. In raising the question of whether voters know enough to "elect" Barack Obama, the ad uses a "phrase[] ... which in

[1] The ad is available on AIP's website at http://www.americanissuesproject.org/component/option.com_sevret/Itemid,34/id,9/task,videodirectlink/

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context can have no other reasonable meaning than to urge the election or defeat" of a candidate. 11 C.F.R. § 100.22(a). Further, the content of the ad "could only be interpreted by a reasonable person as containing advocacy of the election or defeat" of a candidate. 11 C.F.R. § 100.22(b). This is consistent with AIP's position in reporting the spending as an "independent expenditure." By law, an "independent expenditure" is an "expenditure" that contains express advocacy. 2 U.S.C. § 431(17). Since AIP spent more than $1,000 on express advocacy "expenditures" in running "Know Enough?", it satisfies the "expenditure" prong of the test for political committee status.

23. In addition, given the facts and circumstances regarding the managers of AIP and the contributor to the group, the Commission also should investigate whether the funds raised by AIP for its independent expenditure were received in response to a solicitation that indicated that any portion of the funds received would be used to oppose Senator Obama's election. If so, the funds constitute "contributions" to AIP, 11 C.F.R. § 100.57(a), and if in excess of $1,000, satisfy the "contribution" prong of the test for political committee status.

2. "Major purpose" prong

24. The second prong of the test for political committee status is whether the "major purpose" of AIP is to influence federal elections. As noted above, the corporation was formed and received its non-profit tax status in 2007 and has been in existance, under one or more different names, continually since then. The Commission should examine the activities of AIP, under whatever names it has operated, during the 2008 campaign to determine if its spending and its activities demonstrate that the "major purpose" of AIP is to influence federal elections.

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25. One press report quotes a spokesman for AIP as saying the group "formed last year but did not have any financial activity until this year." J. Kuhnhenn, "Obama, conservative group battle through DOJ," *Associated Press* (Aug. 27, 2008) (Exh. K).

26. According to press reports as of the end of August, 2008, AIP had engaged in no activities other than airing the anti-Obama ad. The *Wall Street Journal* story (Exh. G) states: "The American Issue Project's only action so far has been producing the commercial attacking the Democratic presidential nominee, which has aired more than 7,000 times in swing states at a cost of nearly $3 million, making it the largest expenditure by an independent group so far this election cycle."

27. A spokesman for AIP said that the group "has set aside money to carry out non-election related work to meet the legal requirements." J. Kuhnhenn, "Obama seeks to silence ad tying him to 60s radical," *Associated Press* (Aug. 26, 2008) (Exh. L). A press report dated October 8, 2008 stated that AIP "will begin airing nationwide TV advertisements Wednesday [October 8] that criticize congressional Democrats for their ties to mortgage giants Freddie Mac and Fannie Mae...." B. Mullins and T.W. Farnum, "Group's Ad Blames Crisis on Democrats," *The Wall Street Journal* (Oct. 8, 2008) (Exh. M). This report stated that AIP is spending $1 million on this ad buy, which comes in the closing weeks of the 2008 election. The ad concludes with the tag line, "Who should you trust on the economy?" *Id.* The ad is an "expenditure" within the meaning of the campaign finance laws since it criticizes Democrats generally. However, even if the ad is viewed as not attacking Democrats generally, and thus not as an expenditure, AIP's spending on the ad is only about one-third of what it spent on the "Know Enough?" ad campaign attacking Senator Obama, and thus does not by itself change the "major purpose" analysis.

28. The attorney for AIP is quoted in a press report as stating that AIP's independent expenditure ad, "Know Enough?," fulfills a non-political mission of the group:

> "The purpose of that expenditure is still to promote the organization's issues and purposes," Mrs. Mitchell said. "There can be no higher manifestation of a commitment to a strong national defense or America's role in the world than who is selected to be commander in chief."

T.W. Farnum, *The Wall Street Journal, supra* (Exh. G). The reasoning in this statement is that advocating the election or defeat of a candidate is a way to influence issues, not elections. The Commission has never accepted such reasoning, nor have the courts, and any such logic would negate the campaign finance laws by collapsing all campaign-related activity into "issue" activity.

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29. The fact that AIP is a qualified non-profit corporation is immaterial to whether it has violated the law by failing to register as a political committee. Although a qualified non-profit corporation is permitted to spend its treasury funds for express advocacy, if its "major purpose" is to influence federal elections, it is required to register as a political committee and operate pursuant to the federal laws that apply to political committees. The Supreme Court made clear in *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238 (1986) that a qualified non-profit corporation is still subject to the test for political committee status. In that case, the Court said, "[S]hould MCFL's independent spending become so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee. *See Buckley*, 424 U.S. at 79. As such it would be subject to the statutory obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns." 479 U.S. at 262.

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The American Leadership Project

30. The American Leadership Project (ALP) is a group registered as a "political organization" under section 527 of the Internal Revenue Code. 26 U.S.C. § 527. It registered with the IRS by filing a Form 8871 on February 15, 2008. (Exh. N).

31. ALP has close ties to supporters of Senator Hillary Clinton's campaign. According to press reports, ALP was formed in February, 2008 by "major financial backers" of Senator Clinton, and its purpose was "to air television advertisements echoing her message that she is more qualified than Obama to fix the economy." M. Mosk, "Independent Group to Air TV Ads Echoing Clinton Attacks on Obama," *The Washington Post* (Feb. 21, 2008) (Exh. O).

32. According to one press report in April 2008 about ALP,

> Almost all of the group's money has come from two unions that have endorsed Mrs. Clinton, the American Federation of State, County and Municipal Employees, which has contributed $1.2 million, and the Machinists Union.
>
> But the list of individual donors is telling in that eight of the nine people who gave $5,000 or more to the group had already given the maximum $2,300 donation for the primary to Mrs. Clinton's presidential campaign.
>
> ....
>
> The group is filled with people who have ties to the Clintons: Roger Salazar, who worked in the press operation of the Clinton White House and is a political consultant in California, and Paul Rivera, another former Clinton White House staff member and senior political adviser for Senator John Kerry's presidential campaign in 2004 who worked on Mrs. Clinton's Senate campaign in 2000.
>
> Jay Eisenhofer, a lawyer in New York who raised at least $100,000 for Mrs. Clinton, making him a "Hillraiser," gave $50,000 to the group. Richard Ziman, another Hillraiser and Los Angeles real estate magnate, contributed $15,000, and William Titelman, a former Pennsylvania lobbyist and longtime Clinton fund-raiser who gave enough to spend a night in the Lincoln Bedroom, contributed $10,000 and has helped the group raise money.

M. Luo, "Facing Obama Fund-Raising Juggernaut, Clinton Seeks New Sources of Cash," *The New York Times* (April 20, 2008) (Exh. P).

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33. In its first quarterly report filed with the IRS (Form 8872) (Exh. Q), covering the period February 15, 2008 to March 31, 2008, ALP reported contributions of $1.16 million, including a contribution of $1 million from AFSCME, a supporter of Senator Clinton's presidential campaign. ALP also received contributions from individuals of up to $50,000 per donor. On this report, ALP disclosed expenditures of approximately $790,000, most of which was listed for TV airtime and ad production.

34. In its second quarterly report, filed with the IRS (Exh. R), covering the period April 1, 2008 to June 30, 2008, ALP reported contributions of approximately $2.3 million. This included additional contributions of $1,160,000 from AFSCME and $400,000 from the American Federation of Teachers, also a supporter of President Clinton's presidential campaign. In addition, ALP received contributions of $250,000 from the International Union of Painters Organization, $150,000 from the Sheet Metal Workers International Association, $100,000 from the International Alliance of Theatrical Stage Employees, $50,000 from the Office & Professional Employees International Union, $50,000 from the Machinists Non-Partisan Political League, $50,000 from the Bricklayers & Allied Craftworkers PAC, and a contribution of $100,000 from an individual, Daniel S. Abraham. Each of these donors was a supporter of Senator Clinton's presidential campaign. The bulk of its reported expenditures were for TV buys.

35. Between February 22, 2008, and May 29, 2008, ALP filed multiple reports with the Commission disclosing expenditures for electioneering communications (Form 9). These expenditures were for TV ads that referred to Democratic presidential candidates Hillary Clinton and Barack Obama, and that supported Senator Clinton's election. The total disbursements for such electioneering communications was approximately $3.4 million. In addition, ALP filed an electioneering disclosure report on August 21, 2008 to report an additional disbursement of

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approximately $78,000 for a radio ad that referred to Republican presidential candidate John McCain and that opposed Senator McCain's election.

36. According to the February 21 story about ALP in *The Washington Post* (Exh. O):

> In the group's first ad, the television image shows a shuttered factory and a home in foreclose, and a voiceover says: "If speeches could create jobs, we wouldn't be facing a recession." The criticism of "speeches" closely mirrors a line of attack Clinton has used against Obama. ...
>
> Supporters of the group, called the American Leadership Project, said yesterday that they decided to undertake the effort late last month, when Clinton was forced to lend her campaign $5 million to try to minimize Obama's large fundraising advantage.

37. This press report also stated that ALP's ads were run in Texas and Ohio, the next Democratic primaries where Clinton was campaigning against Obama. As the *Post* story (Exh. O) noted, ALP "is advertising only in states where Clinton faces competitive primary contests. And the content of its first ad strongly hints that its purpose is to support her candidacy and oppose Obama's." Press reports stated that ALP spent approximately $1 million on ads in Texas and Ohio immediately before the primary elections in those states.

38. In April, according to press reports, ALP spent $700,000 on ads run in Indiana immediately before the primary election there. J. Kuhnhenn, "Pro-Clinton group airing ad in Indiana," *Associated Press* (April 28, 2008) (Exh. S). As this article notes, "The Indiana ad would be the biggest single expenditure in a state for the mostly union financed group, called the American Leadership Project. ... The ad campaign could come at a crucial time for Clinton. The Democratic presidential race in Indiana is a dead heat, according to public opinion polls. Obama, the better-financed candidate, has been spending more than Clinton."

39. In early June, ALP spent $300,000 to run ads in Montana and South Dakota, immediately before the primaries in those states. J. Kuhnhenn, "Clinton looks for victory in

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Puerto Rico primary," *Associated Press* (June 1, 2008) (Exh. T). The ad which ran in South Dakota, called "Squeezed," promoted the campaign of Senator Clinton. It stated[2]:

> Gas and Food prices are squeezing South Dakota families from both ends. Hillary Clinton has the right plan to help 1) promote clean energy to create more good paying jobs in South Dakota 2) cut taxes for the middle class 3) eliminate the special tax breaks for the big oil companies. Call Hillary Clinton and tell her to keep fighting for the middle class. Paid for by the American Leadership Project which is responsible for its content. Not authorized by any candidate or candidate's committee.

An identical ad, referencing Montana, was run in that state before its primary.[3] A similar ad, called "Middle," which ran in Oregon before the primary in that state, also promoted the campaign of Senator Clinton. It stated[4]:

> Gas and Food prices are squeezing Oregon families from both ends. Hillary Clinton has the right plan to help. Her plan focuses on clean energy, creating more good paying jobs right here. No wonder the Salem Statesman Journal wrote that Hillary Clinton gets the concerns of the middle class. Call Hillary Clinton and tell her to keep fighting for clean energy and good jobs. Paid for the American Leadership Project which is responsible for its content. Not authorized by any candidate or candidate's committee.

40. AIP also spent $150,000 for ads in Puerto Rico right before the primary there. According to one press report referring to ALP, "In a sign that her supporters were unwilling to give up, an outside group financed by her labor backers bought $150,000 worth of television ads on the island promoting her views." J. Kuhnhenn, "Clinton looks for victory in Puerto Rico primary," *supra* (Exh. T).

41. Following the end of the primary season, ALP switched from promoting Senator Clinton and ran an ad that attacked Senator McCain, the Republican nominee for president. ALP

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2 The South Dakota ad is available at http://www.youtube.com/watch?v=nWrnUO8SOHo

3 The Montana ad is available at http://www.youtube.com/watch?v=Cv2t3kZiPI4&feature=user

4 The Oregon ad is available at http://www.youtube.com/watch?v=NFOCtsCk0ZI&feature=user

ran the following radio ad, entitled "More Money, More Problems," which was aired in Colorado during the Democratic convention in late August held in Denver. The ad stated[5]:

> Gas prices across Colorado exceeded the four-dollar per gallon mark.
> Exxon/Mobil reported the biggest quarterly profit ever by a corporation.
> Demonstrators in Denver today rallied against big oil profits.
>
> While Colorado families are struggling to make ends meet, Big Oil companies are enjoying record profits.
>
> The John McCain solution?
>
> More money for Big Oil. More problems for us.
> McCain wants to drill along our coastline, which experts say won't produce oil until 2018.
>
> But he's repeatedly opposed incentives for proven renewable energies like wind and solar power.
>
> McCain voted against requiring Big Oil to invest their windfall profits in clean energy and new jobs.
>
> But he supports a $4 billion tax break for America's five richest oil companies. That's not a path to energy independence.
>
> Call John McCain at 202-224-2235 and tell him Coloradans need real solutions to America's energy crisis.
>
> Visit leadership-project.org. Paid for by the American Leadership Project, which is responsible for its content, not authorized by any candidate or candidate's committee.

42. On the home page of its website, ALP, which had promoted Senator Clinton during her primary battle with Senator Obama, now displays a box which reads, "Speak Out. Contact Senator Barack Obama and tell him to keep fighting for the issues that matter to the middle class." http://www.leadership-project.org/preview/?p=25 (October 8, 2008).

[5] The Colorado ad is available at http://www.leadership-project.org/MoreMoneyMoreProblems_EN_RV.mp3

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Count 2

43. On information and belief, ALP meets the test for "political committee" status. On information and belief, it has made more than $1,000 in "expenditures" or received more than $1,000 in "contributions" and its "major purpose" is to influence federal elections. ALP has not registered as a political committee and has not complied with the contribution limits and reporting requirements applicable to political committees.

1. "Major purpose" prong

44. ALP is organized under section 527 of the Internal Revenue Code, 26 U.S.C. § 527, and thus, given its activities, is by definition a "political organization" that is operated "primarily" for the purpose of influencing candidate elections. Section 527 of the IRC provides tax exempt treatment for "exempt function" income received by any "political organization." The statute defines "political organization" to mean a "party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function." 26 U.S.C. § 527(e)(1) (emphasis added). An "exempt function" is defined to mean the "function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice Presidential electors...." 26 U.S.C. § 527(e)(2) (emphasis added). The Supreme Court said in *McConnell*, "Section 527 'political organizations' are, unlike § 501(c) groups, organized for the express purpose of engaging in partisan political activity." 540 U.S. at 174 n.67. The Court noted that 527 groups "by definition engage in partisan political activity." *Id.* at 177. A "political organization" as defined in section 527 must register as such with the Secretary of the Treasury, and must file periodic disclosure

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reports with the Secretary as required by section 527(j). ALP has registered as a "political organization" under section 527.

45. Thus, by definition, any entity that registers with the Secretary as a "political organization" under section 527 is "organized and operated primarily" for the purpose of "influencing or attempting to influence the selection, nomination, election or appointment of" an individual to public office. The Commission has cited the section 527 standard as identical to the "major purpose" prong of the test for "political committee" status. *See, e.g.*, Advisory Opinions 1996-13, 1996-3, 1995-11. Accordingly, a group that chooses to register as a "section 527 group" – including ALP – is, by definition, an entity "the major purpose of which is the nomination or election of a candidate...."[6]

46. On the basis of all of the facts and circumstances involving ALP, including its status as a section 527 "political organization," the purpose for which the organization was founded, the campaign-related activities of the founders and major donors to ALP and the activities undertaken by the organization, the Commission should find that ALP satisfies the "major purpose" prong of the "political committee" test as set forth in *Buckley*.

2. Expenditure/Contribution prong.

47. The other prong of the definition of "political committee" is met if an entity which meets the "major purpose" test also receives "contributions" or makes "expenditures" aggregating in excess of $1,000 in a calendar year. Both "contributions" and "expenditures" are defined to mean funds received or disbursements made "for the purpose of influencing" any federal election. 2 U.S.C. § 431(8), (9).

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[6] This would be true in all instances other than a 527 organization which is organized and operated primarily for the purpose of influencing the selection or appointment of individuals to appointive office such as, *e.g.*, a judicial appointment. This exception does not apply here.

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48. The test of whether a group has made $1,000 in "expenditures" is not limited by the "express advocacy" standard when applied to a section 527 group, such as ALP, as a federal district court in Washington, D.C. concluded last year. *See Shays v. FEC*, 511 F.Supp. 2d 19, 27 (D.D.C. 2007). Rather, the test for "expenditure" in this case is the statutory standard of whether disbursements have been made "for the purpose of influencing" any federal election, regardless of whether the disbursements were for any "express advocacy" communication. The Supreme Court made clear in *Buckley* that the "express advocacy" standard does not apply to an entity, like a section 527 group, which has the major purpose of influencing candidate elections and is thus not subject to concerns of vagueness in drawing a line between issue discussion and electioneering activities. Groups such as section 527 "political organizations" are formed for the principal purpose of influencing candidate elections and, as explained by the Court in *Buckley*, expenditures by such groups "can be assumed to fall within the core area sought to be addressed by Congress. They are, by definition, campaign related." 424 U.S. at 79. The Court affirmed this position in *McConnell*. 540 U.S. at 170, n.64. Thus, the "express advocacy" test, which the Supreme Court in *McConnell* deemed to be "functionally meaningless," 540 U.S. at 217, is not relevant to the question of whether a section 527 organization is making expenditures to influence the election of federal candidates.

49. In *Shays v. FEC*, *supra*, the federal district court stated that it was a "misreading" of *Buckley* to apply the "express advocacy" test to determine "expenditures" by groups which have as their "major purpose" to influence elections. The district court said the Supreme Court "imposed the narrowing gloss of 'express advocacy' on the term 'expenditure' only with regard to groups other than 'major purpose' groups." *Id.* at 27. The district court added that "having misinterpreted *Buckley*, the FEC is applying the express advocacy requirement to expenditures in

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cases where it is unnecessary." *Id.* This is a case where applying the express advocacy test would be unnecessary.

50. ALP has made "expenditures" in amounts far in excess of the $1,000 threshold for political committee status. These expenditures have been made for broadcast advertisements that promoted Senator Clinton during the 2008 presidential primaries, and after the primaries were over, that attacked Senator McCain, the presumptive- Republican nominee for president. Those ads have been "for the purpose of influencing" federal elections, and thus constitute "expenditures" under the law.

51. Even if the Commission were to incorrectly decide that the "express advocacy" test does apply to section 527 groups, however, the ads run by ALP meet the standard for express advocacy in section 100.22(b) of the Commission's regulations. The Commission regulations define "express advocacy" to include a communication that "when taken as a whole and with limited reference to external events...could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more candidates because the electoral portion of the communication is unmistakable, unambiguous and suggestive of only one meaning and reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidates or encourages some other kind of action." 11 C.F.R. § 100.21(b). The ads run by ALP, when taken as a whole, can only be interpreted by a reasonable person as advocating the election of Senator Clinton, or advocating the defeat of Senator McCain. Thus, the ads meet the Commission's existing regulatory definition of "express advocacy" and the disbursements for the ads constitute "expenditures."

52. Given the facts and circumstances regarding the contributors to ALP, the Commission also should investigate whether the funds raised by ALP for its ads were received in

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response to any solicitation that indicated that any portion of the funds received would be used "to support" Senator Clinton's election, or "to oppose" Senator McCain's election. If so, the funds constitute "contributions" to ALP, 11 C.F.R. § 100.57(a), and if in excess of $1,000, satisfy the "contribution prong of the test for political committee status.

Summary

53. On information and belief, the "major purpose" of AIP and of ALP each is to support or oppose the election of one or more federal candidates, and each has spent more than $1,000 in "expenditures" or received more than $1,000 in "contributions" for this purpose. The Commission accordingly should investigate and determine whether each respondent is a "political committee" under the Act. The respondents have not filed a statement of organization as a political committee, as required by 2 U.S.C. § 432, have not complied with the reporting requirements of 2 U.S.C. § 434, and have not complied with the contribution limits of 2 U.S.C. § 441a and, in the case of ALP, the source prohibitions of 2 U.S.C. § 441b. The Commission should investigate and determine whether each respondent has violated the law in this regard.

Disclosure

54. The Commission and the public, including the complainant, are not receiving full and accurate public disclosure of the funds raised and spent by each respondent, as required by FECA. If the Commission determines that AIP and ALP are each a political committee, the funds received by each respondent are "contributions" subject to the mandatory federal reporting requirements of FECA and are required to be fully disclosed to the Commission and to the public, 2 U.S.C. § 434, including complainant.

55. The donations received by AIP, as a section 501(c)(4) organization which is not reporting to the Commission as a federal political committee, are not disclosed to the public.

Thus, to the extent that AIP is wrongly treating contributions required to be reported under FECA instead as donations to a section 501(c)(4) account, the public, including complainant, and the Commission are not receiving disclosure of contributions required to be disclosed under FECA.

56. The donations received by ALP, as a section 527 group which is not reporting to the Commission as a federal political committee, are subject to reporting to the Internal Revenue Service only under 26 U.S.C. § 527 and such disclosure may be avoided altogether if the recipient chooses to pay income tax on the donation. Further, section 527, unlike the FECA requirements applicable to political committees, does not require the reporting of the aggregate amount of un-itemized contributions received by the group, so there is no basis to determine the total aggregate amount raised by such a section 527 group. Thus, to the extent that ALP is wrongly treating contributions required to be reported under FECA instead as donations to a section 527 account, the public, including complainant, and the Commission have no assurance that all contributions required to be disclosed under FECA are properly being disclosed, or that the total amount of contributions to ALP is being disclosed.

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Prayer for Relief

57. Wherefore, the Commission should conduct an immediate investigation under 2 U.S.C. §437g, to determine whether the American Issues Project and the American Leadership Project have each violated 2 U.S.C. §§ 432, 434, 441a and, in the case of ALP, § 441b(a), and if so, whether each respondent has engaged in knowing and willful violations under 2 U.S.C. § 437g(a)(5)(B), (C) and § 437g(d). If any such violations have occurred, the Commission should impose appropriate sanctions for such violations, should enjoin each respondent from all such

violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with FECA.

58. In addition, the Commission should investigate to determine whether the individuals who are serving and who have served as the organizers, managers and leaders of AIP and ALP, including major donors who are playing or who have played such a role, have violated the same laws, and, if so, whether they have engaged in knowing and willful violations under 2 U.S.C. § 437g(a)(5)(B), (C) and § 437g(d). If any such violations have occurred, the Commission should impose appropriate sanctions for such violations, should enjoin each respondent from all such violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with FECA.

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Respectfully submitted,

Democracy 21, by
Fred Wertheimer
1875 I Street, NW, Suite 500
Washington, DC 20006
202-429-2008

October 10, 2008

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Verification

The complainant listed below hereby verifies that the statements made in the attached Complaint, upon information and belief, are true.

Sworn to pursuant to 18 U.S.C. § 1001.

For Complainant Democracy 21

Fred Wertheimer

Sworn to and subscribed before me this 10 day of October.

Notary Public

[redacted]
Notary Public, District of Columbia
My Commission Expires 10-14-2008

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September 8, 2008

MUR # 6081

Thomasenia Duncan
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: FEC Complaint: American Issues Project, Ed Failor, Jr., Ed Martin, and Harold Simmons, Respondents

Dear Ms. Duncan:

I write to bring this complaint against American Issues Project, Inc.; Ed Failor, Jr.; Ed Martin (collectively, "American Issues Project" or "AIP"); and Harold Simmons. The facts indicate that AIP knowingly and willfully failed to register and report as a political committee with the Federal Election Commission, accepted excessive contributions, and failed to file the proper reports with the Commission, and that Mr. Simmons made contributions far in excess of his biennial aggregate limit.

A. FACTS

On August 21st an organization calling itself the American Issues Project began airing an advertisement in Ohio and Michigan that expressly advocates the defeat of the presidential candidacy of Senator Barack Obama. The advertisement can be viewed at AIP's website: http://www.americanissuesproject.org.

AIP first surfaced on August 6th; on that day a dormant Delaware corporation named Avenger, Inc. (and previously known as Citizens for the Republic, Inc.) changed its name to "American Issues Project, Inc." The corporate documents are attached. The current board members include Ed Failor Jr. and Ed Martin. *See* http://www.americanissuesproject.org/about-aip.html.

On August 19th, the organization filed a Form 5 "Report of Independent Expenditures Made and Contributions Received" with the Commission. On this form, which was certified under penalty of perjury by Nancy H. Watkins, AIP disclosed that it spent $2,878,872.75 on an independent

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expenditure opposing Barack Obama in connection with the convention. The form also discloses that this precise amount – $2,878,872.75 – was contributed to AIP from Harold Simmons on August 12th. AIP has not filed any other report with the Commission as of the date of this Complaint.

There is no public information regarding any AIP activity other than the above-referenced independent expenditure; AIP's spokesperson has said only that it "plans to do" unspecified policy work in the future. *See* B. Smith, "Obama to DOJ: Block Terrorist Ad," *Politico*, Aug. 25, 2008, at http://www.politico.com/news/stories/0808/12816.html.

Obama for America, the principal campaign committee of Barack Obama, has filed three letters with the Department of Justice seeking a full investigation of AIP's activities. Those letters are attached.

B. LEGAL ARGUMENT

1. AIP is a Federal Political Committee

AIP is an entity that adopted the corporate existence and tax exemption of another corporation in August of an election year, that has spent almost three million dollars on independent expenditures attempting to influence the presidential election, and that has engaged in no other activity since its inception. These facts are not in dispute.

AIP claims on its Form 5 that it is a qualified nonprofit corporation ("QNC") under 11 C.F.R. §114.10, a status which would allow it to make independent expenditures. However, the facts plainly indicate that AIP cannot claim QNC status.

To be a QNC, AIP must be described in I.R.C. § 501(c)(4). *See* 11 C.F.R. § 114.10(c)(5). That requirement, in turn, depends on an organization having as its primary purpose the "promotion of social welfare," which "does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office." Treas. Reg. § 1.501(c)(4)-1(a)(2). Both the Supreme Court and the Commission have noted that if a QNC's "independent spending become so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee." *FEC v. Mass. Citizens for Life, Inc.*, 479 U.S. 238, 262 (1986); *see* Express Advocacy; Independent Expenditures; Corporate and Labor Organization Expenditures, 60 Fed. Reg. 35292, 35304 (July 6, 1995) (cautioning that if a qualified nonprofit corporation's major purpose is campaign activity, "it will be treated as a political committee under the FECA and subject to the applicable regulations").

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AIP's corporate history also raises the question of whether AIP, under its previous name "Citizens for the Republic" ever accepted any direct or indirect corporate funding. QNCs are forbidden from taking any such donations, *see* 11 C.F.R. § 114.10(c)(4)(ii), and the Commission interprets this regulation to bar even *de minimis* corporate donations. *See* 60 Fed. Reg. at 35301 ("knowingly accepted prohibited donations will void a corporation's exemption, even if the corporation accepts only a de minimis amount"). When Citizens for the Republic was first founded, it was reported that it has secured $17 million in "solid financial commitments." *See* Marc Ambinder, "Reagan's Disciples Plan Relaunch of Conservative Movement," *TheAtlantic.com*, *at* http://marcambinder.theatlantic.com/archives/2007/10/_17m_pledges_in_the.php: The Commission should investigate to ensure that none of the $17 million came from corporate sources. If any of the previous funding did stem directly or indirectly from a corporation, then AIP cannot be considered a QNC.

The facts of AIP's formation, and the percentage of its funds devoted to influencing the presidential election (100%), put the lie to any claim to QNC status. AIP has done nothing other than collect and spend funds to defeat Barack Obama's candidacy. There is no question that its "major purpose" is federal campaign activity; therefore, it should register and report to the Commission as a federal political committee, and obey both the source restrictions and contribution amount limitations. *See* 2 U.S.C. § 441a(a)(1). Its failure to do so is a knowing and willful violation.

2. AIP Has Failed to File a Post-Convention Independent Expenditure Report

AIP's Form 5 indicated that its advertisement was in connection with the convention. And yet, a substantial portion of its advertisement – well over the $10,000 independent expenditure reporting threshold – aired after the convention. The post-convention advertisements can only be considered to be made with respect to the general election, and yet AIP has not filed another Form 5 report with the Commission. AIP is therefore in violation of the independent expenditure reporting requirements. *See* 11 C.F.R. § 109.10(c).

3. Harold Simmons Has Violated the Biennial Aggregate Limit

Harold Simmons, the sole reported donor to AIP, has violated the $5,000 per year contribution limit to AIP, because AIP is a federal political committee. *See* 2 U.S.C. § 441a(a)(1)(C). However, even if AIP were properly considered a QNC, Mr. Simmons would still be in gross violation of the federal contribution limits.

Individuals may only make a total of $108,200 in federal contributions during the calendar years 2007 and 2008; of this amount, only $65,500 may be given in federal contributions to organizations other than candidate committees, and no more than $42,700 may be given in

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federal contributions to organizations other than candidate committees or national party committees. *See* 2 U.S.C. § 441a(a)(3) (as indexed for inflation).

Under Commission regulations, this amount includes not only contributions to federal candidates and political committees, but also contributions in response to a "communication if the communication indicates that any portion of the funds received will be used to support or oppose the election of a clearly identified candidate." 11 C.F.R. § 100.57(a). The aggregate limit also applies to "contributions made to other organizations or individuals but earmarked for political purposes," which are included in the definition of a federal contribution. *Buckley v. Valeo*, 424 U.S. 1, 78 (1974); *see Federal Election Comm'n v. Survival Educ. Fund, Inc.*, 65 F.3d 285, 295 (2d Cir. 1995) (defining federal contributions as including funds "connected to expenditures subject to regulation under FECA").

AIP's Form 5, in and of itself, provides a *prima facie* case of a knowing and willful violation of the biennial contribution limits by Mr. Simmons. AIP spent every penny of Mr. Simmons' contribution on an independent expenditure attacking Barack Obama, making it extremely likely that the funds were given in response to a communication describing how they would be spent. *See* 11 C.F.R. § 109.57. Moreover, by listing him on its Form 5, AIP is admitting that the "contribution was made for the purpose of furthering" AIP's independent expenditure. *Id.* § 109.10(e)(1)(vi). Thus, on the face of AIP's Form 5 – submitted under penalty of perjury – it is clear that Mr. Simmons' contribution was in gross violation of the biennial limits.

This violation was knowing and willful. Mr. Simmons is well aware of the penalties for violating the aggregate limits; the Commission has found that Simmons twice before violated the individual aggregate spending limits. He was fined $19,800 by the Commission for surpassing the limit (at that time, a $25,000 one-year limit) by $29,250 in 1989 and $69,926 in 1990. He was also sued by his daughters over allegations that he made hundreds of thousands of dollars in federal political contributions in their names, in violation of 2 U.S.C. § 441f. *See* S. Feiner, "Family Feud Shows How Rich Spread Political Gifts," *Dallas Morning News*, May 4, 1997, at A1.

Mr. Simmons has not only been accused of repeated violations of federal election law, he is now a third-time offender of the individual aggregate limits. He has shown no respect for federal election law generally, and no regard for the individual aggregate contribution limits specifically. This time he has exceeded the two-year aggregate limit by not tens of thousands, but by millions of dollars. The Commission should act quickly and forcefully in this matter.

C. REQUESTED ACTION

These are knowing and willful violations. We ask that the Commission conduct a prompt and vigorous investigation and seek the full remedies available under the law, including the

maximum fine: 200% of the amount of the contribution or expenditure at issue. *See* 2 U.S.C. §437g(a)(5)(B), (6)(B).

Very truly yours,

Robert F. Bauer
General Counsel
Obama for America

SUBSCRIBED AND SWORN to before me this 8th day of September, 2008.

Notary Public

My Commission Expires:
FRANCES G. WADE
A NOTARY PUBLIC OF DISTRICT OF COLUMBIA
MY COMMISSION EXPIRES SEPT. 30, 2010

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SFC 001071

PAGE 1 / 4
08/19/2005 17 : 28

FEC FORM 5

REPORT OF INDEPENDENT EXPENDITURES MADE AND CONTRIBUTIONS RECEIVED

To Qualifying Persons (Other than Federal Committees) Making Qualified Nonparty Expenditures

1. (a) Name of Individual, Organization or Corporation
American Issues Project, Inc.

(b) Address (number and street) ☐ check if different than previously reported
301 W. Platt Street, #353

(c) City, State and ZIP Code
Tampa FL 33606

3. FEC Identification Number
C C00000000

2. Corporate filers only
Is the filer a qualified nonprofit corporation? ☒ Yes ☐ No

Individual filers only Name of Employer Occupation

4. TYPE OF REPORT (check appropriate boxes):

(a) ☐ April 15 Quarterly Report ☒ 24-Hour Notice ☐ 48-Hour Notice

☐ July 15 Quarterly Report

☐ October Quarterly Report

☐ January 31 Year-End Report

(b) Is this Report an amendment? Yes ☐ No ☒

5. COVERING PERIOD: FROM 01 / 01 / 2005

THROUGH

06 / 15 / 2005

6. TOTAL CONTRIBUTIONS 2676572.75

7. TOTAL INDEPENDENT EXPENDITURES 2676572.75

Under penalty of perjury, I certify that the independent expenditures reported herein were not made with the cooperation or prior consent of, or in consultation with, or at the request or suggestion of, a candidate or his authorized agent or authorized committee or a political party committee or its agent. In addition, if the independent expenditures reported herein were made by a commercial lender that the corporation is a qualified nonprofit corporation under the Commission's regulations.

TYPE OR PRINT NAME OF PERSON COMPLETING FORM	SIGNATURE	DATE
Nancy H. Watkins		08/19/2005

NOTE: Substitution of false, extraneous or incomplete information may subject the person signing this report to the penalties of 3 U.S.C. 437g.

For further information, contact:
Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463. Toll Free 800-424-9530, Local 202-694-1100

SF0021

FEC Schedule 5 (Revised 08/2005)

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28039820102

SCHEDULE 6-A
ITEMIZED RECEIPTS

PAGE 3/4

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee

NAME OF FILER (in Full)
American Issues Project, Inc.

A. Full Name (Last, First, Middle Initial)
Harold Simmons

Mailing Address
5430 LBJ Freeway, #1700

City | State | Zip Code
Dallas | TX | 75240

FEC ID number of contributing federal political committee.
C

Date of Receipt
08 / 12 / 2008

Transaction ID: P58.000001

Amount of Each Receipt this Period
2576872.75

Name of Employer
Contran Corporation

Occupation
C.E.O.

SUBTOTAL of Receipts This Page (optional)	2576872.75
TOTAL This Period (last page only) total to Line 6	2576872.75

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28038810103

SCHEDULE E
ITEMIZED INDEPENDENT EXPENDITURES

PAGE 3/4
FOR LINE 7 FOR FORM E

NAME OF FILER (In Full)
American Issues Project, Inc.

Full Name (Last, First, Middle Initial) of Payee: Meridian Media Services, Inc.	Date: 10 / 15 / 2008
Mailing Address: 600 Fairmount Avenue, #308	Amount: 2800000.00
City: Towson; State: MD; Zip Code: 21286	
Purpose of Expenditure: television ad (Know Enough?)	Category/ Type:
Name of Federal Candidate Supported or Opposed by Expenditure: Barack Obama	Office Sought: [ ] House [ ] Senate [X] President; State: ; District:
Calendar Year-To-Date Per Election for Office Sought: 2800000.00	Check One: [ ] Support [X] Oppose
	Disbursement For: [ ] Primary [ ] General 2008 [ ] Other (specify): Convention

Full Name (Last, First, Middle Initial) of Payee: BrabenderCox, Inc.	Date: 10 / 15 / 2008
Mailing Address: 1218 Grandview Avenue	Amount: 1000.00
City: Pittsburgh; State: PA; Zip Code: 15219	
Purpose of Expenditure: website services (Know Enough?)	Category/ Type:
Name of Federal Candidate Supported or Opposed by Expenditure: Barack Obama	Office Sought: [ ] House [ ] Senate [X] President; State: ; District:
Calendar Year-To-Date Per Election for Office Sought: 2801000.00	Check One: [ ] Support [X] Oppose
	Disbursement For: [ ] Primary [ ] General 2008 [ ] Other (specify): Convention

Full Name (Last, First, Middle Initial) of Payee: McCarthy Marcus Hennings, Ltd	Date: 10 / 15 / 2008
Mailing Address: 1850 M Street, N.W., 9295	Amount: 83117.45
City: Washington; State: DC; Zip Code: 20036	
Purpose of Expenditure: media production (Know Enough?)	Category/ Type:
Name of Federal Candidate Supported or Opposed by Expenditure: Barack Obama	Office Sought: [ ] House [ ] Senate [X] President; State: ; District:
Calendar Year-To-Date Per Election for Office Sought: 2883117.45	Check One: [ ] Support [X] Oppose
	Disbursement For: [ ] Primary [ ] General 2008 [ ] Other (specify): Convention

(c) SUBTOTAL of Itemized Independent Expenditures: 2883117.45

(b) SUBTOTAL of Unitemized Independent Expenditures:

(c) TOTAL Independent Expenditures (carry total from last page forward to Line 7):

6P0031

FEC Schedule E (Rev. 02/2003)

SFC 001074

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28039820104

SCHEDULE 5-E
ITEMIZED INDEPENDENT EXPENDITURES

PAGE 4/4
FOR LINE 7 FOR FORM 5

NAME OF FILER (in Full)
American Issues Project, Inc.

Full Name (Last, First, Middle Initial) of Payee McCarthy Marcus Hanning, Ltd.	Date 05 / 15 / 2008
Mailing Address 1850 M Street, N.W., #235	Amount 15755.30
City: Washington — State: DC — Zip Code: 20036	
Purpose of Expenditure: research (Know Enough?) — Category/Type:	Office Sought: Presidential [ ] House [ ] Senate [X] President — State: ____ District: ____
Name of Federal Candidate Supported or Opposed by Expenditure: Barack Obama	Check One: [ ] Support [X] Oppose
Calendar Year-To-Date Per Election for Office Sought: 2878872.75	Disbursement For: 2008 [ ] Primary [ ] General [ ] Other (specify) Convention

(a) SUBTOTAL of Itemized Independent Expenditures 15755.30

(b) SUBTOTAL of Unitemized Independent Expenditures .....

(c) TOTAL Independent Expenditures 2878872.75
(carry total from last page forward to Line 7)

EP0021

FEC Schedule 5 (Rev. 02/2003)

SFC 001075

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Federal Election Commission
ENVELOPE REPLACEMENT PAGE FOR INCOMING DOCUMENTS
The FEC added this page to the end of this filing to indicate how it was received.

☐ Hand Delivered	Date of Receipt
☐ USPS First Class Mail	Postmarked
☐ USPS Registered/Certified	Postmarked (R/C)
☐ USPS Priority Mail	Postmarked
Delivery Confirmation™ or Signature Confirmation™ Label ☐	
☐ USPS Express Mail	Postmarked
☐ Postmark Illegible	
☐ No Postmark	
☐ Overnight Delivery Service (Specify):	Shipping Date
Next Business Day Delivery ☐	
☐ Received from House Records & Registration Office	Date of Receipt
☐ Received from Senate Public Records Office	Date of Receipt
☐ Received from Electronic Filing Office	Date of Receipt
☑ Other (Specify): Webform # 239	Date of Receipt or Postmarked 8/19/08
PREPARER	DATE PREPARED 8/21/08

(3/2005)

SFC 001076

08/22/2008 13:18 302-739-3811 SECRETARY OF STATE PAGE 05/06

State of Delaware
Secretary of State
Division of Corporations
Delivered 09:58 AM 08/06/200
FILED 09:54 AM 08/06/2008
SRV 080848509 - 4354585 FILE

13044333558

STATE OF DELAWARE
CERTIFICATE OF AMENDMENT
(A CORPORATION WITHOUT CAPITAL STOCK)

The corporation, Avenger, Inc., organized and existing under the laws of the State of Delaware, hereby certifies as follows:

(1) That at a meeting a vote of the members of the governing body was taken for and against the amendment to the Certificate of Incorporation, said Amendment being as follows:

To change the name of the entity from Avenger, Inc. to American Issues Project, Inc.

(2) That said amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, said corporation has caused this certificate to be signed this 4th day of August, A.D. 2008.

By: [signature]
Authorized Officer

Name: Paul Erickson, President
Print or Type

SFC 001077

08/22/2008 13:18 302-739-3811 SECRETARY OF STATE PAGE 05/05

State of Delaware
Secretary of State
Division of Corporations
Delivered 11:18 AM 04/22/2008
FILED 11:18 AM 04/22/2008
SRV 080388383 - 4354305 FILE

STATE OF DELAWARE
CERTIFICATE OF AMENDMENT
(A CORPORATION WITHOUT CAPITAL STOCK)

The corporation, Citizens for the Republic, Inc.,
organized and existing under the laws of the State of Delaware, hereby certifies as follows:

(1) That at a meeting a vote of the members of the governing body was taken for and against the amendment to the Certificate of Incorporation, said Amendment being as follows: To change the name of the entity from Citizens for the Republic, Inc. to Avenger, Inc.

(2) That said amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, said corporation has caused this certificate to be signed this 19 day of March, A.D. 2008.

By: [signature], President
Authorized Officer

Name: Paul Erickson
Print or Type

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SFC 001078

State of Delaware
Secretary of State
Division of Corporations
Delivered 07:37 PM 05/17/2007
FILED 07:26 PM 05/17/2007
SRV 070581959 - 4334365 FILE

STATE OF DELAWARE
CERTIFICATE OF INCORPORATION
A NON-STOCK CORPORATION
OF
CITIZENS FOR THE REPUBLIC, INC.

1304433560

FIRST: The name of the corporation is:

Citizens for the Republic, Inc.

SECOND: The address of the registered office of the corporation in the State of Delaware is located at Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, located in the County of New Castle. The registered agent in charge thereof is Corporation Service Company.

THIRD: The purpose of the corporation, Citizens for the Republic, Inc., is to act for any lawful purpose for a social welfare organization pursuant to section 501(c)(4) of the Internal Revenue Code of 1986 (or the corresponding section of any future federal tax code).

FOURTH: The corporation shall not have any capital stock and the conditions of membership shall be stated in the corporation's Bylaws.

FIFTH: The name and mailing address of the incorporator is as follows:

Sharon C. Nelson
c/o Foley & Lardner LLP
321 N. Clark Street, Suite 2800
Chicago, Illinois 60610

SIXTH: The corporation is organized exclusively for the promotion of social welfare, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(4) of the Internal Revenue Code, as from time to time amended, or the corresponding section of any future tax code.

Notwithstanding any other provisions in these articles of incorporation, the corporation shall not carry on any activities not permitted to be carried on by an organization exempt from federal income tax under section 501(c)(4) of the Internal Revenue Code, as from time to time amended, or the corresponding section of any future tax code.

Upon dissolution of the corporation, and after paying for, or providing for its debts, by majority vote, the corporation's Board of Directors shall distribute the corporation's remaining assets for one or more exempt purposes within the meaning of section 501(c)(4) of the Internal Revenue Code, as from time to time amended, or the corresponding section of any future tax code, or shall distribute

any of the corporation's remaining assets to the Federal, state or local government for a public purpose. Any assets not so distributed shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the organization is then located, exclusively for such purposes.

I, the undersigned, for the purpose of forming a corporation under the laws of the State of Delaware, do make, file and record this Certificate, and do certify that the facts herein stated are true, and I have accordingly hereunto set my hand this 17th day of May, A.D. 2007.

By: _____
Sharon C. Nelson, Incorporator

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SFC 001080

08/22/2008 13:18 302-739-3811 SECRETARY OF STATE PAGE 04/06

State of Delaware
Annual Franchise Tax Report

CORPORATION NAME: CITIZENS FOR THE REPUBLIC, INC. — TAX NO.: 2007

FILE NUMBER: 4354585 | INCORPORATION DATE: 2007/05/17 | RENEWAL/REDUCATION DATE: 2008/03/02

PRINCIPAL PLACE OF BUSINESS: 4904 Oxbow Avenue — PHONE NUMBER: 312/832-6566

Sioux Falls SD 57106 United States

REGISTERED AGENT: CORPORATION SERVICE COMPANY — AGENT NUMBER: 9000014

2711 CENTERVILLE ROAD
SUITE 400

WILMINGTON DE 19808

AUTHORIZED STOCK: ISSUED DATE / NAME DATE / DESIGNATION / STOCK CLASS / NO. OF SHARES / PAR VALUE/ SHARE

Non-Stock Company

OFFICER: Stephan Moore — NAME / STREET/CITY/STATE/ZIP / TITLE

4904 Oxbow Avenue — President

Sioux Falls SD 57106 United States

DIRECTORS: Paul Erickson — NAME / STREET/CITY/STATE/ZIP

4904 Oxbow Avenue
Sioux Falls SD 57106 United States

Stephan Moore
4904 Oxbow Avenue
Sioux Falls SD 57106 United States

Richard Sharp
4904 Oxbow Avenue
Sioux Falls SD 57106 United States

Total number of directors:3

NOTICE: Pursuant to 8 Del. C. 502(b), if any officer or director of a corporation required to make an annual franchise tax report to the Secretary of State shall knowingly make any false statement in the report, such officer or director shall be guilty of perjury.

AUTHORIZED BY OFFICER, DIRECTOR OR ENCORPORATOR: Paul Erickson — DATE / TITLE

4904 Oxbow Avenue — Executive Director
2008-04-01

Sioux Falls SD 57106 United States

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SFC 001081

SEP 3 0 2008

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

MUR: 5988
DATE COMPLAINT FILED: 4/4/2008
DATE OF NOTIFICATION: 4/11/2008
LAST RESPONSE RECEIVED: 6/20/2008
DATE ACTIVATED: 6/3/2008

EXPIRATION OF SOL: 3/1/2013

10044272837

COMPLAINANT: Minnesota Democratic-Farmer-Labor Party

RESPONDENT: American Future Fund

RELEVANT STATUTES: 2 U.S.C. § 431(4)(A)
2 U.S.C. § 431(17)
2 U.S.C. § 433
2 U.S.C. § 434
2 U.S.C. § 441b
2 U.S.C. § 441d(a) & (d)
26 U.S.C. § 501(c)(4)
11 C.F.R. § 100.22(b)
11 C.F.R. § 100.57
11 C.F.R. § 109.10
11 C.F.R. § 114.10
11 C.F.R. § 114.15

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: Internal Revenue Service

I. INTRODUCTION

This matter concerns allegations that the American Future Fund ("AFF"), an Iowa nonprofit corporation that has applied for tax exempt status under I.R.C. § 501(c)(4), has violated various provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

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Specifically, the complaint alleges that AFF aired a television advertisement in Minnesota containing express advocacy and, consequently, was required to register and report as a political committee with the Commission, file an independent expenditure report, and include appropriate disclaimers in the advertisement. In its response, AFF denies that the advertisement contains express advocacy and asserts that it was not required to register with the Commission as a political committee or to report the expenditures made for the advertisement.

As discussed further below, we believe the advertisement funded by AFF expressly advocated the election or defeat of a clearly identified candidate. *See* 11 C.F.R. § 100.22(b). Although AFF appears to have met the statutory threshold for political committee status by making over $1,000 in expenditures on the "Independent" advertisement, the available information indicates that it does not have federal campaign activity as its major purpose and, thus, has not triggered political committee status. We therefore recommend that the Commission find no reason to believe that AFF violated 2 U.S.C. §§ 433 and 434 by failing to register and report as a political committee. Nevertheless, we recommend that the Commission find reason to believe that: (1) AFF violated 2 U.S.C. § 441b by making a corporate expenditure; (2) AFF violated 2 U.S.C. § 434(c) and 11 C.F.R. § 109.10 by failing to report its independent expenditure; and (3) AFF violated 2 U.S.C. §§ 441d(a) and (d) by failing to include the required disclaimer.

II. FACTUAL AND LEGAL ANALYSIS

A. FACTUAL BACKGROUND

1. Organizational Structure and Purpose

AFF is an Iowa nonprofit corporation registered with the Iowa Secretary of State. *See* Attachment 2, Articles of Incorporation (Aug. 7, 2007). As a nonprofit corporation, AFF has no

members. *See id.*; *see also* Response at 7. According to its response, AFF submitted an application for recognition of tax exempt status under I.R.C. § 501(c)(4) to the Internal Revenue Service ("IRS") on March 18, 2008. *See* Response at 1.[1]

It appears that AFF has only made public statements of its organizational purpose in its Articles of Incorporation and its website. AFF's Articles of Incorporation, filed on August 7, 2007 with the Iowa Secretary of the State, sets forth the organization's goal "to further the common good and general welfare of the citizens of the United States of America by educating the citizens of the United States about public policy issues." *See* Attachment 2, Articles of Incorporation. These goals were echoed in an April 7, 2008 press release announcing the launch of its website, where AFF President Nicole Schlinger stated: "The American Future Fund was formed as a mechanism to promote conservative, free market ideas, and to communicate them to the public. . . . Conservative and free market principles are under direct attack by liberal groups like MoveOn.org and Americans United for Change. It is imperative that there be a voice to defend these principles and articulate a vision for bolstering America's global competitiveness." *See* American Future Fund Website, http://americanfuturefund.com/2008/04/07/american-future-fund-launches-website/.

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2. American Future Fund's Public Communications and Activity

On March 19, 2008, AFF began running a television advertisement titled "Independent" in the media markets of Minneapolis and Mankato. The "Independent" ad ran for approximately two weeks, *see* Complaint at 1, and during that time AFF purchased at least 178 spots on five different television stations for an amount of at least $132,920. *See* Polinaut: Exploring the

[1] The IRS has not yet issued a determination letter regarding AFF's application for exempt status. Based on the information from the response and the IRS website, *see Where is my exemption application*, http://www.irs.gov/charities/article/0,,id=156733,00.html, it is likely that AFF's application is still under review.

Universe of Politics, http://minnesota.publicradio.org/collections/special/ columns/polinaut/ (May 6, 2008). The ad contained a female announcer, images, and the following text:

Audio	Visual
ANNOUNCER: When the unthinkable happened, Senator Norm Coleman teamed with Amy Klobuchar to secure $250 million to rebuild the 35W bridge. Coleman has worked with Republicans and Democrats to make college more affordable, expand opportunities for our soldiers and National Guard returning home, and crack down on predatory lenders. An independent voice for Minnesota: Norm Coleman. Call Norm Coleman and thank him for his agenda for Minnesota.	Picture: Split-screen picture of 35W bridge collapse Text: "When the unthinkable happened . . ." Picture: Senator Coleman speaking Text: "Senator Norm Coleman Teamed With Senator Amy Klobuchar" Picture: Nighttime picture of 35W bridge collapse followed by animated picture of rebuilt 35W bridge Text: "Secured $250 million to rebuild 35W bridge" Picture: Senator Coleman reaching out to onlookers at what appears to be a speech or convention Text: "Worked with Republicans & Democrats" Picture: A picture of what appears to be a university followed by a picture of students walking with a college professor Text: "Coleman Agenda for Minnesota Make College More Affordable" Picture: A picture of a young man looking up from reading or writing, followed by a picture of four soldiers standing on top of a tank, silhouetted by a setting sun and orange-red sky Text: "Coleman Agenda for Minnesota Expand opportunities for Soldiers & National Guard" Picture: A picture of Senator Coleman at a hearing making gestures Text: "Coleman Agenda for Minnesota Crack down on predatory lenders" Picture: A picture of Senator Coleman in a barn coat shaking a constituent's hand followed by a picture of Senator Coleman in a suit shaking a constituent's hand Text: "An Independent Voice for Minnesota" Picture: Picture of Senator Coleman on the left-hand side of the screen Text: "Call Senator Norm Coleman Thank him for his agenda for Minnesota 651-645-0323 PAID FOR BY AMERICAN FUTURE FUND"

On the same day that AFF began to air "Independent," Senator Coleman made a brief appearance before the Minnesota Capitol press corps to discuss the upcoming Senate race and criticize potential Democratic challenger Al Franken. Stassen-Berger, Rachel E., *Coleman Rips Franken as 'Mean, Angry': Senator Kicks Off Re-Election Campaign Saying He's the Uniter*, ST. PAUL PIONEER PRESS, Mar. 20, 2008. Although Minnesota Congressional and Senate

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primaries are not until September, and Senator Coleman appears to be uncontested in the Republican primary, Senator Coleman officially launched his campaign for reelection to the United States Senate on March 26, 2008, a week after AFF began airing "Independent." *See Coleman prepares to announce Senate reelection bid*, ASSOCIATED PRESS, (Mar. 26, 2008).

Although the March 19, 2008 airing of "Independent" appears to be AFF's first public communication, the group has also issued numerous press releases and communications on a variety of issues. Such items include:

- An April 16, 2008 letter supporting the Columbian Trade Protection Act that was currently pending in the Senate;
- An April 23, 2008 paid advertisement in Roll Call calling for the passage of the bipartisan FISA bill;
- An April 28, 2008 release of survey results from Louisiana that found "desperately low congressional approval ratings and growing interest in taxes and economic issues;"
- An April 28, 2008 press release calling for a "crack down" on tax evasion;
- An April 30, 2008 letter to Speaker Nancy Pelosi calling for a the House to vote on the Columbian Trade Protection Act;
- A May 2, 2008 press release criticizing the Minnesota state legislature for passing the Employee Free Choice Act;
- A May 8, 2008 release of national poll results;
- A May 22, 2008 release of poll results focusing on the gas tax;
- A May 28, 2008 press release supporting a recent Wall Street Journal op-ed by Congressman Paul Ryan (R-WI) that proposes Social Security, Medicare, and Medicaid reform; and
- A May 29, 2008 press release supporting a recent American Spectator article about "entitlement" reform.

See American Future Fund Website, http://www.americanfuturefund.com/topics/press-releases/.

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AFF has also aired several radio and television advertisements that focus on energy issues and feature sitting Members of Congress or Senators. These advertisements have focused on allowing offshore drilling, calling on Senators Reid, McConnell, and Sununu to take action on S. 3202, the Gas Price Reduction Act, as well as asking Congressman Mark Udall to vote on H.R. 6018, a similar matter pending in the House of Representatives.[2] *See generally*, American Future Fund Website, http://americanfuturefund.com.

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B. LEGAL ANALYSIS

1. Political Committee Status

The Act defines a "political committee" as any committee, club, association, or other group of persons that receives "contributions" or makes "expenditures" for the purpose of influencing a federal election which aggregate in excess of $1,000 during a calendar year. 2 U.S.C. § 431(4)(A). To address overbreadth concerns, the Supreme Court has held that only organizations whose major purpose is campaign activity can potentially qualify as political committees under the Act. *See, e.g., Buckley v. Valeo*, 424 U.S. 1, 79 (1976); *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238, 262 (1986) ("*MCFL*"). The Commission has long applied the Court's major purpose test in determining whether an organization is a "political committee" under the Act, and it interprets that test as limited to organizations whose major purpose is federal campaign activity. *See* Political Committee Status: Supplemental Explanation and Justification, 72 Fed. Reg. 5595, 5597, 5601 (Feb. 7, 2007); *see also* FEC's Mem. in Support

[2] The advertisement featuring Senator John Sununu also included former Governor Jeanne Shaheen who was a participant in the New Hampshire primary. For both the Udall and Sununu/Shaheen television advertisements, AFF filed an FEC Form 9 and disclosed the communications under 11 C.F.R. § 114.15. Both of these advertisements ran within 30 days of the candidates' respective primaries, which was August 12, 2008 for the Colorado primary and September 9, 2008 for New Hampshire primary.

of Its Second Mot. for Summ. J., *Emily's List v. FEC*, Civ. No. 05-0049 at 21 (D.D.C. Oct. 9, 2007).

The term "expenditure" is defined to include "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal Office." 2 U.S.C. § 431(9)(A)(i). The term "contribution" is defined to include "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i). Further, Commission regulations provide that funds received in response to any communication are contributions to the person making the communication "if the communication indicates that any portion of the funds received will be used to support or oppose the election of a clearly identified Federal candidate." 11 C.F.R. § 100.57.

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a. American Future Fund Appears to Have Exceeded the Statutory Threshold for Expenditures by Spending Over $1,000 for Communications Expressly Advocating the Election or Defeat of a Clearly Identified Candidate

In determining whether an organization makes an expenditure, the Commission "analyzes whether expenditures for any of an organization's communications made independently of a candidate constitute express advocacy either under 11 C.F.R. § 100.22(a), or the broader definition at 11 C.F.R. § 100.22(b)." Political Committee Status: Supplemental Explanation and Justification, 72 Fed. Reg. at 5606. Under the Commission's regulations, a communication expressly advocates the election or defeat of a clearly identified candidate when it uses phrases such as "vote for the President," "re-elect your Congressman," or "Smith for Congress," or uses campaign slogans or individual words, "which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s)...." *See* 11

C.F.R. § 100.22(a); *Buckley v. Valeo*, 424 U.S. 1, 44 n.52 (1976); *see also FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 249 (1986). The second part of this regulation encompasses a communication that, when taken as a whole or with limited reference to external events, "could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because" it contains an "electoral portion" that is "unmistakable, unambiguous, and suggestive of only one meaning" and "reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action." *See* 11 C.F.R. § 100.22(b). In its discussion of then-newly promulgated section 100.22, the Commission stated that "communications discussing or commenting on a candidate's character, qualifications or accomplishments are considered express advocacy under new section 100.22(b) if, in context, they have no other reasonable meaning than to encourage actions to elect or defeat the candidate in question." Express Advocacy; Independent Expenditures; Corporate and Labor Organization Expenditures: Explanation and Justification, 60 Fed. Reg. 35292, 35295 (July 6, 1995).[3]

"Independent" qualifies as express advocacy under section 100.22(b) because the advertisement as a whole lacks a specific legislative focus, is candidate centered, and requests electoral support by characterizing Coleman as "An Independent Voice for Minnesota." Where a public communication features a single, specific legislative issue, the Commission previously has

[3] In *FEC v. Wisconsin Right to Life, Inc.*, 127 S.Ct. 2652, 2667 (2007) ("*WRTL*"), the Supreme Court held that "an ad is the functional equivalent of express advocacy," and thus constitutionally regulable as an electioneering communication under 2 U.S.C. §441b(b)(2), if the ad is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate." Although 11 C.F.R. § 100.22 was not at issue in the matter, the Court examined whether the ad had " indicia of express advocacy" such as the "mention [of] an election, candidacy, political party, or challenger" or whether it "take[s] a position on a candidate's character, qualifications, or fitness for office." *Id.* The Commission subsequently incorporated the principles set forth in the *WRTL* opinion into its regulations governing permissible uses of corporate and labor organization funds for electioneering communications at 11 C.F.R § 114.15. *See* Final Rule on Electioneering Communications, 72 Fed. Reg. 72899, 72914 (Dec. 26, 2007).

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explained that the legislative character of the advertisement may provide a reasonable interpretation other than supporting or opposing the featured candidate. *Cf.*, Final Rule on Electioneering Communications: Explanation and Justification, 72 Fed. Reg. 72,899, 72,908 (Dec. 26, 2007) (explaining that the *Ganske* advertisement's focus on a single environmental issue was content that would support a determination that the advertisement had an interpretation other than as an appeal to vote against Representative Ganske, rendering the advertisement a permissible electioneering communication under the general exemption in 11 C.F.R. § 114.15(a)).

Rather than maintaining a specific legislative focus, "Independent" presents a collection of issues addressed by Senator Coleman that range from the collapse of the I-35W bridge to predatory lending practices, highlighting Senator Coleman's past stances with respect to these issues and using the Senator himself to link the issues together. By referencing these wide-ranging issues, the advertisement focuses on Coleman's qualifications, accomplishments and fitness for office, rather than advocates any particular legislative action or policy stance.

In light of the candidate-centered nature of "Independent" and the focus on Coleman's accomplishments and qualifications for public office, the advertisement as a whole, and the phrase "An Independent Voice for Minnesota" in particular, can have no other reasonable interpretation than as a call to vote for Senator Coleman. The tagline asking viewers to "thank" Senator Coleman does not negate the electoral message of the advertisement such that it would cause reasonable minds to differ. *See* MURs 5910/5694 (Americans for Jobs Security, Inc.), First General Counsel's Report (Feb. 6, 2008) (concluding that advertisement asking the public to "thank" candidate for "being a conservative" is express advocacy).

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Despite the Respondent's assertion to the contrary, the "Independent" advertisement does not fall as express advocacy simply because it uses the word "thank." AFF claims that the "Independent" advertisement is similar to language displayed on banners in MURs 5779/5805 (City of Santa Clarita), in which the Commission determined that a banner stating "Thank you Buck for H.R. 5471! – No Mega Mining in Soldad Canyon" was not express advocacy. There, however, the use of "thank" was linked to a specific issue and a specific piece of legislation, and the banner did not include any statements that may be construed as supporting or opposing a clearly identified candidate. Here, by contrast, the "Independent" advertisement does not link the call to action to a specific vote or ask Senator Coleman to take a prospective stance on a specific issue. In so doing, the advertisement cannot be reasonably interpreted as anything but a request to support Coleman based on his prior record.

Based on the content of the "Independent" advertisement, we believe that AFF has met the statutory threshold for expenditures by spending over $1,000 in communications expressly advocating the election of a clearly identified candidate.[4]

b. American Future Fund's Major Purpose Does *Not* Appear to be Federal Campaign Activity

An organization's "major purpose" may be established through public statements of its purpose. *See, e.g., FEC v. Malenick*, 310 F. Supp. 2d 230, 234-36 (D.D.C. 2004) (court found organization evidenced its "major purpose" through its own materials which stated the organization's goal of supporting the election of Republican Party candidates for federal office and through efforts to get prospective donors to consider supporting federal candidates); *FEC v. GOPAC, Inc.*, 917 F. Supp. 851, 859 (D.D.C. 1996) ("organization's [major] purpose may be

[4] At this time, we have no information indicating that AFF may have received contributions under 11 C.F.R. § 100.57, thereby triggering the $1,000 threshold for political committee status through the receipt of contributions.

evidenced by its public statements of its purpose or by other means. . . ."). An organization also can satisfy *Buckley's* "major purpose" test through sufficient spending on campaign activity. *MCFL*, 479 U.S. at 262-264 (political committee status would be conferred on MCFL if its independent spending were to become so extensive that the group's major purpose may be regarded as campaign activity).[5]

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Although it appears that AFF has made over $1,000 in expenditures by producing and airing "Independent," publicly available information suggests that AFF's major purpose may not be federal campaign activity. AFF's only publicly stated purpose is "to promote conservative, free market ideas." *See* American Future Fund Website, http://americanfuturefund .com/2008/04/07/american-future-fund-launches-website, *see also* Attachment 2, Articles of Incorporation. Moreover, neither the officers nor directors of AFF have made any statements to the press indicating that the organization's purpose is to influence federal elections.

Additionally, we lack information regarding AFF's spending on federal campaign activity because, as an applicant for 501(c)(4) status with the IRS, its financial records are not available for public inspection. Although we do not have access to AFF's financial records, the organization has engaged in a wide range of activities that are not directly related to federal campaign activity, including supporting the bipartisan FISA bill and Columbian Trade Protection Act, as well as engaging in polling on issues such as entitlement reform and the gas tax. *See* Part II.A.2., *infra*. AFF's involvement in these activities, combined with the fact that "Independent"

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[5] The Commission has consistently applied this standard in past matters. *See* MUR 5540 (The Media Fund), MUR 5541 (November Fund), MUR 5542 (Texans for Truth), and MURs 5577/5620 (National Association of Realtors – 527 Fund); *see also* Political Committee Status: Supplemental Explanation and Justification, 72 Fed. Reg. at 5601-02.

is the only public communication by AFF supporting a federal candidate,[6] suggests that AFF's major purpose is not federal campaign activity. Although AFF has aired several advertisements featuring legislative issues in states with tightly contested Senate races, *see* Part II.A.2., *infra*, this conduct does not appear to tip the balance in favor of concluding that AFF's major purpose is federal campaign activity based on the other facts available at this time. Accordingly, we recommend that the Commission find no reason to believe that AFF violated 2 U.S.C. §§ 433 and 434 by failing to register and report as a political committee.

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2. Prohibited Corporate Expenditure

The Act prohibits a corporate entity from making any expenditure in connection with a federal election. 2 U.S.C. § 441b(a). As a nonprofit corporation registered with the Secretary of State of Iowa, therefore, AFF is prohibited from making expenditures. *See* 2 U.S.C. § 441b(a). Because AFF's advertisement contains express advocacy under 11 C.F.R. § 100.22(b), *see* Part II.B.1.a., *supra*, AFF has made a prohibited expenditure.[7] Accordingly, we recommend that the

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[6] The AFF website is a joint website between American Future Fund and American Future Fund Political Action ("AFF PA"), which is a political committee that registered with the Commission on May 7, 2008. AFF PA has produced Internet videos that are critical of several federal candidates. In particular, AFF PA has produced Internet videos that have criticized Al Franken for his past business dealings, called on Senator Barack Obama to fire a controversial figure from his campaign staff, and accused Senator Mary Landrieu of being involved in corruption. *See* http://americanfuturefund.com/author/aff-political-action/. Despite these Internet videos by AFF PA, the "Independent" advertisement appears to be the only communication that AFF has produced that actively calls for the support of a federal candidate.

[7] In *MCFL*, 479 U.S. 238, the Supreme Court held that certain nonprofit corporations were not subject to 2 U.S.C. § 441b(a)'s general prohibition against corporate expenditures. Section 114.10 of the Commission's regulations implements the Supreme Court's decision in *MCFL* and refers to such exempt organizations as "qualified nonprofit corporations" ("QNCs"). In order to qualify as a QNC under the Commission's regulations, a corporation must (1) have as its only express purpose the promotion of political ideas; (2) not engage in business activities; (3) not have shareholders or persons receiving other similar benefits; (4) not have been established by a business corporation or labor organization, or directly or indirectly accept donations from business corporations or labor organizations; and (5) be an organization described in 26 U.S.C. § 501(c)(4). 11 C.F.R. § 114.10(c). Although AFF is a nonprofit corporation, it has not filed a certification for QNC status with the Commission as required by 11 C.F.R. § 114.10(e), nor has it claimed exemption from the prohibitions of section 441b(a) pursuant to *MCFL* in its response. Moreover, given the lack of publicly available information regarding its contributions, we have no information suggesting that it qualifies for either QNC or *MCFL* status.

Commission find reason to believe that American Future Fund violated 2 U.S.C. § 441b(a) by making prohibited expenditures in connection with the "Independent" advertisement.

3. Reporting of Independent Expenditure

An independent expenditure is any expenditure that expressly advocates the election or defeat of a clearly identified candidate and is not made in concert with a candidate, a political party committee, or their respective agents. 2 U.S.C. § 431(17). Under the Act, every person who makes independent expenditures in excess of $250 must file a report that discloses information on its expenditures and identify each person who made a contribution in excess of $200 in a calendar year and each person who gave more than $200 for the purpose of furthering an independent expenditure. *See* 2 U.S.C. § 434(c). In addition, every person making an independent expenditure aggregating $10,000 or more up to the 20th day before an election must report the independent expenditures on FEC Form 5, which must be received by the Commission by 11:59 p.m. Eastern Standard/Daylight Time on the second day following the date on which the communication is publicly distributed. *See* 11 C.F.R. § 109.10.

The "Independent" advertisement was first aired by AFF on March 19, 2008, and it appears that AFF spent at least $132,920 on the advertising buy. We have no information, either from the complaint or publicly available sources, suggesting that the "Independent" advertisement was a coordinated communication. AFF has not filed a Form 5 or its equivalent with the Commission and was required to do so by March 21, 2008 at 11:59 p.m. Eastern Standard/Daylight Time. Accordingly, we recommend that the Commission find reason to believe that American Future Fund violated 2 U.S.C. § 434(c) and 11 C.F.R. § 109.10 by failing to report its independent expenditures to the Commission.

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4. Advertisement Disclaimers

AFF was required to comply with the disclaimer provisions of 2 U.S.C. § 441d because the "Independent" advertisement contained express advocacy. The Act requires that persons making disbursements for communications containing express advocacy provide a disclaimer as specified in the statute and regulations. 2 U.S.C. § 441d. More specifically, communications that are not authorized by a candidate are required to "clearly state the name and permanent street address, telephone number or World Wide Web address of the person who paid for the communication and state that the communication [was] not authorized by any candidate or the candidate's committee." 2 U.S.C. § 441d(a)(3). In addition, a television communication must include the statement "'_____ is responsible for the content of this advertising' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor)." 2 U.S.C. § 441d(d)(2). Further, the communication must be "conveyed by an unobscured, full-screen view of a representative of the political committee or other person making the statement, or by a representative of such political committee or other person in voice-over, and shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds." *Id.*

In its "Independent" advertisement, AFF failed to include both of the disclaimers required by 2 U.S.C. § 441d(a)(3) and (d)(2). Neither the street address, telephone number, or World Wide Web address of AFF, nor the required audio statement were included in the "Independent" advertisement. Accordingly, we recommend that the Commission find reason to believe that American Future Fund violated 2 U.S.C. §§ 441d(a)(3) and (d)(2) by failing to include the required disclaimers.

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IV. RECOMMENDATIONS

1. Find reason to believe that American Future Fund violated 2 U.S.C. § 441b(a).

2. Find reason to believe that American Future Fund violated 2 U.S.C. § 434(c) and 11 C.F.R. § 109.10.

3. Find reason to believe that American Future Fund violated 2 U.S.C. §§ 441d(a)(3) and (d)(2).

4. Find no reason to believe that American Future Fund violated 2 U.S.C. §§ 433 and 434.

5. Approve the attached Factual and Legal Analysis.

7. Approve the appropriate letters.

9/30/2008
Date

Thomasenia P. Duncan
General Counsel

Ann Marie Terzaken
Associate General Counsel for Enforcement

Julie E. McConnell
Assistant General Counsel

William A. Powers
Attorney

2. Articles of Incorporation, American Future Fund

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News Releases, Media Advisories

For Immediate Release:
December 01, 2000

Contact: Ron Harris
Sharon Snyder
Ian Stirton
Kelly Huff

LOIS G. LERNER DESIGNATED ACTING GENERAL COUNSEL

WASHINGTON – The Federal Election Commission has designated

Lois G. Lerner, presently the FEC's Associate General Counsel for Enforcement, to serve as Acting General Counsel for a period of six months while the Commission conducts an open selection process to fill the General Counsel's position. Ms. Lerner's appointment will be effective on January 2, 2001.

The FEC's General Counsel, Lawrence M. Noble, will be leaving the FEC on January 1, 2001 to become Executive Director and General Counsel of the Center for Responsive Politics.

Ms. Lerner joined the FEC's General Counsel's Office in 1981, served as an Assistant General Counsel, and was appointed in 1986 to head the Enforcement Division. Prior to joining the FEC, she was a staff attorney in the Criminal Division of the Department of Justice. She is a graduate of Northeastern University in Boston and received her Juris Doctor from Western New England College of Law in Springfield, MA.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 6081
American Issues Project, Inc.	)	

STATEMENT OF REASONS OF
VICE CHAIRMAN DONALD F. McGAHN AND
COMMISSIONERS CAROLINE C. HUNTER AND MATTHEW S. PETERSEN

The Complaints in this matter take issue with an advertisement aired around the time of the 2008 Democratic National Convention by the American Issues Project, Inc. ("AIP" or "Respondent"), a corporation organized under section 501(c)(4) of the Internal Revenue Code.[1] According to the Complaints, the advertisement began to air in Ohio, Michigan, Pennsylvania, and Virginia on August 21, 2008, and expressly advocated the defeat of then-candidate Barack Obama. AIP filed an independent expenditure report on August 19, 2008, disclosing (1) that it spent $2,878,872.75 on the ad in connection with the convention, and (2) that AIP had received the same amount of money from an individual, Harold Simmons, on August 12, 2008.

Based upon these facts, the Complaints conclude the following: (1) AIP ought to have registered as a political committee because, as of the date of the complaint (September 8, 2008), it had only engaged in express electoral advocacy; (2) since the advertisement continued to air after the convention, AIP should have filed a second

[1] MUR 6081 (AIP), Complaint (Sep. 26, 2008); MUR 6094 (AIP), Complaint (Oct. 10, 2008). Because both complaints contained substantially similar allegations, allegations against AIP were administratively severed from MUR 6094 and merged into MUR 6081.

independent expenditure report showing that portion of the ad buy to be in connection with the general election; and (3) the money contributed by Simmons exceeded both the $5,000 contribution limit applicable to political committees and his own individual biennial limit.

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Simmons and AIP each filed a response to the Complaint. Simmons "generally and specifically" denied the allegations against him, and asserted that his contribution was "in advancement of or related to American Issues Project's exempt function," and that he "had no control over how the funds were used by AIP."[2] AIP's response also denied wrongdoing, and claimed that its activities were lawful since it is a Qualified Nonprofit Corporation under the Supreme Court's decision in *FEC v. Massachusetts Citizens for Life*, where the Court struck the Act's corporate ban as applied to certain nonprofit corporations.[3] AIP further states that it "complies with each and every one of the provisions outlined by the Supreme Court in the *MCFL* case" and Commission regulations: (1) AIP was formed "for the express purpose of promoting political ideas, and cannot engage in business activities;" (2) AIP has "no shareholders or other persons affiliated so as to have a claim on its assets or earnings;" and (3) AIP was not "established by a business corporation or labor union," has a policy "not to accept contributions from such entities," and "has *never* accepted any contributions from a corporate source, directly or indirectly."[4]

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[2] MUR 6081 (AIP), Reply of Harold Simmons to the Complaint Filed in MUR 6081 (Nov. 18, 2008).

[3] 479 U.S. 238 (1986) ("*MCFL*").

[4] MURs 6081 & 6094 (AIP), Response (Nov. 24, 2008) at 1-2 (emphasis in the original).

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Finally, AIP states that "[t]he majority of [its] annual expenditures are devoted to grassroots lobbying and education on issues, public policies and other communications, activities and programs appropriate to a 501(c)(4) social welfare organization," and that its "expenditures for communications or activities subject to disclosure to the Commission have fully complied with Commission regulations."[5] According to their Form 990s filed with the Internal Revenue Service, AIP spent $2,876,753 on independent expenditures out of $8,814,634 in total spending from AIP's fiscal year 2007-2010.[6]

Intervening events have mooted several of the Complaint's allegations. Whether AIP was a Qualified Nonprofit Corporation under *MCFL* has been rendered moot in light of the Court's 2010 decision, *Citizens United v. FEC*, where the Court struck the corporate expenditure ban entirely.[7] Thus, all corporate entities like AIP may now expressly advocate the election or defeat of candidates regardless of whether they are Qualified Nonprofit Corporations. Similarly, following the D.C. Circuit's decision in *SpeechNow.org v. FEC*, even if AIP were a political committee, the $5,000 individual contribution limit could no longer be applied to it.[8] Likewise, in the wake of *SpeechNow.org*, the Commission made clear that the Act's biennial limit could not be

[5] *Id.* at 2.

[6] *See* Form 990-EZ: Short Form Return of Organization Exempt from Income Tax (covering period from May 1, 2010 to April 30, 2011), *available at* http://www.guidestar.org/FinDocuments/2011/260/196/2011-260196975-075c349f-ZO.pdf; Form 990-EZ: Short Form Return of Organization Exempt from Income Tax (covering the period of May 1, 2009 to April 30, 2010), *available at* http://www.guidestar.org/FinDocuments/2010/260/196/2010-260196975-06db9ee4-ZO.pdf; MUR 6081, Response (Oct. 17, 2011), Form 990: Return of Organization Exempt from Income Tax (covering the period of May 1, 2008 to April 30, 2009); Form 990: Return of Organization Exempt from Income Tax); Form 990: Return of Organization Exempt from Income Tax (covering the period of May 1, 2007 to April 30, 2008), *available at* http://dynamodata.fdncenter.org/990_pdf_archive/260/260196975/260196975_200804_990O.pdf.

[7] 130 S. Ct. 876 (2010).

[8] 599 F.3d 686 (D.C. Cir. 2010).

applied to contributions made to such independent political committees.[9] Thus, *even if AIP were a political committee*, the allegations as to Simmons are now moot. All that remains in this matter, then, is the accusation that AIP was required to register and report as a political committee under the Act.

I. Political Committee Determinations Are Narrowed by Case Law

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Under the Act, a "political committee" is "any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 during a calendar year or which makes expenditures aggregating in excess of $1,000 during a calendar year."[10] In response to both vagueness and overbreadth concerns, the Court in *Buckley v. Valeo* limited the "political committee" definition in two pertinent ways: (1) the definition of "expenditure" may only reach communications that in express terms advocate the election or defeat of a federal candidate; and (2) the term political committee "need only encompass organizations that are under the control of a candidate or the major purpose of which is the nomination or election of a candidate."[11]

Following *Buckley*, the Supreme Court reaffirmed the major purpose test in *MCFL*, in which there it determined that a particular nonprofit corporation's "central organizational purpose is issue advocacy, although it occasionally engages in activities on behalf of political candidates."[12] The Court noted that "[a]ll unincorporated organizations whose major purpose is not campaign activity, but who occasionally make

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[9] *See, e.g.*, Advisory Opinion 2010-11 (Commonsense Ten).

[10] 2 U.S.C. § 431(4)(A). *See also* 11 C.F.R. § 100.5.

[11] 424 U.S. 1, 79 (1976).

[12] 479 U.S. at 252 n.6 (1986). The phrase "engages in activities on behalf of political candidates" is used interchangeably with the term "independent expenditures." *Compare id.* at 252-253 *with id.* at 252 n.6.

independent expenditures on behalf of candidates, are subject only to these [independent expenditure reporting] regulations."[13] However, if a group's "independent spending become[s] so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee."[14]

The major purpose limitation has been further explored in the courts of appeals. In *New Mexico Youth Organized v. Herrera*, the Tenth Circuit stated:

> There are two methods to determine an organization's 'major purpose': (1) examination of the organization's central organizational purpose; or (2) comparison of the organization's electioneering spending with overall spending to determine whether the preponderance of expenditures is for express advocacy or contributions to candidates.[15]

And the Fourth Circuit in *North Carolina Right to Life, Inc. v. Leake* explained:

> [T]he Court in *Buckley* must have been using "*the* major purpose" test to identify organizations that had the election or opposition of a candidate as

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[13] *Id.* at 252-253.

[14] *Id.* at 262 (citing *Buckley*, 424 U.S. at 79). In addition, the Court has consistently mentioned the burden of political committee status. In *Citizens United*, the Court noted that "PACs are burdensome alternatives" that are "expensive to administer and subject to extensive regulations:"

> For example, every PAC must appoint a treasurer, forward donations to the treasurer promptly, keep detailed records of the identities of the persons making donations, preserve receipts for three years, and file an organization statement and report changes to this information within 10 days. . . . And that is just the beginning. PACs must file detailed monthly reports with the FEC, which are due at different times depending on the type of election that is about to occur:
>
> "These reports must contain information regarding the amount of cash on hand; the total amount of receipts, detailed by 10 different categories; the identification of each political committee and candidate's authorized or affiliated committee making contributions, and any persons making loans, providing rebates, refunds, dividends, or interest or any other offset to operating expenditures in an aggregate amount over $200; the total amount of all disbursements, detailed over 12 different categories; the names of all authorized or affiliated committees to whom expenditures aggregating over $200 have been made; persons to whom loan repayments or refunds have been made; the total sum of all contributions, operating expenses, outstanding debts and obligations, and the settlement terms of the retirement of any debt or obligation."

130 S. Ct. at 897 (quoting *McConnell v. FEC*, 540 U.S. 93, 331-332 (2003)) (citations omitted).

[15] 611 F.3d 669, 678 (10th Cir. 2010) ("*NMYO*").

> their only or primary goal — this ensured that the burdens facing a political committee largely fell on election-related speech, rather than on protected political speech. . . .If organizations were regulable merely for having the support or opposition of a candidate as "*a* major purpose," political committee burdens could fall on organizations primarily engaged in speech on political issues unrelated to a particular candidate. This would not only contravene both the spirit and the letter of *Buckley*'s "unambiguously campaign related" test, but it would also subject a large quantity of ordinary political speech to regulation.[16]

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The court in *NCRTL* went on to articulate a test similar to that in *NMYO*, stating:

> Basically, if an organization explicitly states, in its bylaws or elsewhere, that influencing elections is its primary objective, or if the organization spends the majority of its money on supporting or opposing candidates, that organization is under 'fair warning' that it may fall within the ambit of *Buckley*'s test.[17]

The nature and scope of the major purpose test as applied to the Act was further examined in *FEC v. Malenick*,[18] and *FEC v. GOPAC, Inc.*[19] In those cases, federal district courts examined the public and non-public statements, as well as the electoral spending, of particular groups. More recently, the Fourth Circuit in *RTAA* cited to a narrow understanding of the major purpose test, noting that "[t]he expenditure or contribution threshold means that some groups whose 'major purpose' was *indisputably the nomination or election of federal candidates* would not be designated PACs."[20]

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[16] 525 F.3d 274, 287-288 (4th Cir. 2008) ("*NCRTL*") (emphasis in the original).

[17] *Id.* at 289. *See also Real Truth About Abortion v. FEC*, 681 F.3d 544, 558 (4th Cir. 2012) ("*RTAA*") (quoting *NCTRL*). Based on these considerations, the inquiry to assess an organization's major purpose "would not necessarily be an intrusive one" as "[m]uch of the information the Commission would consider would already be available in that organization's government filings or public statements." *RTAA*, 681 F.3d at 558.

[18] 310 F. Supp. 2d 230, 234-236 (D.D.C. 2005).

[19] 917 F. Supp. 851, 859 (D.D.C. 1996).

[20] 681 F.3d at 558 (emphasis added).

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Although the Commission has in the past strayed from the confines of the major purpose limitation,[21] more recently it has remained true to *Buckley*'s mandate: that major purpose encompasses only activity directed at the nomination or election of federal candidates.[22] Moreover, it has averred in its briefs that the Commission's approach to

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[21] At times, the Commission has erroneously looked to the general notion of vague "campaign activity," rather than the more limited nomination or election of federal candidates. *See, e.g.*, MUR 5365 (Club for Growth), General Counsel's Report #2 at 3, 5 ("[T]he vast majority of CFG's disbursements are for federal campaign activity" and concluding CFG "has the major purpose of federal campaign activity."); MUR 5542 (Texans for Truth), Conciliation Agreement at ¶ 3 ("[O]nly organizations whose major purpose is campaign activity can be considered political committees under the Act" and "[i]t is well settled that an organization can satisfy *Buckley*'s 'major purpose' test through sufficient spending on campaign activity."); *see also* MURs 5403, 5427, 5440, & 5466 (Americans Coming Together, *et al*), First General Counsel's Report at 7-8; MURs 5511 & 5525 (Swift Boat Veterans and POWs for Truth), Conciliation Agreement at ¶ 6. Given that these were erroneous legal theories, they are of limited precedential value with respect to the type of spending examined as part of a major purpose inquiry. In any event, their predicate legal theories have been overruled by subsequent case law. *See Citizens United v. FEC*, 130 S. Ct. 876 (2010); *FEC v. Wisconsin Right to Life, Inc.*, 551 U.S. 449, 471 (2007); *SpeechNow.org*, 599 F.3d at 692-96; *EMILY's List v. FEC*, 581 F.3d 1, 12-14 (D.C. Cir. 2009).

[22] *See, e.g.*, Brief for the Respondents in Opposition at 4, *The Real Truth About Obama, Inc. v. FEC*, 130 S. Ct. 2371 (2010) (No. 09-724) ("*RTAO III*") ("[A]n entity that is not controlled by a candidate need not register as a political committee unless its 'major purpose' is the nomination or election of federal candidates."); Brief for the Respondents at 4, *RTAO III* ("[A]n entity that is not controlled by a candidate need not register as a political committee -- and may therefore receive contributions of more than $5000 per year from each donor -- unless its 'major purpose' is the nomination or election of federal candidates."); Brief of Appellees Federal Election Commission and United States Department of Justice at 5, *Real Truth About Obama, Inc. v. FEC*, 575 F.3d 342 (4th Cir. 2009) ("*RTAO II*") ("[A] non-candidate-controlled entity must register as a political committee -- thereby becoming subject to limits on the sources and amounts of its contributions received -- only if the entity crosses the $1,000 threshold of contributions or expenditures and its 'major purpose' is the nomination or election of federal candidates."); Federal Election Commission's Opposition to Appellant's Motion for Injunction Pending Appeal at 11, *RTAO II* ("[A] non-candidate organization must register as a political committee and be subject to contribution limits only if the entity crosses the $1,000 threshold of contributions or expenditures and its 'major purpose' is the nomination or election of candidates."); Defendant Federal Election Commission's Memorandum in Support of Motion for Summary Judgment and Opposition to Plaintiffs Motion for Preliminary Injunction and Summary Judgment at 10, *Real Truth About Obama, Inc. v. FEC*, No. 3:08- CV-00483-JRS, 796 F. Supp. 2d 736 (E.D. Va. 2011) ("*RTAO IV*") ("[A] non-candidate-controlled entity must register as a political committee only if it crosses one of the $1,000 statutory thresholds and its 'major purpose' is the nomination or election of federal candidates."); Defendant Federal Election Commission's Reply in Support of the Commission's Motion for Summary Judgment at 20, *RTAO IV* ("In *Buckley*, the Supreme Court established the 'major purpose' test to limit the definition of 'political committee' to organizations controlled by a candidate or whose major purpose is the nomination or election of a candidate."); Federal Election Commission's Memorandum in Opposition to Plaintiffs Motion for Preliminary Injunction at 4, *Real Truth About Obama, Inc. v. FEC*, No. 3:08-cv-00483-JRS, 2008 WL 4416282 (E.D. Va. 2008) ("*RTAO I*") ("[A] non-candidate-controlled entity must register as a political committee -- thereby becoming subject to limits on the sources and amounts of its contributions received -- only if the entity crosses the $1,000 threshold of contributions or expenditures and its 'major purpose' is the nomination or election of federal candidates."); Political Committee Status, Supplemental Explanation and Justification ("2007 Political Committee E&J"), 72 Fed. Reg. 5595, 5597 (Feb. 7, 2007) ("[T]he Supreme Court

applying the major purpose limitation is "entirely consistent with the Tenth Circuit's understanding of the major purpose test," which:

> [C]ited the Supreme Court's endorsement of "two methods to determine an organization's 'major purpose': (1) examination of the organization's central organizational purpose; or (2) comparison of the organization's independent [express advocacy] spending with overall spending.[23]

The Commission has not further refined this approach through rulemaking, opting instead to evaluate the major purpose limitation on a case-by-case basis.[24] That the Commission can use a case-by-case analysis was upheld by the Fourth Circuit in *RTAA*, which concluded that "[t]he determination of whether the election or defeat of federal candidates for office is *the* major purpose of an organization, and not simply *a* major purpose, is inherently a comparative task, and in most instances it will require weighing the importance of some of a group's activities against others."[25]

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mandated that an additional hurdle was necessary to avoid Constitutional vagueness concerns; only organizations whose 'major purpose' is the nomination or election of a Federal candidate can be considered 'political committees' under the Act") (citing *Buckley*, 424 U.S. at 79).

[23] Defendant Federal Election Commission's Opposition to Plaintiff's Motion for Preliminary Injunction at 35, *Free Speech v. FEC*, Case 2:12-cv-00127-SWS (D. Wyo. 2012) ("*Free Speech*") (quoting *Colo. Right To Life Comm., Inc. v. Coffman*, 498 F.3d 1137, 1152 (10th Cir. 2007)).

[24] 2007 Political Committee E&J at 5597 ("Congress has not materially amended the definition of 'political committee' since the enactment of section 431(4)(A) in 1971, nor has Congress at any time since required the Commission to adopt or amend its regulations in this area. Indeed, in 2002, when Congress made sweeping changes in campaign finance law pursuant to BCRA, it left the definition of 'political committee' undisturbed and political committee status to be determined on a case-by-case basis."). This approach was recently reaffirmed in the Commission's briefs in *Free Speech*. *See* Defendant Federal Election Commission's Opposition to Plaintiff's Motion for Preliminary Injunction at 33, *Free Speech* ("Instead of creating categorical regulations that might have led to overbroad or underinclusive PAC determinations . . . the Commission, in an exercise of discretion, decided to continue its practice of implementing the major purpose test on a case-by-case basis.") (citations omitted).

[25] *RTAA*, 681 F.3d at 556 (emphasis in original).

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According to the court in *RTAA*, examining an organization's statements, like those reviewed by district courts in *Malenick* and *GOPAC*,[26] and comparing its electoral spending with its non-electoral spending are "important considerations when determining whether an organization qualifies as a PAC."[27]

Thus, whether AIP is a "political committee" is determined by a two part test: (1) has it made sufficient contributions or expenditures and (2) is its major purpose is the nomination or election of a candidate? In turn, a determination of a group's major purpose requires the examination of the following: (1) a group's central organizational purpose; and (2) a comparison of a group's spending on the nomination or election of federal candidates (*i.e.*, express advocacy) with its other spending.

The Complaint claims that AIP had the requisite major purpose because "AIP has done nothing other than collect and spend funds to defeat Barack Obama's candidacy," relying solely on the already-disclosed independent expenditure of August 2008.[28] Certainly, AIP satisfies the first part of the test, as it self-reported making an independent

[26] *RTAA* specifically cited *Malenick* and *GOPAC* as "judicial decisions applying the major purpose test, which have used the same fact-intensive analysis that the Commission has adopted." 681 F.3d at 557.

[27] *RTAA*, 681 F.3d at 557. There is a split between the Tenth Circuit and the Fourth Circuit as to whether these are the only factors that may be considered. *Compare NYMO*, 611 F.3d at 678 (providing that organizational statements or comparing express advocacy spending with all other spending are the only two ways to meet the major purpose test) *with RTAA*, 681 F.3d at 557 ("[A]lthough cases since *Buckley* have indicated that [expenditure ratios and organizational documents] may be particularly relevant when assessing an organization's major purpose, those decisions do not foreclose the Commission from using a more comprehensive methodology."). Even in the Fourth Circuit, however, the *RTAA* court noted that any considerations should not entail extensive discovery. 681 F.3d at 558 ("And even if an organization were to find itself subject to a major-purpose investigation, that investigation would not necessarily be an intrusive one. Much of the information the Commission would consider would already be available in that organization's government filings or public statements.").

[28] MUR 6081 (AIP), Complaint at 3.

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expenditure in excess of $1,000.[29] But the complaint ignores – and OGC fails to give proper weight to – AIP's public statements of purpose and the other, non-election related spending of AIP, both of which are critical to a proper application of the test.

A. AIP's Central Organizational Purpose Relates to Issues, not Federal Candidates

AIP has stated its purpose as follows: "to act for any lawful purpose for a social welfare organization pursuant to section 501(c)(4) of the Internal Revenue Code of 1986 (or the corresponding section of any future federal tax code)."[30] Other official filings describe AIP's mission as:

> To advocate for and promote the core conservative principles of our founding fathers and Ronald Reagan; including: limited government, lower taxes, free markets, constitutional freedoms, and a strong national defense. To educate and inform the general public and policymakers about these principles and alert them to the importance of the need for conservative principles in governance.[31]

As Senator McCain, the principal Senate sponsor of BCRA, has stated, "under existing tax laws, Section 501(c) groups . . . cannot have a major purpose to influence federal elections, and therefore are not required to register as federal political committees, as long as they comply with their tax law requirements."[32] Thus, although tax status is not

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[29] *See* FEC Form 5: Report of Independent Expenditures Made and Contributions Received (Aug. 19, 2008), *available at* http://images.nictusa.com/pdf/101/28039820101/28039820101.pdf.

[30] MUR 6081 (AIP), Complaint; MUR 6094 (AIP), Complaint at Exhibit A (State of Delaware Certificate of Incorporation: A Non-Stock Corporation of Citizens for the Republic, Inc. (May 17, 2007)).

[31] MUR 6081 (AIP), Response (Oct. 17, 2011), Form 990: Return of Organization Exempt from Income Tax (covering the period of May 1, 2008 to April 30, 2009).

[32] Comments of John McCain and Russell D. Feingold on Reg. 2003-07 (Political Committee Status) (Apr. 2, 2004), attached Statement of Senator John McCain, Senate Rules Committee, March 10, 2004 at 2. *See* 26 U.S.C. § 501(c)(4)(A) (providing tax exempt treatment to "[c]ivic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes").

dispositive, it is certainly relevant, and along with AIP's organizational statement, counsels against political committee status. As Public Citizen has noted, "a legitimate 501(c) organization should not have to fear that it will become a political committee simply by engaging in political issue-related criticisms of public officials."[33]

B. AIP's Spending Demonstrates Its Major Purpose is Not the Nomination or Election of a Federal Candidate

Based upon AIP's spending record, while nominating or electing candidates may be *a* purpose, it is not *the* major purpose of AIP.[34] AIP was formed in 2007.[35] During its fiscal year 2007, which ran from May 1, 2007 to April 30, 2008, AIP reported $496,083

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[33] Comment of Public Citizen on Reg. 2003-07 (Political Committee Status) at 10 (Apr. 5, 2004). Public Citizen further noted that "[e]ntities that do not have as their major purpose the election or defeat of federal candidates, such as 501(c) advocacy groups, but which may well be substantially engaged in political activity, should remain subject to regulation for only the narrow class of activities – express advocacy and electioneering communications – explicitly established by current federal election law, as amended by [McCain-Feingold]." *Id.* at 2.

[34] *See RTAA*, 681 F.3d at 556 (The determination of whether the election or defeat of federal candidates for office is *the* major purpose of an organization, and not simply *a* major purpose, is inherently a comparative task, and in most instances it will require weighing the importance of some of a group's activities against others.") (emphasis in original). *See also NCRTL*, 525 F.3d at 287-88 ("If organizations were regulable merely for having the support or opposition of a candidate as '*a* major purpose,' political committee burdens could fall on organizations primarily engaged in speech on political issues unrelated to a particular candidate. This would not only contravene both the spirit and the letter of *Buckley*'s 'unambiguously campaign related' test, but it would also subject a large quantity of ordinary political speech to regulation.").

[35] AIP was originally organized under the name Citizens for the Republic, Inc., in 2007, and changed its name first to Avenger, Inc., in March 2008, and subsequently to American Issues Project, Inc., in August 2008. *See* MUR 6081 (AIP), Complaint; MUR 6094 (AIP), Complaint at Exhibit A (State of Delaware Certificate of Incorporation A Non-Stock Corporation of Citizens for the Republic, Inc.); MUR 6081 (AIP), Complaint; MUR 6094 (AIP), Complaint at Exhibit C (State of Delaware Certificate of Amendment (A Corporation Without Capital Stock) (March 19, 2008)); MUR 6081 (AIP), Complaint; MUR 6094, Complaint at Exhibit D (State of Delaware Certificate of Amendment (A Corporation Without Capital Stock) (Aug. 4, 2008)). Although the Complaint places great emphasis on this fact, it was in the context of whether or not AIP was properly considered a QNC – a question that, as noted above, was rendered moot by the Court's decision in *Citizens United*. *See* MUR 6081 (AIP), Complaint at 3 ("AIP's corporate history also raises the question of whether AIP, under its previous name 'Citizens for the Republic' ever accepted any direct or indirect corporate funding. QNCs are forbidden from taking such donations . . . ."); *supra* n.7.

in expenses.[36] Of this, AIP reported spending $111,767 for "management and general" expenses, $71,632 for "fundraising," and $312,684 for "program services."[37] Of its spending on "program services," AIP reported spending $87,378 for an "online advocacy project" through which:

> The organization developed a sophisticated plan for online grassroots outreach to support its mission and to attract and mobilize a new generation of conservative activists coordinated with traditional public relations and marketing to recruit members and donors and to empower the conservative grassroots.[38]

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AIP also reported spending $85,498 for "educational research and media" that went toward "develop[ing] a national media educational program to support three core issues of its mission: taxes and economics, global warming and national defense."[39] Finally, AIP reporting spending $139,808 for "a series of meetings and conversations with economic and business leaders, conservative activists and political leaders [that] were held at various places and times throughout the year to chart the course of the organization," which AIP categorized as "strategic outreach to conservative political leaders and economic thought leaders."[40] AIP reported no spending on independent expenditures in 2007.[41]

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[36] Form 990: Return of Organization Exempt from Income Tax (covering the period of May 1, 2007 to April 30, 2008). Rather than look to total expenses, OGC limits its inquiry to "non-overhead" expenses. Such a presumptive approach poses significant constitutional and statutory concerns. *See EMILY's List*, 581 F.3d at 17 (striking on constitutional and statutory grounds a requirement that certain groups fund their administrative expenses with at least 50% "hard," federally permissible funds regardless of total activity).

[37] Form 990: Return of Organization Exempt from Income Tax (covering the period of May 1, 2007 to April 30, 2008).

[38] *Id.*

[39] *Id.*

[40] *Id.*

[41] *Id.*

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During fiscal year 2008, AIP reported $7,824,950 in total expenditures, of which $2,876,753 was for independent expenditures.[42] Of the remaining $4,948,197, AIP spent $1,719,354 on "management and general expenses," $208,289 on "fundraising expenses," and $3,020,554 on other "program service[s]," including $788,599 on its online advocacy project and $2,231,955 on educational research and media.[43] AIP reported $475,060 in expenses, including an additional $195,119 on its online advocacy project in fiscal year 2009.[44] AIP reported only $18,541 in expenses in 2010, none of which were for program services.[45] AIP has reported no subsequent independent expenditures.[46]

Thus, during the period in which AIP was clearly active, from 2007 through 2010, AIP reported $8,814,634 in expenses, of which only $2,876,753 (less than one-third of AIP's total expenses) was devoted to the nomination or election of a federal candidate. Therefore, in light of AIP's statements of organizational purpose, and given that a "preponderance" of AIP's spending was not for the nomination or election of a federal

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[42] MUR 6081 (AIP), Response (Oct. 17, 2011), Form 990: Return of Organization Exempt from Income Tax (covering the period of May 1, 2008 to April 30, 2009).

[43] *Id.*

[44] Form 990-EZ: Short Form Return of Organization Exempt from Income Tax (covering the period of May 1, 2009 to April 30, 2010).

[45] Form 990-EZ: Short Form Return of Organization Exempt from Income Tax (covering period from May 1, 2010 to April 30, 2011). AIP indicated that it had less than $50,000 in gross receipts for fiscal year 2011. *See* Form 990-N (e-Postcard) (covering the period of May 1, 2011 to April 30, 2012), *available at* http://apps.irs.gov/app/eos/displayEPostcard.do?dispatchMethod=displayEpostInfo&ePostcardId=1895340&ein=260196975&exemptTypeCode=&isDescending=false&totalResults=1&postDateTo=&ein1=26-0196975&state=All...&dispatchMethod=searchEpostcard&postDateFrom=&country=US&city=&searchChoice=ePostcard&indexOfFirstRow=0&sortColumn=ein&resultsPerPage=25&names=&zipCode=&deductibility=.

[46] *See* Details for Committee ID: C90010562 (American Issues Project, Inc.), FEC Candidate and Committee Viewer Project, available at http://www.fec.gov/fecviewer/CandidateCommitteeDetail.do.

candidate,[47] AIP is not a political committee.[48] Rather, AIP is an issue-based organization that made a single independent expenditure over four years. In other words, it is precisely the type of group the *Buckley* court sought to exclude from the definition of political committee through the major purpose limitation.[49]

II. OGC's Calendar-Year Approach Is Improper

Although not alleged in the complaints, OGC advances a novel theory for applying major purpose: the major purpose inquiry involves only a single calendar year, regardless of tax filing status or the group's overall activities over time. This calendar-year approach, which the Commission has never before applied, is wrong for two reasons: (1) it avoids a proper application of the major purpose limitation; and (2) it creates serious due process concerns.

A. The Calendar-Year Approach Swallows the Major Purpose Limitation

The calendar-year approach creates the illusion of implementing the major purpose limitation while creating precisely the sort of problems the Court sought to avoid

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[47] This remains true, even under OGC's approach of looking only to "non-overhead" expenses. AIP reported spending $6,405,110 on non-overhead expenses, of which only $2,876,753, or just less than 45% of AIP's total "non-overhead" spending, was devoted to the nomination or election of a federal candidate. *See NMYO*, 611 F.3d at 678 (concluding that two groups were not political committees because "there is no indication that either group spends a preponderance of its expenditures on express advocacy or contributions to candidates.").

[48] As noted above, the *RTAA* court "[did] not foreclose the Commission from using a more comprehensive methodology" for determining political committee status. 681 F.3d at 557. Even under such a methodology, however, AIP still would not be a political committee because the record before us lacks any additional information suggesting that AIP's major purpose was the nomination or election of a federal candidate. *But see NYMO*, 611 F.3d at 678 (providing that organizational statements or comparing express advocacy spending with all other spending are the only two ways to meet the major purpose test).

[49] As the Eighth Circuit recently observed: "Requiring a group to file perpetual, ongoing reports 'regardless of [its] purpose,' and regardless of whether it ever makes more than a single independent expenditure, is 'no more than tenuously related to' [the state's] informational interest." *Iowa Right to Life Committee, Inc. v. Tooker*, -- F.3d --, 2013 WL 2631177 at *16 (8th Cir. 2013) (*quoting Minnesota Citizens Concerned for Life v. Swanson*, 692 F.3d 684, 876-77 (8th Cir. 2012)).

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in *Buckley*. The major purpose limitation is a *constraint*, saving the Act's definition of political committee by restricting it to only those entities that cross the statutory thresholds and have as their major purpose the nomination or election of federal candidates.[50] Because the Act's definition of a political committee rigidly focused only on a set amount of contributions and expenditures, the Supreme Court determined that this was vague and overbroad and adopted the major purpose limitation to correct these deficiencies. In the words of the Supreme Court:

> The general requirement that 'political committees' and candidates disclose their expenditures could raise similar vagueness problems, for 'political committee' is defined only in terms of amount of annual 'contributions' and 'expenditures,' and could be interpreted to reach groups engaged purely in issue discussions. . . . To fulfill the purposes of the Act they need only encompass organizations that are under the control of a candidate or the major purpose of which is the nomination or election of a candidate.[51]

Thus, the major purpose test is intended to save the statutory definition of political committee by creating flexibility to consider an entity as a whole, even if the entity engages in some political spending that is unambiguously directed at the nomination or election of a candidate.[52]

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[50] *See, e.g.*, 2007 Political Committee E&J at 5602 ("[E]ven if the Commission were to adopt a regulation encapsulating the judicially created major purpose doctrine, that regulation could only serve to limit, rather than to define or expand, the number or type of organizations regarded as political committees.").

[51] *Buckley*, 424 U.S. at 79 (footnotes omitted).

[52] Not surprisingly, the Commission has stated as much. *See* 2007 Political Committee E&J at 5601-5602 ("Applying the major purpose doctrine, however, requires the flexibility of a case-by-case analysis of an organization's conduct that is incompatible with a one-size-fits-all rule. . . . Because *Buckley* and *MCFL* make clear that the major purpose doctrine requires a fact-intensive analysis of a group's campaign activities compared to its activities unrelated to campaigns, any rule must permit the Commission the flexibility to apply the doctrine to a particular organization's conduct."); Federal Election Commission's Memorandum in Opposition to Plaintiff's Motion for Preliminary Injunction 24, *RTAQ I* ("The assessment of an organization's 'major' purpose is inherently comparative and necessarily requires an understanding of an organization's *overall activities*.") (emphasis added). *See also* Defendant Federal Election Commission's Memorandum in Support of Motion for Summary Judgment and Opposition to Plaintiff's

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The calendar-year approach now advanced by OGC would subvert the underlying reason for the major purpose test. While the calendar-year approach superficially attempts to root itself in the statute, it provides precisely the same rigid, "one-size-fits-all rule" roundly rejected in *Buckley* and its progeny. In the case at hand, the calendar-year approach fails to consider AIP as a whole by excluding activity in 2007 and 2009. Instead, OGC focuses solely on a single calendar year. Groups that wish to communicate their message when citizens are most receptive are likely to support or oppose federal candidates during an election year. Thus, by focusing on a single calendar year, OGC's approach artificially limits the major purpose analysis to the time period when spending to support or oppose the nomination of candidates for federal office is likely to be at its highest and disregards all of an organization's non-election activities, undertaken in off-years, regardless of how substantial they may be. As one reputable commentator stated, "[u]nsurprisingly, most citizens begin to focus on and become engaged in political debate once election day approaches."[53]

Assessing a group's major purpose through the myopic window of a single calendar year presents the same problems with the statute that prompted the Supreme Court to adopt a limiting statutory construction: it will inevitably subject many issue-based organizations to the burdens of being a political committee. This problem is illustrated by the following hypothetical. Imagine a group is established and then spends $5,000 in the fall of an election year, $3,000 for independent expenditures and $2,000 for

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Motion for Preliminary Injunction and Summary Judgment 42, *RTAO IV* (making a substantially identical statement).

[53] Kirk L. Jowers, *Issue Advocacy: If It Cannot Be Regulated When It Is Least Valuable, It Cannot Be Regulated When It Is Most Valuable*, 50 Cath. U. L. Rev. 65, 76 (Fall 2000).

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issue advocacy related to a specific bill pending before Congress. In January of the following year, this same group spends $25,000 on issue advocacy related to the same pending legislation. Two months after that, it spends yet another $25,000 on additional issue advocacy. Under OGC's proffered approach, the Commission would never look at the additional $50,000 spent in January and beyond. Rather, since 60% of this group's outlays for the calendar year during which a federal election occurred were for independent expenditures, it would be required to report as a political committee, notwithstanding the fact that only 5% of its total disbursements were for independent expenditures.[54] By failing to consider an entity as a whole, the calendar-year approach misses the larger picture of a group's true major purpose and can easily reach groups engaged primarily in issue advocacy – precisely the outcome the Court in *Buckley* sought to avoid by adopting the major purpose limitation.[55]

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[54] OGC's proposed approach also arbitrarily classifies similarly situated groups differently, based solely on the times at which money is spent. Assume, for example, that another group is established and spends a similar $5,000 in the fall of an election year, but only $2,000 is for an independent expenditure. Assume further that, from January to March of the following year, this other group also spends an additional $50,000, of which $1,000 finances a second independent expenditure and $49,000 finances an issue-oriented legislative effort. Though the overall spending of this group would be identical to the group described above – $3,000 for express advocacy and $52,000 for issue advocacy – under OGC's proposed approach one would be a political committee and one would not. Certainly, the *Buckley* Court would not have endorsed such arbitrary standard nor would it have tolerated the disparate treatment of similarly situated groups under the major purpose test it announced.

[55] According to *RTAA*, the Commission is not "foreclose[d] ... from using a more comprehensive methodology." 681 F.3d at 557. But *RTAA* never approved the Commission using a *less* comprehensive, selective methodology that would frustrate the reason for the major purpose test, which is precisely what would happen if the Commission limited the scope of the major purpose analysis to a single calendar year without consideration of any other spending outside that window.

The calendar-year approach would also give rise to numerous practical difficulties. If a group is a political committee, it must file a statement of organization within ten days of becoming a political committee. Since a group may not know its overall spending *a priori*, there is no way for a group to know when the ten-day period begins to run, or when the first filing is due. Thus, to avoid the risk of finding themselves in a long, drawn-out enforcement action, groups may have to undertake the burdens of a registering and reporting as a political committee during the calendar year as a precaution, or avoid engaging in election-related speech altogether.

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Rather than focus on the limiting language in *Buckley* and its progeny, OGC instead suggests that a contrary interpretation would be inconsistent with the Act, concluding that "a calendar year . . . provides the firmest statutory footing for the Commission's major purpose determination."[56] Never mentioned is that this is the exact opposite of what OGC has recommended in the past, and that the Commission and OGC have routinely looked at activity beyond a single calendar year in its prior enforcement actions.[57] For example, in MUR 5751 (The Leadership Forum), OGC cited to IRS reports showing receipts and disbursements from 2002-2006 before concluding that the Respondent had not crossed the statutory threshold for political committee status.[58] In MUR 5753 (League of Conservation Voters 527, *et al.*), the Commission determined that Respondents "were required to register as political committees and commence filing disclosure reports with the Commission by no later than their initial receipt of contributions of more than $1,000 in July 2003," citing to Respondents' disbursements "during the *entire 2004 election cycle*" while evaluating their major purpose.[59] Likewise, in MUR 5754 (MoveOn.org Voter Fund), the Commission looked to disbursements "[d]uring the *entire 2004 election cycle*" and cited to specific solicitations and

[56] MUR 6081 (AIP), First General Counsel's Report at 16. OGC reasons that this window is "consistent with the Act's plain language" that evaluates the statutory threshold for political committee status upon aggregate contributions or expenditures during a single calendar year. *Id.*

[57] In the past, the Commission has also relied on inactivity post-election cycle when determining that the major purpose test had been met. *See* 2007 Political Committee Supplemental E&J, 72 Fed. Reg. at 5605 (summarizing MUR 5511 (Swiftboat Vets) and MUR 5754 (MoveOn.org)). It is unclear why lack of activity in the next calendar year may be evidence of sufficiently electoral major purpose but actual activity undertaken in the next calendar year should not even be considered.

[58] MUR 5751 (The Leadership Forum), General Counsel's Report #2 at 3.

[59] MUR 5753 (League of Conservation Voters 527, *et al.*), Factual and Legal Analysis at 11 & 18 (emphasis added). The legal underpinnings of this MUR have been undermined for other reasons by *EMILY's List*, 581 F.3d at 12-14.

disbursements made during calendar year 2003 in assessing the Respondent's major purpose.[60] Similarly, in both *GOPAC*,[61] and *Malenick*,[62] courts looked beyond a single calendar year when analyzing major purpose. OGC provides no explanation now for how such prior enforcement actions are consistent with the Act under its new reading.[63] Under OGC's logic – that not using calendar year as a proxy for the major purpose test is contrary to the Act – all past MURs on the topic are legally erroneous. Rather than place the major purpose limitation on firmer statutory footing, OGC's approach repudiates decades of Commission actions in favor of a more expansive regulatory sweep without any prior notice to the public.[64]

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B. The Calendar-Year Approach Raises Serious Due Process Concerns

OGC temporal calendar-year approach to this matter would be a standardless sweep that poses an acute risk for inappropriate targeting of respondents and reverse engineering. During the four and a half years this matter was pending, OGC submitted

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[60] MUR 5754 (MoveOn.org Voter Fund), Factual and Legal Analysis at 12 &13 (emphasis added). The legal underpinnings of this MUR have been subsequently undermined by *EMILY's List*, 581 F.3d at 12-14.

[61] *GOPAC*, 917 F. Supp. at 862-66 (reviewing, among other things, GOPAC's *1989-1990* Political Strategy Campaign Plan and Budget) (emphasis added).

[62] *Malenick*, 310 F. Supp. 2d at 235 (citing Pl.'s Mem., Ex. 1 (*Stipulation of Fact signed and submitted by* Malenick and Triad Inc., to the FEC on January 28, 2000, "listing numerous 1995 and 1995 Triad materials announcing these goals") and Ex. 47 ("Letter from Malenick, to Cone, dated Mar. 30, 1995") among others); *id.* at n.6 (citing to Triad Stip. ¶¶ 4.16, 5.1-5.4 for the value of checks forwarded to "intended federal candidate or campaign committees in *1995 and 1996*.") (emphasis added).

[63] As noted above, the Commission's past political committee status MURs are assailable on other grounds. *See supra* n. 21. From a due process perspective, however, they provide notice to the public as to the scope of activity the Commission considers when conducting a case-by-case political committee status analysis. And, it is notable that, even at the height of its regulatory zeal, the Commission did not believe that the calendar-year approach now advanced by OGC was the proper analysis under *Buckley* or the Act.

[64] Indeed, given the Commission's prior announcement that the public has, through other enforcement actions, been given "notice of the state of the law regarding . . . the major purpose doctrine," 2007 Political Committee E&J at 5606, it is unclear how the Commission could, consistent with the Administrative Procedure Act, adopt OGC's proposed calendar-year approach without first engaging in notice and comment rulemaking.

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three different First General Counsel's Reports,[65] each one applying a different legal theory. In its first First General Counsel's Report circulated to the Commission in April 2009, OGC stated that "the cost to air the 'Know Enough' advertisement and to conduct subsequent polling appears to be significantly greater than *all other known spending of the organization combined*."[66] In its second First General Counsel's Report, circulated to the Commission in September 2011, OGC once again asserted that the cost of AIP's independent expenditure and subsequent polling "appears to be significantly greater than *all other known spending of the organization combined*,"[67] and introduced a new

[65] OGC prepared and circulated its first First General Counsel's Report in this matter just over six months after receiving the first complaint. MUR 6081 (AIP), First General Counsel's Report (dated April 16, 2009). Note that during those six months, OGC conducted research beyond what was included in the complaint without providing any of the information found to AIP. At that time, *Citizens United* was pending decision by the Supreme Court. On June 29, 2009, the Court issued an order for supplemental briefing and reargument which placed several issues pending in this matter squarely before the Court. Thus, it was not an efficient use of Commission resources to pursue this matter pending the outcome of that case. The Court issued its opinion in *Citizens United* on January 21, 2010. *Citizens United v. FEC*, 130 S.Ct. 876 (2010). Just over three weeks later, on February 16, 2010, OGC withdrew its First General Counsel's Report in light of the Court's decision in *Citizens United*. MUR 6081, Informational Memo (Feb. 16, 2010). In spite of the fact that the *Citizens United* decision was issued in January 2010, OGC took over eighteen months to prepare a revised First General Counsel's Report, which was dated September 13, 2011. MUR 6081 (AIP), First General Counsel's Report (Sep. 13, 2011). During that eighteen months, OGC did not provide the results of its additional research to AIP. The second report was quickly withdrawn "to provide further analysis of various issues the Commission discussed at the September 27, 2011 Executive Session." MUR 6081 (AIP), Memorandum (Oct. 3, 2011). Only after this second withdrawal did OGC finally provide the results of its additional research to AIP in a letter stating that "[t]he Office of the General Counsel has reviewed the attached publicly available articles as part of its consideration of this matter," including several referencing spending after 2008, and "is providing you this information so that your client may supplement its submission by responding to it, if it so chooses." MUR 6081 (AIP), Letter from Roy Q. Luckett, Acting Assistant General Counsel for Enforcement to Cleta Mitchell (Oct. 5, 2011). AIP submitted a supplemental response on October 17, 2011, pointing to exculpatory news coverage that OGC subsequently neglected to reference in its final report. MUR 6081 (AIP), Response (Oct. 17, 2011) ("The fact [that AIP is not a political committee] is further underscored by the documents contained in [OGC's] October 6, 2011 letter, in which there are multiple articles about issue-related communications by AIP well after the November 2008 election."). Nearly a year and a half after receiving this response, over three years after the Court's decision in *Citizens United*, four and a half years after the original complaint in this matter, and three federal elections after the first complaint was submitted to the Commission, OGC submitted its third and final First General Counsel's Report to the Commission. MUR 6081 (AIP), First General Counsel's Report (circulated March 13, 2013).

[66] MUR 6081 (AIP), First General Counsel's Report at 14 (dated April 16, 2009) (emphasis added).

[67] MUR 6081 (AIP), First General Counsel's Report at 20 (Sep. 13, 2011) (emphasis added).

argument, asserting that "allowing organizations to use their own fiscal tax year would permit them to manipulate the timeline for activity that can be considered by the Commission."[68]

While both the first and second First General Counsel's Report submitted by OGC focus heavily on spending in 2008, neither explicitly articulates the calendar-year theory OGC now proffers.[69] Rather, both purport to reach their conclusion based on a comparison of "all other known spending of the organization combined." However, in its most recent report in this matter, OGC turns its focus from *all* of AIP's spending to its calendar-year approach.

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Ironically, the *ex post facto* development of a legal theory that is then applied to known facts poses the precise risk OGC warned about in its second First General Counsel's Report: that one may "manipulate the timeline for activity that can be considered by the Commission."[70] Here, OGC could be seen as manipulating the timeline to reach the conclusion that AIP is a political committee. As noted above, the

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[68] *Id.* at 24.

[69] Both earlier reports seek to exclude AIP's spending in 2009, stating "[t]he fact that AIP's known spending in 2009 was less substantial than its spending in 2008 and was not directly related to an election does not change that it may have had federal campaign activity as its major purpose and should have registered and reported as a political committee with the Commission in 2008." MUR 6081 (AIP), First General Counsel's Report at 14 (April 16, 2009); MUR 6081, First General Counsel's Report at 20 (Sep. 13, 2011) ("The fact that AIP's known spending in 2009 was less substantial than its spending in 2008 and was not directly related to an election does not change that it may have had federal campaign activity as its major purpose."). However, they both also purport to compare AIP's expenditures to "all other known spending," including at least some of AIP's spending during the 2007 calendar year. *See* MUR 6081, First General Counsel's Report at 22 n.13 (Sep. 13, 2011). Thus, while the calendar year approach may have evolved out of earlier versions of OGC's reports in this matter, it did not emerge as a clearly articulated doctrine until the third and final First General Counsel's Report. As noted above, even if OGC's calendar year approach had been clearly articulated in its first First General Counsel's Report, it would still have been a wholly inappropriate change from the Commission's prior approach to the major purpose limitation. *See supra* at 15-21.

[70] MUR 6081 (AIP), First General Counsel's Report at 24 (Sep. 13, 2011).

calendar-year framework was developed after the activity had already taken place, complaints were filed, and the pertinent facts were known.[71] Such after-the-fact determinations create the appearance of impropriety, whether or not such impropriety actually exists.[72]

The potential for such targeting is wholly inappropriate, particularly in an agency that regulates core First Amendment activity.[73] As the Fourth Circuit stated, "[u]nguided regulatory discretion and the potential for regulatory abuse are the very burdens to which political speech must never be subject."[74] As the agency tasked with reducing even the appearance of impropriety in the campaign finance system, the FEC must, at a minimum, hold itself to the same standard and reject any approach that may risk such abuse.

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Due process ought to prevent such shenanigans. In *FCC v. Fox Television Station*, the Court admonished that "[i]n the context of a change in policy . . . an agency, in the ordinary course, should acknowledge that it is in fact changing its position and 'show that there are good reasons for the new policy.'"[75] The Court went on to note that

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[71] *See also supra* at 15-21.

[72] This risk is particularly acute in light of recent revelations that officials at the Internal Revenue Service developed screening criteria that targeted certain political groups seeking non-profit status. *See, e.g.*, David Sherfinski and Stephen Dinan, *IRS Auditor Reaffirms That Conservatives, Not Liberals, Were Targeted*, Wash. Times (June 27, 2013) *available at* http://www.washingtontimes.com/news/2013/jun/27/irs-auditor-reaffirms-conservatives-not-liberals-w/?page=all; Stephanie Condon, *IRS: Progressive groups flagged, but tea party bigger target*, CBS News (June 27, 2013) *available at* http://www.cbsnews.com/8301-250_162-57591358/irs-progressive-groups-flagged-but-tea-party-bigger-target/.

[73] *See Mills v. Alabama*, 383 U.S. 214, 218-219 (1966) ("Whatever differences may exist about interpretations of the First Amendment, there is practically universal agreement that a major purpose of that Amendment was to protect the free discussion of governmental affairs. This of course includes discussions of candidates, structures and forms of government, the manner in which government is operated or should be operated, and all such matters relating to political processes.").

[74] *NCRTL*, 525 F.3d at 290.

[75] 132 S. Ct. 2307, 2315-2316 (2012) (*quoting FCC v. Fox Television Stations*, 556 U.S. 502, 515 (2009) ("*Fox I*")).

"[a] fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required."[76] Thus, due process requires that the public know what is required *ex ante*, and that the Commission acknowledge and provide the public with prior notice of any regulatory change.

In the absence of such notice from the Commission, the public should be able to rely upon past Commission actions and statements when attempting to comply with the law. Even though for decades the Commission has not limited its major purpose analysis to a single calendar year,[77] OGC offers no legislative or regulatory change that would justify altering its approach now. For example, BCRA certainly did not change the definition of "political committee." In the words of Senators McCain and Feingold:

> McCain-Feingold didn't directly deal with [political committee status]. Our bill was concerned with the raising and spending of soft money by the political parties, and with phony issue ads run by any organization in proximity to an election. The question of whether and how 527s should be regulated in their fundraising and in their spending on other activities is a question that has to be answered under the Federal Election Campaign Act passed by Congress in 1974, and reviewed by the Supreme Court in the *Buckley* case.[78]

Other supporters of McCain-Feingold made the same point, stating, "Congress, of course, did not amend in [McCain-Feingold] the definition of 'expenditure' or, for that

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[76] *Id.* at 2317.

[77] As noted above, the Commission has routinely looked beyond a single calendar year in its past enforcement actions. *See supra* at 19-21.

[78] Comment of John McCain and Russell D. Feingold on Reg. 2003-07 (Political Committee Status) (Apr. 2, 2004), attached Statement of U.S. Senator Russ Feingold Before the Senate Rules Committee Hearing on Examining the Scope and Operation of Organizations Registered under Section 527 of the Internal Revenue Code March 10, 2004 at 2-3. Although not at issue in this matter, since McCain-Feingold did not alter political committee status, it follows that electioneering communications, a category of communications created by McCain-Feingold, cannot be used to show that an organization has the nomination or election of a federal candidate as its major purpose. To the contrary, such communications, which are not expenditures and so are not for the purpose of influencing a federal election, show a purpose other than the nomination or election of a candidate.

matter, the definition of 'political committee.'"[79] Thus, as the Commission has publicly acknowledged, "Congress has not materially amended the definition of 'political committee' since the enactment of section 431(4)(A) in 1971, nor has Congress at any time since required the Commission to adopt or amend its regulations in this area."[80]

The spending in question in this matter took place in 2008. At that time, groups such as AIP had no reason to suspect that any determination as to its status as a political committee would be based on an arbitrary calendar-year window as OGC has suggested. Had they known, they might have altered their behavior to avoid what the Supreme Court has repeatedly deemed the "burdensome" requirements associated with political committee status.[81] To change the norm now, in a confidential enforcement action, is to move the goalposts in the middle of the game, punish groups who have tried in good faith to comply with the law, and introduce uncertainty into the political process, which can chill independent speech.[82] Due process and our respect for the First Amendment permit none of these outcomes. As we have already said, "Self-serving efforts to unilaterally expand the Commission's jurisdiction and reach so as to generate issues that will create

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[79] Comment of Nancy Pelosi, Steny H. Hoyer, John B. Larson, Janice Schakowsky, *et al.* on Reg. 2003-07 (Political Committee Status) at 2 (Mar. 24, 2004) (signed by one-hundred and forty elected representatives).

[80] 2007 Political Committee E&J at 5597.

[81] *Citizens United*, 130 S. Ct. at 897. *See also MCFL*, 479 U.S. at 253-255 (describing the reporting requirements for political committees).

[82] *See Citizens United*, 130 S. Ct. at 896 ("When the FEC issues advisory opinions that prohibit speech, '[m]any persons, rather than undertake the considerable burden (and sometimes risk) of vindicating their rights through case-by-case litigation, will choose simply to abstain from protected speech – harming not only themselves but society as a whole, which is deprived of an uninhibited marketplace of ideas.'") (quoting *Virginia v. Hicks*, 539 U.S. 113, 119 (2003)) (citation omitted).

new test cases is not something that an agency is generally required to do nor is it appropriate unless required."[83]

III. Conclusion

Given that AIP did make a large independent expenditure, it seems clear that *one* of its purposes may have been the nomination or election of a candidate. As *Buckley* made clear, and as *Leake* and *RTAA* reaffirmed, however, to be considered a political committee under federal law, the nomination or election of a candidate must be *the* major purpose of an organization. Here, AIP's public statements, as well as a comparison of its overall spending, show that the nomination or election of candidates is not *the* major purpose of AIP.

For the above reasons, we voted against OGC's recommendations in MUR 6081, since AIP was not required to register with the Commission and file reports with the Commission as a political committee.

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[83] MUR 5541 (The November Fund), Statement of Reasons of Vice Chairman Matthew S. Petersen and Commissioners Caroline C. Hunter and Donald F. McGahn at 18 (footnotes and citations omitted).

DONALD F. MCGAHN II
Vice-Chairman

Date 7/25/13

CAROLINE C. HUNTER
Commissioner

Date 7/25/13

MATTHEW S. PETERSEN
Commissioner

Date Jul. 25, 2013

13044340568

RE: A few minutes of your time
Lerner Lois G
to:
wsovonick
07/09/2008 07:09 PM
Hide Details
From: "Lerner Lois G" <Lois.G.Lerner@irs.gov>
To: <SFC >,
History: This message has been replied to.

Give me a call at SFC between 12 and 1 tomorrow or 11:30-=12:30- on Friday

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From: wsovonick SFC SFC
Sent: Wednesday, July 09, 2008 1:20 PM
To: Lerner Lois G
Subject: A few minutes of your time

Hi Lois!

Do you have a few minutes for a phone call sometime this week on a business matter? I'm working with a (new) attorney on a MUR in the pre-RTB stage. It's regarding a 501 (c) (4) group that we believe recently filed with the IRS. There's nothing on this group in the IRS Internet Disclosure database at this time. We were hoping to find out from you what we are legally entitled to (pre-RTB) and how/who to go toe request whatever information might be available. It's likely there is only an initial filing by the group, but that would be helpful.

Thanks in advance for your good advice!

Wade
SFC

SFC 001125

RE: A few minutes of your time
Wade Sovonick to: Lerner Lois G 07/10/2008 09:28 AM

Thanks Lois. 12 today would work for us, if it's still good for you. I'm sure this will only take about 5 or 10 minutes.

Wade

FECOGC000002

SFC 001126

FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

Report of Telecon

MUR **5988**
DATE: **July 10, 2008**
TIME: **12:00 PM**
BY: **Wade J. Sovonick, William A. Powers**

DETAILS:

On this date and time we spoke with Lois G. Lerner, Director of the Exempt Organizations Division of the Internal Revenue Service. Lois oversees the administration and enforcement of federal tax laws that apply to more than 1.8 million organizations recognized by the IRS as exempt from tax.

We asked Lois to provide whatever information that was legally available to us on the American Future Fund's application for 501 (c) (4) (c4) status. We also asked her to explain the application process.

Lois said that c4 applicants file using IRS form 1024. This form is only made public after the IRS approves the application. The form is not made public during approval process, nor is it made public if the application for c4 status is denied.

As per statute, Lois could not confirm or deny whether AFF has applied for c4 status or if it has been denied status. Lois could confirm that there is no approval currently available for public review for a c4 by that name.

The below application process is from the IRS website. Lois basically explained this process to us:

The Process: Upon receipt, exemption applications accompanied by the required user fee are initially separated into three groups: (1) those that can be processed immediately based on information submitted, (2) those that need minor additional information to be resolved, and (3) those that require additional development.

If your application falls in the first or second group, you will receive either your determination letter or a request for additional information, via phone, fax, or letter, within approximately 60 days of the date the application was submitted. If your application falls within the third group, you will be contacted once your application has been assigned to an EO specialist.

Click here for a chart illustrating the IRS process for exempt organizations determination letter requests.

Current Status of Applications Requiring Additional Development: Cases received as of February 2008* are currently being assigned. Some types of applications must be assigned to specialized agents due to the issues involved, however, and may take longer. These applications are also assigned in order from the date they are received.

Lois said that a group may spend money like a c4 during the application process. If approved, the IRS will retroactively grant status to the time of the initial application. If it is ultimately denied status, then it will be taxed like a non c4 entity.

There is an appeals process if the group is denied c4 status that can become lengthy, depending on the circumstances. The group ultimately has the right to sue if the IRS affirms its decision to deny after the appeals process is exhausted.

SFC 001128

RE: Question from FEC about nonprofit groups
Lerner Lois G to: WPowers 02/03/2009 05:11 PM
Cc: "Callahan Jeanne", wsovonick

You lucked out--I was sitting here reading email when your email popped up--otherwise it could have been weeks! Make sure you cc Jeanne Callahan on my emails. She keeps me honest.

From: WPowers[redacted]
Sent: Tuesday, February 03, 2009 5:10 PM
To: Lerner Lois G
Cc: Callahan Jeanne; [redacted]
Subject: RE: Question from FEC about nonprofit groups

Thank you so much for your help and your quick reply.

"Lerner Lois G"
<[redacted]>

02/03/2009 05:05 PM

To <WPowers[redacted]>
cc <wsovonick[redacted]>, "Callahan Jeanne"
[redacted]
Subject RE: Question from FEC about nonprofit groups

I've sent your e-mail off to some of my staff. Will get back to you once I've heard from them.

From: WPowers[redacted]
Sent: Tuesday, February 03, 2009 4:55 PM
To: Lerner Lois G
Cc: wsovonick[redacted]
Subject: Question from FEC about nonprofit groups

Dear Ms. Lerner,

I am an Enforcement Division attorney at the Federal Election Commission. Several months ago, Wade Sovonick and I spoke with you about the American Future Fund, a 501(c)(4) organization that had submitted an exemption application the IRS in March of 2008. I greatly appreciated you taking the time to explain the exemption process to me and the background information has been very useful in that case. I was hoping that you might be able to answer a follow-up question about the American Future Fund, as well as a similar question about another group, the American Issues Project. Any assistance you could provide would be greatly appreciated.

When we spoke last July, you had told us that the American Future Fund had not received an exemption letter from the IRS. I understand that you are not able to give us any information on the group's

application if it is pending, but could you please tell me whether the IRS has since issued an exemption letter to the American Future Fund? Also if the IRS has granted American Future Fund's exemption, would it be possible for you to send me the publicly available information and documents related to American Future Fund?

I was also wondering if you could tell me whether the IRS had issued an exemption letter to a group called the American Issues Project? The group also appears to be the successor of two other organizations, Citizens for the Republic and Avenger, Inc. Were either of these groups granted an exemption? As with the American Future Fund, could you please provide any information and documents that would be publicly available in relation to the American Issues Project, Citizens for the Republic, or Avenger, Inc.? I was also wondering whether you could briefly explain to me how your office typically handles a group that has been granted an exemption letter but later changes its name and/or board of directors.

Thank you very much for all of your help. If you do have any information that you can share with me about either the American Future Fund or the American Issues Project, please feel free to contact me by either email or phone (202) 694-1650.

Sincerely,

William A. Powers
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Tel: SFC
Fax

FECOGC000006

SFC 001130

RE: FW: Question from FEC about nonprofit groups
Lerner Lois G to: WPowers 03/06/2009 01:24 PM
Cc: "Kindell Judith E"

Sorry we took so long

Lois G. Lerner
Director, Exempt Organizations

From: WPowers[redacted] [mailto:WPowers[redacted]
Sent: Thursday, March 05, 2009 9:47 AM
To: Lerner Lois G
Cc: Kindell Judith E
Subject: Re: FW: Question from FEC about nonprofit groups

Thank you very much for this information, it looks as if it will be very useful. You and your staff have been most helpful in this matter.

Many thanks,
Bill

William A. Powers
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Tel: [redacted]
Fax: [redacted]

"Lerner Lois G" <Lois.G.Lerner@irs.gov>

03/03/2009 06:38 PM

To <WPowers[redacted]>
cc "Kindell Judith E" [redacted]
Subject FW: Question from FEC about nonprofit groups

Checked with Judy Kindell, my senior technical advisor, and here is what she found. Hope this helps

SFC 001131

Lois G. Lerner
Director, Exempt Organizations

From: Kindell Judith E
Sent: Tuesday, February 03, 2009 5:21 PM
To: Lerner Lois G; Fish David L
Cc: Choi Robert S; Kant Deborah R; Callahan Jeanne
Subject: RE: Question from FEC about nonprofit groups

I went on Lexis and did not find either American Future Fund or American Issues Project on the website. I did find the following information about Citizens for the Republic, Inc., but nothing for Avenger, Inc. It appears that the last update that Lexis used was August 2008. I looked in the DC file on our website which was updated 1/9/09 and the only one of these organizations that I found was Avenger, Inc - using the same EIN as Citizens for the Republic (see info below). If AFF or AIP are not located in DC, we would need to know what state they are in to locate them on our website.

Copyright (c) 2004 Tax Analysts Exempt Organizations List

Copyright (c) 2004 Tax Analysts
Exempt Organizations List

February 2004

LENGTH: 86 words

DEPARTMENT: Exempt Organizations List (EOL)

TYPE: Official Announcements, Notices, and New Releases

CITE: EIN 26-0196975

HEADLINE: EXEMPT INFORMATION FOR CITIZENS FOR THE REPUBLIC INC (Status Date: August 2008)

AUTHOR: Internal Revenue Service

Section 501(c)(4) -- Civic Leagues, etc.

SUMMARY:
Information on the exempt status of this organization was obtained from the IRS Exempt Ogranization master list last updated on August 19, 2008.

GEOGRAPHIC: District of Columbia

INDEX:
Exempt Organization, Status Approval

FECOGC000009

SFC 001132

RE: Thank you for your help
Lerner Lois G to: WPowers 04/03/2009 06:38 PM
Cc: "Choi Robert S"

You're more than welcome. Let us know anytime we can help--If you need assistance in the future--please cc Robert.S.Choi[redacted] That way your email is less likely to sit around until I get to it! Rob's folks are the ones who will get you what you need. Thanks for the comment about Mike--I'll let him know of your nice words.

Lois G. Lerner
Director, Exempt Organizations

From: WPowers[redacted]
Sent: Friday, April 03, 2009 4:49 PM
To: Lerner Lois G
Subject: Thank you for your help

Dear Lois,

I wanted to thank you again for all of the help you have provided in answering my several inquiries about 501(c)(4) organizations. The information that you and your staff provided to me has been very useful, and I have also learned a great deal along the way. I also wanted to let you know that Michael Seto was extremely helpful this week in providing me the requested documents both promptly and professionally.

Once again, I greatly appreciate your help and hope to have a chance to work with you and your staff in the future.

All the best,
Bill

William A. Powers
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Tel:[redacted]
Fax[redacted]

FECOGC000012

SFC 001133

Re: Question from the FEC about an exempt organization
Lerner Lois G to: WPowers 02/02/2010 10:31 AM
Cc: "Choi Robert S", "Letourneau Diane L"
History: This message has been replied to.

I'll have someon check ans we'll get back to you. Jeanne Callahan has retired so when emailing me please cc Diane Letourneau, my ne Executive Assistant. Thanks
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

From: WPowers[redacted]
To: Lerner Lois G
Cc: Choi Robert S; Callahan Jeanne
Sent: Tue Feb 02 09:35:21 2010
Subject: Question from the FEC about an exempt organization

Dear Lois,

Last year you and your staff were able to provide me with copies of publicly available information filed by American Issues Project, Inc., a 501(c)(4) organization. At that time, we received the group's 8718, 1024, as well as its 8868 and 990 for 2007. If it has been filed, would it be possible for your office to provide a copy of American Issues Project's Form 990 for 2008? Also, if the group has filed any additional forms since it filed its 2007 Form 990 dated December 18, 2008, could you please have any publicly available forms sent to me as well?

Thank you very much for all of your help again. If you or your staff have any questions, please do not hesitate to contact me at [redacted]

Many thanks,
Bill

William A. Powers
Attorney, Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Tel:[redacted]
Fax[redacted]

SFC 001134

RE: Your request
Lerner Lois G to: WPowers
Cc: "Fish David L"

02/03/2010 03:43 PM

You're welcome

Lois G. Lerner
Director, Exempt Organizations

From: WPowers[redacted]
Sent: Wednesday, February 03, 2010 1:30 PM
To: Lerner Lois G
Cc: Fish David L
Subject: Re: Your request

Lois,

Thank you very much for checking your records and your quick response. This information is very useful and I greatly appreciate your help.

Thanks again,
Bill

William A. Powers
Attorney, Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Tel: [redacted]
Fax:

"Lerner Lois G" [redacted]

02/03/2010 12:24 PM

To <WPowers[redacted]
cc "Fish David L" [redacted]
Subject Your request

FECOGC000014

Per your request, we have checked our records and there are no additional filings at this time. The filer has requested an extension to file. Hope that helps.

Lois G. Lerner
Director, Exempt Organizations

FECOGC000015

03/31/2009 17:15 FAX SFC IRS-Exempt Organizations 001

SFC 001136

FAX

INTERNAL REVENUE SERVICE
TAX EXEMPT & GOVERNMENT ENTITIES
EXEMPT ORGANIZATIONS

Work Site Address:
1750 Pennsylvania Avenue, NW
Washington, DC 20038

Mailing Address:
1111 Constitution Avenue, NW
Washington, DC 20224

Telephone Number: SFC

Fax Machines: SFC

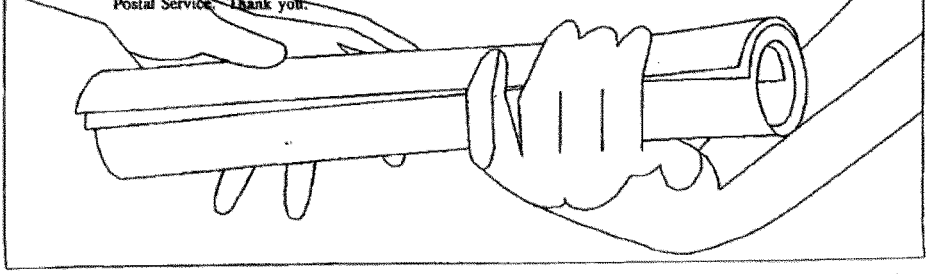
To: Mr. Bill Powers

From: Michael Seto SFC
EO Technical Guidance

Comments:
1) Form 1024/2007 F990 -
American Issues Project, Inc.
(formerly Citizens for the Republic, Inc.)
2) Form 1024 -
American Future Fund

NUMBER OF PAGES (including this coversheet): _____

This communication is intended for the sole use of the individual to whom it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient or the employee or agent for delivering the communication to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication may be strictly prohibited. If you have received this communication in error, please notify the sender immediately by telephone, and return the communication at the address above via the United States Postal Service. Thank you.



6081/6094

SFC 001137

1/21/09 Case activation mtg w/ Bill, Ann, and Anita

American Leadership Project – nothing now

McCain ad – noted in the 6094 complaint
mentioned in the FGCR for
issue tag line at end

Post-election activity – Bill to confirm

Talk to Sid/ [illegible] ppl opt

← plan – confirm no add'l info available
then circ short memo w/ sever/merger
b/f exec session on ALP rec w/ RTB recs
memo by Feb. 6

check NOW

get a copy of NovF SOR al send around

American Issue Project –

$2 million on "Know Enough" – Form 5 filed
Aug 19th – right before Dem Convention
changed name twice in corp filings w/ Delaware
AIP became name 2 wks before the ad

Exp adv – under (a) and (b)

Spoke to Lois Lerner – need to show primary purpose is
in connection w/ AFF consistent w/ 501(c)(4) purposes

Bill will call again here to see if an IRS determ has been made reference

FECOGC000195

FECOGC001160

SFC 001138

If a QNC - still an issue re PC status

Major purpose - $3 million - don't know %
b/c haven't filed anything w/
the IRS yet

nothing else reported exc
$1 million on Reid/Dodd ad
and opinion poll
costs unknown

in defense Δ does not say how $3mil
relates to overall spending

but says majority of spending
on grass root lobbying and
education on issues

If not a QNC - 4416 violation

(c)(4)?

corp receipts? $17 million reported in
Commitments

but no info to say corp

SFC 001139

KRW allegation – no info

↓ masking identity until right b/f Obama ad
Manipulating corp structure – corp shell

no rec Know
will make app rec at a later date if investigat
reveals K&W evidence

Call Craig – letter went to AJ too
/
1/21 left vm

Bill to check ERJ on 114.10 (any re "described" in 501(c)(4))

MCFL – Δ is not very detailed re spending, activities

Exec Director – stmts – plus reported active

sufficient to investigate MP – acknowledg inv
Many show otherwise

Donor liability – Harold Simmons

Entire $2.88 million spent on ad comp from him

He has had 2 prior MUR for exceeding limits

Involved in Swift Boat – $5 million

Cf. Chamber – control, established
don't know about Simmons – one page resp – pressive, contributors no info [illegible]

SFC 001140

no action at this time

Technical violat - another Form 5 for GE
one day over

Bill to check w/ Debbie re threshold

SFC 001141

Final draft GRECO report

"Jane S. Ley" to: 'Lerner Lois G', Lowe Justin , 'Kindell Judith E', "SFC @fec.gov'", "'Leventhal, Robert'" , "'Simmons, Nancy'", 'SFC @fec.gov", 'SFC @fec.gov", SFC @fec.gov" — Nov 18 2011 09:09 AM

Hide Details

From: "Jane S. Ley" <SF @oge.gov>

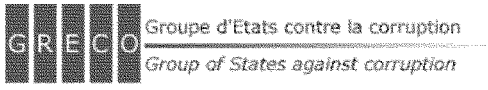
To: 'Kindell Judith E' <SFC >, 'Lerner Lois G' <SFC >, Lowe Justin <SFC >, "'Leventhal, Robert'" SFC , "'Simmons, Nancy'" <SFC >, "SFC @fec.gov'" <SFC @fec.gov>, 'SFC @fec.gov" <SFC @fec.gov>, 'SFC @fec.gov" <SFC @fec.gov>, 'SFC @fec.gov" <SFC @fec.gov>

Attached please find for your review the final draft report with consolidated edits and comments from the US. My hope is to send this to GRECO by COB today. Please, if you, can let me know no later than 4:00 pm if you have any changes, catch any typos or see some missing words. If you can reply even earlier that would be great. I have the other half of this review I am working on as well.
Thank you all for your help,

Jane Greco Eval III Rep (2011) 2E USA Party Funding_MASTER (11.18.11).docx

SFC 001142

OGE's working master (to include DOJ, IRS, and FEC edits)



DIRECTORATE GENERAL OF HUMAN RIGHTS AND LEGAL AFFAIRS
DIRECTORATE OF MONITORING

Strasbourg, 14 October 2011

Confidential
Greco Eval III Rep (2011) 2E (P2)
Theme II

Third Evaluation Round

DRAFT
Evaluation Report on the United States of America
Transparency of Party Funding

(Theme II)

For adoption by GRECO
at its 53rd Plenary Meeting
(Strasbourg, 5-9 December 2011)

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OGE's working master (to include DOJ, IRS, and FEC edits)

I. INTRODUCTION

1. The United States of America joined GRECO in 2000. GRECO adopted the First Round Evaluation Report (Greco Eval I Rep (2003) 2E) in respect of the United States at its 17th Plenary Meeting (22-25 March 2004) and the Second Round Evaluation Report (Greco Eval II Rep (2005) 10E) at its 30th Plenary Meeting (9-13 October 2006). The afore-mentioned Evaluation Reports, as well as their corresponding Compliance Reports, are available on GRECO's homepage (http://www.coe.int/greco).

2. GRECO's current 3rd Evaluation Round (launched on 1 January 2007) deals with the following themes:

   - **Theme I – Incriminations:** Articles 1a and 1b, 2-12, 15-17, 19 paragraph 1 of the Criminal Law Convention on Corruption, Articles 1-6 of its Additional Protocol (ETS 191) and Guiding Principle 2 (criminalisation of corruption).

   - **Theme II – Transparency of party funding:** Articles 8, 11, 12, 13b, 14 and 16 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and - more generally - Guiding Principle 15 (financing of political parties and election campaigns).

3. The GRECO Evaluation Team for Theme II (hereafter referred to as the "GET"), which carried out an on-site visit to the United States from 4 to 6 May 2011, was composed of Mr Igor ŠOLTES, Chairman, Court of Audit (Slovenia), Mr David WADDELL, Secretary, Standards in Public Office Commission (Ireland) and the scientific expert, Ms Patricia PENA, Former Director of Regulatory Services of the UK Electoral Commission (United Kingdom). The GET was supported by Mr Wolfgang RAU, Executive Secretary of GRECO and Mr Björn JANSON, Deputy to the Executive Secretary. Prior to the visit the GET experts were provided with a comprehensive reply to the Evaluation questionnaire (document Greco Eval III (2011) 3E, Theme II) as well as copies of relevant legislation.

4. The GET met with officials from the following US Government Executive Branch ~~institutions~~agencies: the Federal Election Commission (FEC) (including the Chair, Vice Chair and several ~~departments~~offices), the Internal Revenue Service (IRS), the Office of Government Ethics (OGE) and the ~~State~~ Departments of State and ~~of~~ Justice. Furthermore, the GET met with representatives of the following political organisations: the Democratic National Committee, the Libertarian National Committee, the National Republic Senatorial Committee and, in this context, with representatives of various law firms (""Skadden Arps", "Perkins Coie", "Wiley Rein" and a political accounting firm ("Huckaby Davis Lisker"). The GET also met with the following non-governmental organisations: "Campaign Legal Center", "International Foundation for Electoral Systems (IFES), "Center for Responsive Politics" and "Campaign Finance Institute".

5. The present report on Theme II of GRECO's Third Evaluation Round - transparency of party funding - was prepared on the basis of the replies to the questionnaire and the information provided during the on-site visit. The main objective of the report is to evaluate the measures adopted by the United States' authorities in order to comply with the requirements deriving from the provisions indicated in paragraph 2. The report contains a description of the situation and a critical analysis. The conclusions include a list of recommendations adopted by GRECO and addressed to the United States of America in order to improve its level of compliance with the provisions under consideration.

6. Theme I of the Third Evaluation Round (Incriminations) is dealt with in a separate document (Greco Eval III Rep (2011) xxE Theme I)

II. TRANSPARENCY OF PARTY FUNDING

GENERAL PART

Introduction

7. The United States is a federal constitutional democracy in which the President (Head of State and Government) and the Congress are elected through federal elections. Voter registration and elections in the United States are managed at the state and local levels, not primarily at the federal level and there are many variations among the states and territories in this respect.

8. Considering the size of the USA and its specific legal system where the competences are divided between the federal and state level – including political financing which is the subject of the current report – and taking into consideration the limits of the evaluation visit, the present report focuses principally on the transparency and means for supervision of political financing at the federal level in the United States.

Presidential elections

9. Elections for President and Vice President are indirect elections in which voters cast ballots for a state of electors of the U.S. Electoral College, who in turn directly elect the President and Vice President. They occur quadrennially and coincide with the general elections at federal, state and local levels. These elections are regulated by both federal and state laws. Each state is allocated a number of Electoral College electors equal to the number of its Senators and Representatives in Congress; additionally, Washington D.C. is given a number of electors equal to the number held by the smallest state. Under the Constitution, each state legislature is allowed to designate a way of choosing electors. Thus, the popular vote on the election day is conducted by the various states and not directly by the federal government. The Congress is the final judge of the electors.

10. The nomination process, including the primary elections and the nominating conventions, were never specified in the Constitution, and have instead been developed by the states and the political parties.

11. The U.S. Constitution contains the criteria qualifying who can be elected President: "No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States" (U.S. Const. art II, § 1, cl. 5). The most recent presidential elections were held on 4 November 2008.

Congressional elections

12. The United States Congress is the bicameral legislature of the federal government, consisting of the Senate and the House of Representatives. The Senate is the "upper house" composed of

100 senators, two from each state. Senators serve staggered[1] six-year terms. The House of Representatives, "the lower house", represents the states in proportion to the population of each state; the total number of representatives is fixed at 435. Each of these represents a particular district and is elected for a two-year term. While it is theoretically possible to have total turnover in the Senate every six years and in the House of Representatives every two years, the actual turnover is much less since most incumbents seek re-election. Both senators and representatives are chosen through direct elections.

13. Each state determines its own criteria for ballot access and, consequently, these criteria vary from state to state. Most candidates represent a political party that has automatic ballot access in the state. If not, candidates would be required to gather a specified number of signatures from registered voters in their jurisdiction; however, the qualifications for a party to have assured ballot access also vary from state to state.

14. There are no threshold rules for party representation in the national assemblies. A candidate who wins the election may serve regardless of party affiliation or if not affiliated with any party. However, the U.S. Constitution contains qualification criteria in respect of senators: "No person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen" (U.S. Const. art I. § 3, cl. 3) and in respect of representatives: "No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen" (U.S. Const. art I, § 2, cl. 2).

15. The most recent congressional elections were held on 4 November 2008 (at the same time as the presidential elections) and on 2 November 2010 ("midterm elections"). At the following 112th Congress, the Senate consisted of 51 Democrats, 47 Republicans, 1 independent member and 1 independent Democrat. The House of Representatives consisted of 242 Republicans and 193 Democrats. Since the 112th Congress convened, 3~~1~~ Democrats and 2~~1~~ Republicans representative have resigned.

Overview of the political funding system

16. The U.S. Constitution makes no reference to the definition, role and funding of political parties and election candidates in the United States. Nonetheless, the tenth amendment ~~stipulates~~ states that the powers not conceded to the United States shall be delegated to particular states. In spite of this autonomy granted to the states, article VI of the Constitution, better known as the "Supremacy Clause", noticeably overrules the authority of state legislation ~~at~~ when federal ~~law~~ law conflicts with state law. The First Amendment to the U.S. Constitution also protects the "Freedom of Speech," stating that "Congress shall make no law . . . abridging the freedom of speech." ~~Another constitutional challenge to U.S. political financing and spending is the strong protection of the "Freedom of speech", a principle contained in the first Amendment to the U.S. Constitution.~~

17. The general political funding regulatory regime at the federal level is comprised in the Federal Election Campaign Laws, which are the Federal Election Campaign Act of 1971, as amended, (FECA), the Presidential Election Campaign Fund Act, as amended, and the Presidential Primary Matching Payment Act, as amended, contained in the United States Code (USC).

[1] The terms are "staggered", so every two years, approximately one-third of the Senate is up for election.

18. The FECA has been amended several times, in 1974, to limit the contributions to election campaigns and to establish a monitoring agency, the Federal Election Commission (FEC) to enforce the law. Further changes of the FECA to streamline the disclosure process were made in 1976 and 1979. The FECA was again amended, in 2002, by the passing of the "Bi-partisan Campaign Reform Act" (BCRA) which aimed at limiting election campaign financing to money that complies with federal contribution limits, and source prohibitions, and reporting requirements under the FECA ("hard money"), as opposed to fundraising not regulated within the framework of the FECA ("soft money"). While federal law prohibited corporations and labour organizations from making contributions and expenditures prior to BCRA, BCRA amended the FECA to prohibit corporations and labour organizations from making electioneering communications[2]. (federal terms: See Hamilton Parnman Reform Act, Pub. L. 107-55, Sec 201(a), 116 Stat. 81, 88). However, the prohibitions against corporations and labour organisations making independent expenditures and electioneering communications were declared unconstitutional by the Supreme Court in the case *Citizens United v. Federal Election Commission*, further explained below. The BCRA prohibited corporations and labour organisations from making contributions in connection with any federal election. However, the prohibition was overruled by the Supreme Court in the case "*Citizens United v. Federal Election Committee*", further explained below.

19. Regulations The statutory provisions concerning the financing of elections to federal offices, ie the offices of President and Vice President and senators and representatives of the United States Congress, are set forth in the FECA (2 U.S.C. §§ 431 – 457). The FECA contains limitations on the amounts persons may give to federal candidates and committees and prohibits contributions from certain sources. In addition, the FECA is a statute that requires public disclosure of, among other things, the income receipts and expenditure disbursements of the candidates and entities engaged in the elections as well as the identities of persons/entities contributing above a certain threshold. The FECA also requires disclosure by those persons other than political committees who make certain independent expenditures and electioneering communications.

Comment [wgp1]: The U.S. refers to these as receipts and disbursements rather than income and expenditures. Disbursements include everything a committee has spent money on. "Expenditure" is a term of art under the FEC that means something less than that

20. The financing of elections for federal offices, President, Vice President, members of or delegates to the House of Representatives and Senators is overseen and regulated by the Federal Election Commission (FEC or Commission) which is the central supervisory body of the system of political financing under the FECA. The FEC is the main body to enforce the provisions of the FECA and to provide for transparency of political financing at the federal level.

21. Political parties in the USA are broad structures which are rather loosely organised and the two major parties (the Democratic Party and the Republican Party) have, for example, no legal personality. Instead, they are represented at the national level by national party committees. For political finance purposes, FECA (2 U.S.C. 431(16)) defines a political party as "an association, committee, or organization which nominates a candidate for election to any federal office whose name appears on the election ballot as the candidate of such association, committee, or organization"[3].

[2] An electioneering communication is any broadcast, cable, or satellite communication that clearly refers to a Federal candidate and airs within a specified time frame before an election and is targeted to the relevant electorate. 2 U.S.C. 434(f)(3)(A); 11 CFR 100.29(a).

[3] For purposes of public funding of Presidential campaigns, the Presidential Election Campaign Fund Act further defines the terms *major party*, *minor party*, and *new party*. *See* 26 U.S.C. 9002(6)-(8); 11 CFR 9002.6-.8.

Formatted: English (United States)

22. The FECA distinguishes between political parties and party committees. The political parties themselves are not directly involved in the political financing; that being carried out by the so called political committees which are the formal organisations that political parties are obliged to have for financing purposes. There are several different types of political committees (this is further explained below). For financing purposes, a political party committee represents a political party and must be registered with the Federal Election Commission (FEC). According to the Code of Federal Regulations (CFR), a party committee is "a political committee[4] which represents a political party and is part of the official party structure at the federal, state, or local level " (11 CFR 100.5(e)(4)).[5] It is the political party committee of each political party that manages the finances of the party which involves, in particular, raising and spending money on behalf of the party; the political parties themselves have no or only limited financial activity outside the political committee structure.

23. An important feature of the US election system is that it is, to a large degree, candidate centred. Even though candidates are most often accredited as members of a particular party, they are entitled to a wide range of autonomy and candidates in the USA run their own campaigns as separate entities from any political party with which they may be associated. The parties naturally are involved in selecting their candidates and in trying to assure those candidates' success, but the candidates run their campaigns as individuals associated with a party. Candidates who claim no party affiliation may also seek election to federal office subject to state ballot access laws. A candidate running for a federal office is obliged to designate a principal campaign committee (2 U.S.C. § 431(35)) to receive contributions and make expenditures on his/her behalf. Campaign committees have to register with the FEC. For purposes of determining whether an individual is a candidate, contributions and expenditures are aggregated on the basis of an election cycle. An election cycle begins on the first day following the date of the previous general election and ends on the date of the general election for the office the individual seeks (2 U.S.C. 431(25); 11 CFR 1003.3(b)). However, there is no specific period defined as a campaign period. Party committees file financial disclosure reports multiple times each year. Further, in election years, party committees (and any other "person") who make certain types of expenditures must file additional reports regarding those expenditures. These reports disclose general operating expenses including salaries, rent, utilities and fundraising costs whether related to a particular election or not, and other general operating expenses. Also, party committees must report independent expenditures and the coordinated expenditures for specific candidates. 2 U.S.C. 441a(d). Parties at the state and local levels report their financial activity with respect to state and local elections based on the laws of the various states. Any expenses that are shared by the federal and state and local parts of the party organisations, must first be paid and reported by the federal committee and then may be partially reimbursed by the state and local committee.

Comment [USA2]: Please delete this sentence or clarify its meaning

24. The FECA also provides for "authorized committees" (2 U.S.C. § 431(6)). Such a committee is the principal campaign committee or any other political committee authorised by a candidate to receive contributions or make expenditures on behalf of such a candidate, or which has not been disavowed.

[4] Generally speaking, a political committee is "any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 during a calendar year or which makes expenditures aggregating in excess of $1,000 during a calendar year . . . ." *See* 2 U.S.C. 431(4)(a); 11 CFR 100.5(a) and (c).

[5] Federal law also defines national, state, district or local, and subordinate committees. *See* 11 CFR 100.13 and 100.14.

25. ~~Following a Supreme Court decision in 2010 ("The Citizens United v. FEC", further explained below (paragraph ___) corporations and labour organisations are no longer prohibited from providing contributions to election campaigns.~~ Corporations and labour organizations may not make contributions to federal candidates and party committees. They may, however, ~~They may also~~ establish political committees called separate segregated funds (SSF). Money contributed to an SSF is held in a separate bank account from the general corporate or union treasury. The corporation or union that sponsors an SSF is the SSF's "connected organization." A connected organisation may use its general treasury funds to pay the costs of establishing, administering and soliciting contributions to its SSF, without those funds being considered to be contributions to the SSF. The restricted class of a corporation consists of the corporation's executive and administrative personnel, stockholders and families of the two previous groups. A labour organisation's restricted class consists of the union's members, its executive and administrative personnel and the families of the two previous groups. SSFs may make contributions to federal candidates and party committees but must register with the FEC. Political Action Committees (PACs)[6] that are not SSFs (i.e. nonconnected committees) may solicit contributions from the general public. A PAC may contribute in turn to a federal candidate(s) or party committee or makes expenditures to influence the outcome of an election independently of a candidate. Both ~~PACs and~~ SSFs and nonconnected committees are required to register with the FEC.

26. Generally, there are between 8,000 and 9,000 political committees registered with the FEC at any time and these are all subject to the monitoring of the FEC, according to the FECA. As of ~~29 February 2011~~[1] November 2011, approximately 400 political party committees were registered with the FEC. Most of these party committees represent the Democratic and Republican parties and are part of the official party structure at the national, state or local level.

Comment [USA3]: As of 11/10/11, there are approximately 11,000 political committees registered with the FEC. Please see "Committee Designation" ftp://ftp.fec.gov/FEC/cm12.txt

Comment [USA4]: See "Committee Type" ftp://ftp.fec.gov/FEC/cm12.txt

27. As follows from the text above, the pertinent requirements of federal political finance law apply to political committees, of which party committees are a subset, rather than to political parties more generally. For example, political committees must have a treasurer, who is obliged to fulfill certain record keeping and reporting obligations (2 U.S.C. 432). Federal law also imposes limits and prohibitions on the contributions a person may make to "political committees established and maintained by a national political party" or by a "state committee of a political party" (2 U.S.C. 441a(a)(1)(B) and (a)(1)(D)). At the federal level, ~~political~~ national party committees and their agents parties may not raise and spend funds outside the source prohibitions, amount limitations, and reporting requirements of the FECA. As for property, some parties own a building where they are housed and necessary office furniture and equipment, but little else. The purchase of such assets is considered an "expenditure" and as such is to be reported through the relevant committee. At the state and local level funds raised and spent for non-federal elections as well as the purchase of office buildings is left to state law.

28. At the federal level, those organisations that qualify as "political committees" under FECA must register with the Federal Election Commission and report their financial activities to that Commission; 2 U.S.C. 433 (registration) and 434 (reporting). A political party organisation

[6] "Political action committee" (PAC) is not a defined legal term. Rather, "PAC" is used to describe "a political committee that is neither a party committee nor a candidate committee. PACs sponsored by a corporation or labor organization are called separate segregated funds (SSFs); PACs without a corporate or labor sponsor are called non-connected committees." Federal Election Commission Campaign Guide—Non-connected Committees, May 2008, *available at* http://www.fec.gov/pdf/nongui.pdf.

becomes a "political committee" under the FECA when its activity, in connection with a federal election, exceeds one of several registration thresholds of either $1,000 or $5,000 in federal income or expenditures or certain other political party activities, *see* 2 U.S.C. 431(4) ("political committee" definition).

29. Political committees (including various types of committees, such as party committees) must file a statement of organisation to the FEC within 10 days after becoming a political committee, 2 U.S.C. 433(a) (when the income/expenditure exceeds a certain amount (either $1,000 or $5,000). A statement of organisation is to include the name, address, type of committee, identity of the treasurer and custodian of records and accounts for the committee, list of any connected organisations or affiliated committees[7] and list of all banks or depositories used by the committee (*see also* Federal Election Commission, Campaign Guide: Political Party Committees (2009), *available at* http://www.fec.gov/pdf/partygui.pdf. Registration for political finance purposes does not grant any political party any recognition beyond the political committee status and the ability to take advantage of political party contribution limitations.

30. A political committee may incorporate for liability purposes only (11 CFR 114.12, *see also* Advisory Opinion 2005-15, WV Republican Committee); Federal Election Commission, Campaign Guide: Political Party Committees (2009), *available at* http://www.fec.gov/pdf/partygui.pdf.

31. (A list of all political parties that had candidates on the ballot in the 2010 federal elections could be created by consulting the state election officials identified in the FEC's publication, *Combined Federal/State Disclosure and Election Directory 2010*, Attachment 6, and available at http://www.fec.gov/pubrec/cfsdd/cfsdd.shtml.)

Public Funding

Direct Public funding

32. At the federal level, public funding is available only in connection with presidential elections. There have been a number of proposals to extend public funding also to Congressional elections since the introduction of Presidential public funding in 1976. None has been enacted by Congress.

[7] Committees may be considered affiliated in various contexts. For example, "[a]ll contributions made by the political committees established, financed, maintained, or controlled by a State party committee and by subordinate State party committees shall be presumed to be made by one political committee" (11 C.F.R. 110.3(b)(3)). The FEC has explained 11 CFR 110.3(b)(2) to mean that "a State party committee and the local party committees in that State are affiliated with each other and hence share one limit on contributions they receive" (Advisory Opinion 2005-02). Separate segregated funds established by the same corporation will also be deemed affiliated. As explained in Advisory Opinion 2007-12, "the Act and Commission regulations provide that political committees, including separate segregated funds, that are established, financed, maintained or controlled by the same corporation, person, or group of persons, including any parent, subsidiary, branch division, department, or local unit thereof, are affiliated. Contributions made to or by such political committees are considered to have been made to or by a single political committee (2 U.S.C. 441a(a)(5), 11 CRF 100.5(g)(2) and 110.3(a)(1). However, in contrast to affiliation, a connected organisation is "any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee (2 U.S.C. 431(7). In Advisory Opinion 2010-16, the FEC stated that "Corporations, labor organizations, membership organizations, cooperatives, and trade associations may serve as connected organizations of their separate segregated funds. Payments by a connected organisation for the establishment, administration, or solicitation of contributions to its separate segregated fund are exempt from the definitions of contribution and expenditure (2 U.S.C. 441b(b)(2)(C) and 11 CFR 114.1(a)(2)(iii)).

33. Presidential public funding is provided for qualifying party nominating conventions, presidential general election candidates and presidential primary election candidates in that order of priority. All public funding is voluntary and some candidates choose not to participate. The public funding programme is contained in 26 U.S.C. 9001 to 9042.

34. The primary and general election presidential candidates may be funded for their electoral campaigns; the convention funding is provided to partially offset the cost of each party's presidential nominating convention. In general, in order for an expense to be eligible for payment with the public funds it must be in connection with or in furtherance of, the candidate's campaign or the party's presidential nominating convention and must not be illegal (e.g. fines resulting from the violation of law, or expenditures for an illegal purpose).

35. The conditions that must be met vary somewhat depending on whether the recipient is a candidate for his/her party's nomination for president, a candidate for president in the general election, or the party receiving funds for its presidential nominating convention. One common feature for obtaining public funding is that the recipient must agree to limit the spending. The law sets a base amount for each spending limitation that is adjusted annually for inflation. In the 2008 Presidential election the limitations were $42.05 million for primary election candidates ($10,000,000 base amount times the cost of living adjustment), $16.82 million for major party nominating conventions ($4,000,000 base times the cost of living adjustment), and $84.1 million for Presidential general election candidates of a major party ($20,000,000 base times the cost of living adjustment). In addition, candidates seeking public funding must agree to limit their personal campaign spending to no more than $50,000. Primary election candidates must also agree to limit campaign spending in each state. Those limitations in the 2008 election ranged from a minimum of $841,000 ($200,000 base times the cost of living adjustment), to a maximum of $18,279,300. The variation between states is caused by the differences in voting age population of the states. Each recipient must also agree to repay any amounts that the Commission determines were not properly spent, or to which they were not entitled, to keep records of receipts and disbursements, to cooperate and facilitate an audit of the entities' books and records and pay any civil penalties resulting from the campaign's activity.

36. Concerning *presidential primary election candidates*, the public funding system in the primary election period is a contribution matching programme. Only $250 per contributor may be matched. To gain entrance to the programme, a candidate must be seeking the nomination of a political party and, in order to demonstrate a broad base of support, have received contributions from the residents of at least 20 states that total $5,000 per state counting no more than $250 per contributor. The maximum amount that may be received by the candidate is one-half of the applicable spending limitation.

37. Concerning the *presidential nominating convention*, the entities that arrange the nominating convention for the major political parties (Republican and Democratic Parties) are each eligible for a public funding grant. The grant equals the spending limitation. Minor parties may also receive partial funding based on the percentage of votes the party's candidate for president received in the previous election compared to the average number received by the major party candidates. Non-major party conventions have been funded once since the programme's inception in 1976.

38. In respect of the *presidential general election candidates*, the nominees of the two major parties are eligible for the general election grant equal to the applicable spending limitation. Fundraising is limited to a special fund used to defray limited compliance-related legal and

accounting costs that are not subject to the spending limitation. Minor party[8] and new party[9] candidates may also receive partial funding based on the percentage of votes the candidate or the party's candidate for president received in the previous election compared to the average percentage received by the major party candidates. The candidate of a minor or new party may also qualify for post election funding based on the percentage of votes received by the presidential candidate in the current election. A candidate that is eligible under both provisions will receive the greater of the amounts calculated under the two new and minor party provisions. Minor and new party candidates may supplement public funds with private contributions and may exempt some fundraising costs from their expenditure limit, they are otherwise subject to the same spending limit and other requirements that apply to major party candidates (2 U.S.C. 9003 and 11 CFR 9003.3).

39. The money used for public funding is set aside by individual tax payers. Each ~~person~~ natural person (other than a resident alien) who files a tax return is eligible to set aside $3 per year for the purpose of providing funds for the system described above. These funds accumulate over the four-year presidential election cycle and are disbursed during the election season. No other funds are available. The allocation of the funds is specified by law: the nominating conventions are to be funded first, the general election candidates second and the presidential primary election candidates last. Should there be a shortage, the available funds are distributed equitably between the candidates. For example, if all candidates are entitled to receive $1 million on a specific date and candidate A is entitled to $250,000, candidate A will receive one-quarter of the funds available. There have been election cycles where sufficient funds were not available to pay all of the presidential primary candidates in a timely fashion, but all candidates to date have been paid their full entitlement ~~before the election~~. No other allocation system is used.

40. In the 2008 election, both eligible parties accepted funding for their nominating conventions. In the primary election, eight candidates accepted matching funds. Approximately $30 million was disbursed. Not included among the candidates accepting primary election public funds were then Senators Barack Obama, Hillary Clinton and John McCain. Each of these candidates was able to raise significantly more in contributions than they would have been permitted to spend if they had participated in the public funding system. In the 2008 election, for the first time since the programme's inception in 1976, a candidate of one of the two major political parties chose not to accept public funding for the general election, namely Barack Obama. The spending limitation in the 2008 election for publicly funded candidates, primary and general elections combined, was approximately $126 million plus some allowances for primary fundraising costs and legal and accounting expenses. President Obama's campaign was able to raise contributions totaling $745 million.

Indirect public funding

41. There is no provision for indirect public funding in the form of free air time or the use of premises by parties or candidates and the like. However, presidential campaigns may be provided with security measures by the US Secret Service. In the general election period, the two major party candidates have security provided and other candidates may be entitled to similar security based on policies determined in advance by the Secret Service. As a matter of national security, the President and Vice President travel on government aircraft and other

[8] A minor party candidate is the nominee of a party whose candidate received between 5 and 25 percent of the total popular vote in the preceding Presidential election. 26 U.S.C. 9002(7).

[9] A new party candidate is the nominee of a party that is neither a major party nor a minor party. 26 U.S.C. 9002(8).

vehicles. However, their campaigns are required to reimburse the Government for such services provided.

Private Funding under the FECA

General framework

42. The ~~primary source~~ most substantial source of political financing during the last general Presidential election was in respect of presidential elections, and the exclusive source of funding in relation to elections to Congress is the private funding; the most dominant private funding comes from ~~donations~~ contributions by individuals, followed by funding from political action committees, according to the US authorities.

Comment [wqp5]: President Obama did not use public funds. John McCain did. Overall, the most money spent came from private funding. We can't speak to this upcoming Presidential election, though.

43. The FECA defines *contributions* as any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing an election for federal office or the payment of compensation for personal services rendered to a political committee without charge (2 U.S.C. 431(8)(A)). The FECA also contains a detailed list of what the term contribution does not include (2 U.S.C. 431(8)(B)), *inter alia*, services provided by volunteers on behalf of a committee or candidate or the use of certain private premises etc provided that the cumulative value of such events does not exceed $1000 in respect of a single election or $2000 per year.

44. *Expenditures* are defined in the FECA as any purchase, payment, distribution, loan, advance, deposit, or gift of money made by any person or a written contract, promise or agreement to make an expenditure for the purpose of influencing any election for federal office (2 U.S.C. 431(9)(A)). The law also contains a detailed list of what is not included, *inter alia*, news or editorials distributed through media unless such media (newspapers etc) is owned by the political party, committee or candidate etc (for further details, consult the law). It is to be noted that generally the law does not provide any monetary limitations in respect of expenditures/spending, which is a fundamental principle confirmed in 1976 by the United States Supreme Court when it determined that such limitations would violate any person's free speech rights under the US Constitution (*See Buckley v. Valeo*, 424 U.S. 1, 23 (1976)).

45. The FECA also contains reporting requirements upon the various political committees to the Federal Election Committee (FEC), which is the monitoring mechanism, and public access to such reports, which is explained under the specific part of "Transparency", below.

Anonymous donations

46. No anonymous contributions in excess of $50 may be accepted by any candidate or candidate's political committee, 2 U.S.C. 432(c)(2); 11 CFR §110.4(c)(3). No one may make a contribution in another person's name (2 U.S.C. 441f).

Cash and in-kind donations

47. Contributions in cash of more than $100 are prohibited (2 U.S.C. 441g).

48. The monetary value of an in-kind contribution is subject to the same limits as monetary contributions. Their value is determined at normal commercial purchase, rental etc price. In accordance with 11 CFR 100.52(a) and (d), in-kind contributions include: goods and services

offered free of charge (such as equipment and facilities); goods and services offered at less than the usual and normal charge; payments by a third party of committee bills; and advances of personal funds.

Party memberships subscriptions

49. Under 11 ~~Code of Federal Regulations (CFR)~~CFR 100.52(a), a *subscription* falls within the definition of a contribution: "A gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office is a contribution." As such, it is subject to the amount limitations and source prohibitions that apply to contributions. However, political parties in the United States generally do not charge membership fees.

Income from property and party business

50. The issue of income from property has been subject to consideration by the Federal Election Commission. The following principles apply according to its "Campaign Guides". When a political committee sells or leases an asset (such as a mailing list), the full amount received from the purchaser is generally considered to be a contribution to the committee unless the committee had purchased or developed the asset for the committee's own use rather than as a fundraising item; the asset has an ascertainable market value; rental of the asset comprises only a small percentage of the committee's overall use; and the purchaser pays the usual and normal charge. Any payment in excess of that is considered a contribution. *See* Advisory Opinion 2002-14 (Libertarian National Committee).

51. A state or local party committee may lease a portion of its office building at the usual and normal charge. If the building is purchased or constructed with any funds not subject to the limits, prohibitions and reporting requirements of the FECA, all rental income must be treated the same way. Conversely, if the building is purchased or constructed solely with funds subject to the limits, prohibitions and reporting requirements of the FECA, the income may be treated as such funds.

52. ~~Non-connected committees, candidate committees, and party committees~~Political committees may raise money by earning interest and dividends on invested funds, 11 CFR 103.3(a). For example, a committee may invest contributions it has received in a savings account, a money market fund or a certificate of deposit. Interest and dividends are not contributions (and are therefore not subject to limits) but they must be reported (11 CFR 104.3(a)~~)(4)(vi)~~).

Loans

53. A loan or line of credit from a bank is not considered a contribution provided that 1) the loan bears the bank's usual and customary interest rate for the category of loan involved; 2) the loan is evidenced by a written instrument; 3) the loan is subject to a due date or amortisation schedule; and 4) the loan is made on a basis which assures repayment (2 U.S.C. 431(8)(B)(vii)).

54. In addition, there are separate provisions governing loans that are the result of an advance on a candidate's brokerage account, credit card, home equity line of credit or other line of credit available to the candidate (2 U.S.C. 431(8)(B)(xiv)).

55. Other loans, including a loan to the campaign from a member of the candidate's family, are considered a contribution to the extent of the outstanding balance of the loan (11 CFR

100.52(b)(2)). An unpaid loan, when added to other contributions from the same contributor, must not exceed the contribution limit (11 CFR 100.52(b)(1)). Repayments made on the loan reduce the amount of the contribution, and once repaid in full, a loan no longer counts against the contributor's contribution limit (11 CFR 100.52(b)(2)). However, a loan exceeding the limit is unlawful even if it is repaid in full (11 CFR 100.52(b)(1)). Besides being reported as a contribution, a loan must be continuously reported as a debt until it is fully repaid (11 CFR 104.3(d)).

56. An endorsement or guarantee of any loan also counts as a contribution in respect of the outstanding balance of the loan (11 CFR 100.52(b)(3)). Repayments made on the loan reduce the amount of the contribution. Once the loan is repaid in full, the endorsement or guarantee no longer counts against the endorser's or guarantor's contribution limit. If a written loan agreement does not stipulate the portion for which each endorser or guarantor is liable, then individual contributions are calculated by dividing the amount of the loan by the number of persons who have endorsed or guaranteed it.

57. An extension of credit outside of a creditor's ordinary course of business is considered a contribution (11 CFR 116.3). If the creditor is incorporated, an extension of the credit beyond the ordinary course of business would result in a prohibited contribution.

Fundraising activities

58. A national committee of a political party "may not solicit, receive, or direct to another person a contribution, donation, or transfer of funds or any other thing of value, or spend any funds, that are not subject to the limitations, prohibitions and reporting requirements" of the FECA 2 U.S.C. 441i(a)[10]. Federal candidates, officeholders, and their agents generally may not "solicit, receive, direct, transfer or spend funds in connection with an election for federal office unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act" (2 U.S.C. 441i(e)(1).[11]. However, federal officeholders and candidates "may attend, speak at, or be a featured guest at a fundraising event for a state, district, or local committee of a political party" (2 U.S.C. 441i(e)(3)). Amounts spent by a national or state committee of a political party to raise funds that will be used for federal election activity must be from funds subject to the limitations, prohibitions and reporting requirements of the Act. 2 U.S.C. 441i(c).

59. The full purchase price of a fundraising item or tickets to a fundraising event (provided/hosted by a political committee) is considered a contribution. For example, when a person buys a $50 ticket to a fundraising dinner, the amount of the contribution is $50, regardless of how much the meal costs the committee. A person who buys several tickets to a fundraiser makes a contribution in the amount of the total purchase unless the contribution is intended as a joint contribution (11 CFR 100.53).

Contributions from entities related to a party

60. Party political committees may contribute funds directly to federal candidates, subject to the contribution limits (2 U.S.C. 441a(d)). National and state party political committees may make

[10] Also, state and local party committees must use funds "subject to the limitations, prohibitions, and reporting requirements of the Act" when they expend or disburse that money for Federal election activity. 2 U.S.C. 441i(b).
[11] Federal candidates, officeholders and their agents are also restricted in the funds they may "solicit, receive, direct, transfer or spend in connection with" a non-federal election. 2 U.S.C. 441(e)(1)(B).

additional "coordinated expenditures", subject to limits, to help their nominees in general elections (11 CFR 109.30). Party political committees may also make unlimited "independent expenditures" to support or oppose federal candidates. National party political committees, however, may not solicit, receive, direct, transfer, or spend funds that are not subject to the limits, prohibitions and reporting requirements of the FECA, 2 U.S.C. 441i(a). Finally, while state and local party political committees may spend unlimited amounts on certain grassroots activities specified in the law without affecting their other contribution and expenditure limits (for example, voter drives by volunteers in support of the party's presidential nominees and the production of campaign materials for volunteer distribution), they must use only funds subject to the limits, prohibitions, and reporting requirements of the FECA when they finance "Federal election activity." (*See definition of Federal Election Activity*, 75 Fed. Reg. 55,257 (Sept. 10, 2010); *see also* 11 CFR 100.24 and 300.31.)

Contributions from corporate entities and labour organisations

61. Corporations and labour organisations ~~have in the past been~~are prohibited by 2 U.S.C. 441b ~~("The Bipartisan Campaign Reform Act" of 2002 (BCRA)~~ from making contributions ~~in connection with any federal election in which electors for President, Vice President, or members of Congress, are voted for, as well as a primary election, political convention, or caucus held to select nominees~~ to federal candidates and party committees. (Political committees that are incorporated for liability purposes may make contributions (see paragraph 28 above). However, in Citizens United v. Federal Election Commission, the Supreme Court held that corporate expenditures independent of candidates and party committees, as well as electioneering communications, cannot be limited, ~~the above mentioned prohibition under the BCRA was overruled by the United States Supreme Court holding in the case "*Citizens United v. Federal Election Committee*" (2010) that corporate funding in candidate elections cannot be limited by the BCRA~~ as that would violate the right to freedom of speech under the US Constitution. This judgment (voted 5-4) has triggered a debate in the United States as it has opened up ~~for~~ the possibility of independent corporate ~~contributions~~ spending in elections, which in the past was not allowed as a principle. However, the Court's decision did not alter the disclosure ~~rules~~ obligations of contributors or donors, ~~of donors, as provided for in BCRA sections 201 and 311~~).

62. Corporations and labour organisations may establish separate segregated funds (SSF's), SSF's are political committees that ~~raise~~ solicit voluntary contributions from a restricted class of individuals associated with the corporation or labour organisation and use those funds to support federal candidates and political committees. Like other political committees they file financial disclosure reports with the FEC that are publicly available (2 U.S.C. 441b(b)(2), 441a(a)(1)-(5)).

63. Limited Liability Partnerships and Limited Liability Companies taxed as partnerships may make contributions that are attributed to the members of those companies (11 CFR 110.1(g). Unincorporated businesses and partnerships may, however, contribute to political committees and candidates within the limits prescribed by FECA (11 CFR 110.1(e)).

Contributions from contractors to the public service

64. It is prohibited for any person who enters into any contract with the United States or any department or agency thereof, entailing the provision of goods and/or services to the federal government to make any contribution to any political party, committee or candidate in connection with a federal election (2 U.S.C. 441c).

Foreign contributions

65. Foreign nationals may not make contributions or donations to influence federal, state or local elections (2 U.S.C. 441e). FECA defines "foreign national" as either a "foreign principal" under 22 U.S.C. 611(b) or an "individual who is not a citizen of the United States or a national of the United States who is not lawfully admitted for permanent residence" (2 U.S.C. 441e(b)). The term "foreign principal" includes governments of foreign countries, political parties of foreign countries, and various business associations "organized under the laws of or having [...] principal place of business in a foreign country".

~~*Other sources*~~*Independent political campaign expenditures (not under control of a party or candidate committee)*

66. Under federal law, individuals and groups other than those identified above may make unlimited "*independent expenditures*" in connection with federal elections. An independent expenditure is an expenditure for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is made independently from the candidate's campaign (2 U.S.C 431(17)). To be considered independent, the communication must not be made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or his/her authorised committee or a political party, or any of their agents. While there is no limit on how much anyone may spend on an independent expenditure, the law does require persons making independent expenditures to report those expenditures in excess of certain amounts and to disclose the sources of the funds they used, 2 U.S.C. 434(c). The public can review these reports at the FEC's Public Records Office or on the FEC's Web site.

Comment [USA6]: This paragraph is out of context unless title is changed. It is not about transparency of party or candidate spending

Limits in respect of contributions

67. Federal election law establishes a general framework that applies similarly to all political committees. This framework includes contribution limits and source prohibitions. As noted above, a significant distinction under the FECA is whether the entity is a "political committee" and if so, of what sort. "Affiliated" political committees (as defined in 2 U.S.C. §441a(a)(5) and 11 CFR §100.5(g)) share a contribution limitation both in terms of what they can receive from a contributor and in terms of how much they may contribute to candidates or other political committees as if they were a single political committee.

68. As long as the separate contributions themselves do not violate the amount limitations and source prohibitions of the Act, there is no limit to the total amount of contributions a political committee may receive, or to the amount a political committee may spend to influence an election, as long as the spending does not constitute a contribution to another political committee. Publicly financed presidential committees are the exception: they must agree to limit spending and in some cases fundraising, in order to qualify for public funds.

Comment [USA7]: Please clarify. Do you mean that publicly financed general election campaigns cannot accept contributions?

69. The FECA places limits on contributions provided by individuals and groups to candidates, party committees and political action committees (PAC) (when the PAC will use those funds to make contributions to candidates and party committees). 2 U.S.C. 441a; 11 CFR Part 110. The chart below shows how the limits apply to the various participants in federal elections.

Contribution Limits 2011-12	To each candidate or candidate committee per	To national party committee per calendar year	To state, district & local party committee per calendar year	To any other political committee per calendar year	Special Limits

	election				
Individual may give	$2,500	$30,800	$10,000 (combined limit)	$5,000	$117,000 overall biennial limit: • $46,200 to all candidates • $70,800 to all PACs and parties
National Party Committee may give	$5,000	No limit	No limit	$5,000	$43,100 to Senate candidate per campaign[2]
State, District & Local Party Committee may give	$5,000 (combined limit)	No limit	No limit	$5,000 (combined limit)	No limit
PAC (multicandidate) [1] may give	$5,000	$15,000	$5,000 (combined limit)	$5,000	No limit
PAC (not multicandidate) may give	$2,500	$30,800*	$10,000 (combined limit)	$5,000	No limit
Authorized Campaign Committee may give	$2,000	No limit	No limit	$5,000	No limit

Tax deduction etc

70. Contributions for federal elections are not tax deductible for federal tax purposes. Deductibility for state and local tax purposes is a matter of state and local legislation and may vary from jurisdiction to jurisdiction.

Limits in respect of expenditure

71. While there are limits on contributions by individuals and groups to candidates, party committees and political action committees when the PACs use those funds to make contributions to candidates and party committees as demonstrated above, there are generally no limitations on campaign spending in the US system. In its 1976 decision in *Buckley v Valeo*, the Supreme Court held that such limitations would violate the freedom of speech provisions of the Constitution (424 U.S. 1, 23 (1976)). Therefore, with the exceptions noted below, there are no quantitative limitations on spending. (The FECA, however, does provide some qualitative restrictions. For example, no candidate may use campaign contributions for "personal use.").

72. There is a coordinated party expenditure limitation for national and state party committees. These allow national and state party committees to spend on their candidate's election campaign and to make such expenditures in consultation, coordination or cooperation with those candidates, 2 U.S.C. 441a(d). The limitations are adjusted annually to account for changes in the cost of living index and in some cases the voting age population of the candidate's constituency. The 2011 Coordinated Party Expenditure Limits were $88,400 for nominees to the House of Representatives in respect of states with only one representative and $44,200 for such nominees in all other states. The limits in respect of Senate nominees range from $88,400 to $2,458,500, depending on each state's voting age population.

73. In addition to these limitations, party committees may make contributions to candidates within the limitations noted in the table above, and may make unlimited expenditures independently on behalf of, or in opposition to, candidates. Other types of expenditure that a party makes on behalf of itself and its candidates include the party's overhead, administrative and fundraising expenses and relevant expenses exempted from the definition of expenditure at 11 CFR 100.30 to 100.55. The national committee of a political party has a coordinated party expenditure limitation for its candidate for the Office of President as well as its candidates for national legislative office. State committees of political parties only have coordinated party expenditure limits for elections to federal legislative offices.

74. There are also provisions at state and local level authorities relating to spending on elections at local and state level; the same Constitutional free speech protection applies to those elections as at the federal level.

75. As noted above, in exchange for public funding, presidential candidates and political party national nomination conventions agree to abide by spending limitations. Similarly, there are few qualitative restrictions on spending by political committees and candidates that participate in the presidential public funding programme; candidates are prohibited from converting campaign funds to personal use and 2 U.S.C. 439a(a) specifies a number of specifically authorised uses of contributions by candidates as well as the prohibition on conversion to personal use and on the use of those funds for travel on certain non-commercial aircraft.

III. TRANSPARENCY OF PARTY FUNDING - SPECIFIC PART

i) Transparency (Articles 8, 11, 12 and 13b of Recommendation Rec(2003)4)

Books, accounts, records and reporting

76. As stated above, the financing of political parties is channeled through the so called *political committees* (and not the political parties as such) and these are subject to record keeping and reporting requirements. All political committees, as well as all other parties, committees, associations, funds, or other organizations that are organized and operated primarily for the purpose of influencing the election of candidates for public office, fall under the category "political organizations" under section 527 of the Internal Revenue Code and can qualify for tax exemption under that section if, where required, they adhere to certain disclosure and reporting requirements. While this status provides certain tax benefits, it does not in any way lessen or alter an organization's reporting requirements under federal election law. Furthermore, virtually all political committees fall under the category "political organizations" under section 527 of the Internal Revenue Code which are exempt from taxation.

Political committees

77. Organisations that according to 2 U.S.C. 431(4) qualify as political committees (i.e. they receive contributions or make expenditures over certain thresholds, e.g. $1,000 for state level associations or group of persons, party etc, or $5,000 for a local unit of an association and thus have to register with the FEC) are subject to the record keeping and reporting requirements under the FECA. The record keeping requirements for all political committees are very similar. Organisations that do not qualify as political committees, even if associated with a party or other political committee, are either not covered or are subject to significantly fewer reporting and record keeping requirements.

Comment [USA8]: Please clarify to what organizations you refer

a) Record keeping

78. As a main rule, entities are required to report all receipts and all disbursements to the Federal Election Commission if they qualify as "political committees" under the FECA. There is no distinction between income for regular party operations and campaign expenses unless a contributor specifies, or "earmarks"[12] a contribution for a particular candidate (11 CFR 110.6).

79. There are several provisions in federal political finance law and implementing regulations that relate to record keeping of political committees. The basic provisions (2 U.S.C. 432(c) and 11 CFR 102.9.) require that the treasurer of a political committee shall keep an account in respect of all contributions received by the committee. In respect of contributions in excess of $50 the account must also include the name and address of any person who makes such a contribution together with the date of the contribution and the amount. Moreover, the accounts are to include the identification (name, address, occupation, and the name of the contributor's employer) of any person who makes a contribution or contributions aggregating more than $200 during a calendar year, together with the date and amount of any such

[12] An earmark is an instruction or designation that results in a contribution being made to, or money being expended on behalf of, a clearly identified federal candidate. 2 U.S.C. 441a(a)(8).

contribution, and these must be listed individually. Contributions that–, aggregated over a calendar year or election year, do not meet the $200 threshold are reported in the aggregate. However, contributions from other political committees must always be detailed regardless of amount.

80. All loans, regardless of source, are detailed in the reports of the recipient committee. All other types of receipts, (refunds received, inter committee transfers, interest income etc), are reported. Depending on their nature, they are all detailed in the reports if not subject to the $200 threshold (11 CFR 104.3). Specific additional record keeping requirements apply to loans received from a lending institution and those obtained for a campaign by the candidate (11 CFR 104.14(b)(4). Added to these specific requirements for individual transactions, the implementing regulations require each person obliged to file disclosure reports to maintain records to allow those reports to be verified, explained, clarified and checked for accuracy and completeness. Examples of such records include bank account statements, vouchers, worksheets, receipts, bills and accounts (11 CFR 104.14(b)(1). As noted above, the definition of expenditure includes promises to pay and so the same record keeping requirements that apply to expenditures apply to debts, 2 U.S.C. 431(9). Loans have specific and detailed record keeping requirements. Loans that are not from commercial lenders are considered as contributions and are subject to the contribution record keeping rules. Generally, loans and other debts that are forgiven are also considered as contributions and are reported as such. However, when the debtor is unable to satisfy those debts and provision is made to settle debts for less than full value, such settlements are reviewed by the Federal Election Commission to assure that they are commercially reasonable in order not to constitute a contribution. The settlement must be disclosed, 11 CFR Part 116. Assets that are acquired by a political committee are subject to the disbursement record keeping requirements when purchased. Except for items donated to a political committee for sale (securities, artwork etc.), there are no separate provisions for the reporting of, or record keeping for, assets other than cash.

81. Concerning disbursements the accounts are to include the name and address of the payee, the date of the disbursement, the amount disbursed and the purpose of the disbursement. If the disbursement is made as a contribution to a candidate's campaign, either monetary or non-monetary, the identity of the candidate and the office s/he is seeking is to be noted. As parties at various levels are permitted to spend a limited amount in coordination with the candidate and an unlimited amount independently of a candidate, these disbursements must identify the benefiting candidate in the records and political finance reports. In addition to the accounting of disbursements, for all disbursements in excess of $200, the records must include a receipt or invoice from the payee or a cancelled cheque to the payee. There are separate provisions for disbursements made by credit card. However, there are allowances for limited volunteer activities, voter registration activities and "get out the vote activities" that refer to a candidate that need not disclose the identity of the candidate or candidates referenced. Only very minor amounts may be disbursed in currency.

82. As a main rule, both monetary and non-monetary contributions are to be covered by the record keeping and reporting requirements. However, there are a number of exemptions designed to promote participation by individuals in the electoral process. Among these exemptions are the time and some incidental expenses of volunteers, if not otherwise compensated. Non-monetary contributions are valued at their usual and normal charge and contributions resulting from the provision of goods and services at less than the usual charge are valued at the difference between the amount paid and the normal charge. If the contribution is non-monetary, the goods or services must be described and recorded as both a contribution and a disbursement, 11 CFR

100.51 to 100.57 (defining "contribution" under the FECA) and 11 CFR 100.71 to 100.94 (providing exceptions to the definition of "contribution").

b) Reporting requirements (filing reports with the FEC)

83. The FECA (2 U.S.C. 434) provides detailed rules in respect of the submission of the financial reports to the Federal Election Commission according to the following:

84. *Principal campaign committees of a congressional candidate*: a pre-election report is to be filed 12 days before any election in which that candidate participates; post election report 30 days after the general election; and quarterly reports during the election year. In other calendar years, they are to submit quarterly reports. Principal campaign committees are to report, within 48 hours of receipt, any contributions of $1,000 or more received by any authorised committee of that candidate during the period beginning 20 days before any election and ending 48 hours before the election.

85. *Principal campaign committees of a candidate for the office of President*: monthly reports are to be filed if they have received contributions or had expenses exceeding $100,000, otherwise quarterly; a pre-election report is to be filed 12 days before the general election and a post election report 30 days after the general election. In other calendar years, they are to submit monthly or quarterly reports. Principal campaign committees are to report, within 48 hours of receipt, any contributions of $1,000 or more received by any authorised committee of that candidate during the period beginning 20 days before any election and ending 48 hours before the election.

86. *Political committees (other than authorised committees):* quarterly reports are to be filed; a pre-election report is to be filed 12 days before a primary election if the committee had contributions or expenditures in connection with that election and before a general election; a post election report is to be filed 30 days after the election; all during the election year. In other calendar years, these committees are to submit semi-annual reports. Alternatively, they may file monthly reports.

87. National Party Committees must file monthly reports in both election and non-election years.

88. *Authorised committees:* Authorised campaign committees' information is contained in the reports of the principal campaign committee, noted in paragraph 84 above. ~~are to report, within 48 hours of receipt, any contributions of $1,000 or more received during the period beginning 20 days before any election and ending 48 hours before the election.~~

89. The FEC prescribes the forms that the political committees use (see http://www.fec.gov/info/filing/shtml for examples of these forms). Most reports are filed electronically and there are very specific filing requirements for such reports. Electronically filed reports may be viewed as if they were filed on paper forms or may be searched or copied electronically. However, the Senate campaign expenditures are not submitted directly to the FEC and as these are not filed electronically there are delays in providing such information to the FEC.

Entities other than political committees

90. The record keeping and reporting requirements described above generally apply to political committees. However, other organisations and individuals who make expenditures or disbursements in connection with federal elections are also required to make reports of those

expenditures or disbursements for independent expenditures and for electioneering communications when certain reporting thresholds are triggered (2 U.S.C. 434(c) and 2 U.S.C. 434(f)).

91. Entities that do not qualify as political committees, for example, issue based groups, state-level political committees and ballot initiative groups, may be subject to reporting requirements at the federal level based on federal tax law, or may be subject to reporting requirements at the state or local level for political activity.

92. ~~Federal tax law, the Internal Revenue Code, imposes reporting and disclosure requirements on tax exempt organisations under section 527. Generally, the groups of organisations that do not meet the definition of "political committee" and therefore do not report their financial activities under the FECA are instead subject to the reporting and disclosure requirements of federal tax law. Tax exempt groups are, for example, public charities and private foundations, social welfare organisations, labour unions, trade associations and political organisations. Tax exempt organisations must file an annual information return ("Form 990"[48]) with the Internal Revenue Service (IRS). An exception to this general rule is that the political organisations (which are considered political committees) disclose financial activity to the FEC or to state campaign finance authorities are not required also to report to the IRS. All Form 990 filers must report the names and addresses of significant donors (generally more than $5,000 per year) to the IRS.~~ The Internal Revenue Code imposes certain activity and reporting requirements on organizations that wish to be tax exempt. Section 527 of the IRC provides tax exemption for parties, committees, associations, funds, or other organizations that are organized and operated primarily for the purpose of influencing candidate elections. These organizations provide information regarding contributors and expenditures to the FEC if they meet the test of a "political committee". Section 527 organizations that are not required to report their contributor and expenditure information to the FEC (or to a state), are still required to report the following information to the IRS on a publicly-available form 8872: for contributors whose contributions aggregate more than $200 during the calendar year, the report must include the name and address of the contributor and the date and amount of the contribution(s). If the contributor is a natural person, the report must also include the contributor's occupation and the name of his or her employer. Contributions that do not meet the $200 threshold are reported by the organization in the aggregate. These reporting requirements are consistent with the FEC's reporting requirements and each such organization's reports are posted on the website of the IRS.

93. ~~There is also a distinction to be made between the political organisations and other tax exempt organisations which have to report to the IRS. Firstly, there are the political organisations which fall under section 527 of the Internal Revenue Code (IRC) but which are not considered political committees: since 2000, these are subject to public disclosure of their donors through the IRS. Secondly, there are various forms of organisations, for example welfare, trade and labour organisations, referred to in section 501(c) IRC, which are *not* subject to public disclosure in respect of their donors. The GET learned that the "501(c)4 organisations" (social welfare) were particularly at the forefront of the debate on transparency of political funding in the USA as these may engage in lobbying and influencing of elections as long as that is not their primary purpose. It was mentioned by a number of interlocutors that such organisations were being used as vehicles for anonymous fundraising in federal elections since campaign spending through 501(c) entities is not subject to FECA transparency or monitoring requirements, and only minimal information is available through the IRS.~~ Certain other types of tax-exempt organizations also may participate in

[48] ~~Form 990 includes such information as the organisation's revenue sources and functional expenses.~~

political campaign intervention[14] but only to a limited extent. These include for example, 501(c)(4) social welfare organizations (such as environmental or civil rights issue organizations), 501(c)(5) labour organizations (such as unions or farm bureaus), and 501(c)(6) business leagues (such as trade associations). However, to retain their tax exempt status, these organizations must be "primarily engaged in activities" that further their exempt purposes (i.e.). Political campaign intervention does not further their exempt purposes. Therefore, political intervention activity plus all other non-exempt activity must be secondary to activities that to further their tax exempt purposes. If these organizations make a contribution to a candidate or party committee in an amount that meets the public reporting threshold for any contribution, that committee must include the receipt of that contribution on its public filings with the FEC. In addition, these organizations must report their political spending to the IRS on their publicly-available annual information return; they are also required to report the names and addresses of donors who contribute more than $5,000 in a year. The donor information is tax information and is not made public by the IRS.

Individual contributors and lobbyists

94. Under the FECA, contributors are not required to report contributions, except for political committees that are required to report all of their financial activity. Individual contributors are subject to limitations on the aggregate amount of contributions that may be made in a two-year ~~period~~election cycle, but no recording or reporting obligation is imposed on the contributors, 2 U.S.C. § 441a(a)(3); 11 C.F.R. § 110.5.

95. Under the Lobbying Disclosure Act of 1995, Pub. L. 104-65, 109 STAT. 691 (1995), as amended ("LDA"), some contributors are required to report contributions they give. Registered lobbyists and their employers (known as "registrants" under the LDA) must file semi-annual reports of the information with the Secretary of the Senate and the Clerk of the House of Representatives, LDA, § 5(d) (codified at 2 U.S.C. § 1604(d)): the date, recipient and amount of funds contributed (including in-kind contributions) to any federal candidate or officeholder, leadership PAC or political party committee (registered with the FEC), if the aggregate during the period to that recipient equals or exceeds $200. ~~There are also similar requirements to report in respect of contributions to the legislative and executive branches.~~

Preservation of records

96. At the federal level, records supporting transactions in political finance reports are required to be maintained by the political committees for a period of three years after the report is filed, 2 U.S.C. 432(d). At the state and local levels, each regulatory body has its own rules. The FEC does not possess records relating to political parties and other political committees unless obtained in the course of an audit or investigation. Those that are the result of such audits or investigations are to be maintained for 10 years. Copies of political finance disclosure reports are required to be maintained for 10 years except those relating to the House of Representatives which need only be maintained for 5 years, 2 U.S.C. 438(a)(5). However, such reports are maintained by the Federal Election Commission electronically and indefinitely.

ii) Supervision (Article 14 of Recommendation Rec(2003)4)

[14] Political campaign intervention for purposes of the Internal Revenue Code means "participat[ing] in…or intervene[ing] in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office."

97. There are three different institutions which have monitoring functions in respect of political financing: i) the *Federal Election Commission* (FEC), which is the major monitoring mechanism; ii) the *Internal Revenue Service* (IRS), which has a monitoring function in respect of a limited number of organisations not covered by the FEC and iii) the *Department of Justice* (DOJ), which enforces criminal violations relating to political financing.

98. Jurisdiction over the Federal Election Campaign Act (FECA) is shared by two components of the United States Government: the Federal Election Commission (FEC) and the United States Department of Justice. The FEC has exclusive civil jurisdiction over all violations of the FECA, including those committed negligently or knowingly and wilfully (2 U.S.C. § 437c(b). The Department of Justice has exclusive jurisdiction over all FECA crimes, that is, violations that are committed with criminal intent and involve $2,000 or more in a calendar year. 2 U.S.C. § 437g(d).

Auditing

99. There is no requirement at the federal level for any of the listed entities to undergo internal audits or to engage an independent auditor to conduct any audit of their accounts. However, the FEC has the authority to conduct audits, see below.

100. At the state and local levels there are a variety of audit requirements and authorities that are not addressed here.

Monitoring

Federal Election Commission

101. The Federal Election Commission (FEC) was created in 1975 by Congress to administer and enforce the Federal Election Campaign Act (FECA). The overall mission of the FEC is to prevent corruption in the federal campaign process by disclosing campaign finance information, to enforce the provisions of the FECA such as the limits and prohibitions on contributions and formulating policy with respect to the federal campaign finance statutes and to oversee the public funding of presidential elections. However, the FEC is not charged with dealing with any activity that is considered criminal. Criminal issues are the exclusive province of the Department of Justice.

102. The FEC is an independent regulatory agency comprised of six members appointed by the President of the United States with the advice and consent of the United States Senate, 2 U.S.C. 437c(a). No more than three of the Commissioners may belong to the same political party and four votes are required to act. Commissioners are appointed to a single six-year term. The "Hatch Act" establishes executive branch-wide standards of conduct that restrict the partisan political activities of Commission employees. Moreover, Commissioners and Commission employees are subject to further restrictions. For example, the Commissioners must terminate or liquidate "any other business, vocation, or employment" within 90 days after appointment to the Commission 2 U.S.C. 427c(3). Also, Commissioners and FEC employees are subject to an FEC regulation that requires them to "avoid any action which might result in, or create the appearance of giving favorable or unfavorable treatment to any person or organisation due to any partisan or political consideration. The GET was also informed that, while Commission employees retain the right to participate in various political activities, Commission employees generally may not perform

political activities in conjunction with a political party, partisan political group or a candidate for partisan political office.

103. The FEC is organised under four offices: 1) the Office of the Staff Director (general management), 2) the Office of the General ~~Counsel~~ Counsel (policy, enforcement, litigation, ~~advice and complaints~~and general law and advice), 3) the Office of Inspector General (detection and prevention of fraud waste and abuse etc), and 4) the Office of strategic planning and financing. The Commission is staffed by approximately 350 people and made up of attorneys, IT professionals, auditors and individuals with other skills as needed. The FEC's budget is determined through the Congressional appropriations process. The budget for Fiscal Year 2011 was approximately $66 million. The GET was told that in the current budgetary environment the current level of funding was sufficient to allow the Commission to support its mission.

104. The FEC's work is divided into four main categories of activity: i) administering the public funding programme, ii) facilitating disclosure of campaign finance reports, iii) clarifying the law and iv) enforcing the law. The Commission makes public the reports filed by political committees, as well as its own analysis and data generated from those reports. The Commission also clarifies the FECA by issuing regulations, advisory opinions and other forms of public guidance.

FEC procedure

105. As noted above, the FECA includes detailed requirements concerning the reporting of financial activity of political committees, 2 U.S.C. 434. Those reports are received by the Federal Election Commission, primarily in an electronic form, and immediately made available for public inspection and copying. The authorities explained to the GET that in recent years, the Commission's web site has become the most frequently used method for accessing financial disclosure reports by the public.

106. More in detail, the Commission makes its process and the results of its work public as either a matter of law or policy in accordance with the following. At the most basic level, political finance disclosure reports and related statements are required to be available for public inspection in the Commission's offices and on the Internet within 48 hours of the Commission's receipt, 2 U.S.C. 438(a). Most reports are filed electronically and are available on the Commission's web site within 24 hours. When the initial review of those reports and statements disclose possible errors and omissions a request for clarification is generated. Those are posted to the internet when issued. The Commission is also required to develop and maintain various indices that make the information filed with the Commission more usable by the public, 2 U.S.C. 438(a)(6). Audits and enforcement cases are subject to confidentiality requirements until the case is closed. Once closed, the final settlement and numerous supporting documents are made available for inspection as placed on the Internet. The Commission's meetings are held in both public and closed sessions. In closed sessions, the Commission primarily discusses enforcement cases, litigation and audits at the preliminary stages. Open session meetings are for the consideration of Advisory Opinions, regulations and policy determinations, and the final disposition of audits.

107. Anyone who suspects a violation in respect of federal political financing rules may file a complaint with the FEC. The Commission may also start an ~~investigation~~ enforcement matter on its own; however, most Commission ~~investigations~~ enforcement matters originate as complaints. Once either is started, the FEC will proceed ~~with an administrative investigation~~ with the objective of determining whether a violation occurred or seeking conciliation if there has been a violation. If the matter is not successfully conciliated, the Commission can seek judicial action. The

Comment [USA9]: An "investigation" occurs at a specific stage of the Enforcement Process (that is, after the Commission has found "reason to believe" a violation has occurred). The language change is intended to reflect that, while Enforcement staff reviews a complaint and seeks responses from the respondent prior to a Commission finding of "reason to believe" those actions are not considered an "investigation."

enforcement procedures are described in 2 U.S.C. 437g and 437h and at 11 CFR 111.1 to 111.24. Although pending enforcement cases are covered by a confidentiality requirement, as soon as the case is completed, the settlement and various supporting documents are made public. The average time to complete an enforcement case is about 300 days. The file of closed enforcement cases is searchable on the Website: http://www.fec.gov/em/mur.shtml.

Audit by the FEC

108. The Commission also has the authority to conduct audits of a political committee's financial disclosure reports and underlying records. Any political committee that receives public funding is to be audited by the Federal Election Commission (FEC). However, the large majority of the political committees are exclusively charged with private funding; such committees may be subject to audit by the FEC if, based on a review of their political finance reports, the Commission determines that they have failed to meet the threshold for substantial compliance. ~~Finally, audits may also be conducted as part of a law enforcement (criminal) case.~~ The FEC maintains a staff of 35-40 auditors to carry out the necessary audit work. See also 2 U.S.C. 438(b), 26 U.S.C. 9007(a), and 26 U.S.C. 9038(a). Audits are based on a review of the financial disclosure reports filed, 2 U.S.C. 438(b). Moreover, the FEC possesses exclusive civil jurisdiction to enforce the FECA, including powers to investigate and file suit in federal court, 2 U.S.C. 437d. The FEC has the authority to depose witnesses and subpoena testimony and documentary evidence in the course of its investigations. If the Commission concludes that a violation of the law has occurred, the FEC must attempt to resolve the matter through a conciliation agreement, which may require the payment of a civil penalty or other remedial measures, 2 U.S.C. 437g. However, if such an agreement cannot be reached with the respondent, the Commission has the authority to bring suit in federal court, 2 U.S.C 437g(a)(6). The conciliation process is generally not applied in respect of violations of 2 U.S.C. 434(a) relating to the timely filing of political finance disclosure reports and statements, but the FEC has the authority to impose civil penalties in such cases, 11 CFR 111.30 to 111.46. The Commission may also refer cases to the Department of Justice for criminal prosecution, 2 U.S.C. 437g(a)(5)(C).

Comment [wgp10]: For clarity's sake you may wish to move the text of this paragraph - up to the sentence beginning with "moreover" - to a new paragraph between 106 and 107.

Comment [USA11]: For the remaining text of this paragraph, please consider moving to the end of current 107.

FEC measures and statistics

109. As noted, the FEC enforces provisions of the FECA through a civil process of conciliation rather than prosecution and conviction. Some cases handled by the enforcement division of the Office of the General Counsel do not require a formal investigation to establish the relevant facts, others do. If the facts are well established in the complaint or internal referral, it is possible to proceed directly to the conciliation stage without a formal investigation. If a ~~conciliated settlement~~conciliation agreement cannot be reached, the Commission can seek judicial action. The chart below lists the number of ~~cases~~ matters conciliated by year, the number of investigations by year, and the number referred for litigation. (The figures for 2011 ~~include only January-are through~~ October.)

Comment [wgp12]: The figures in the following tables have been updated through Oct 31, 2011, if you wish to use that information.

Years	Conciliations	Investigations	Transferred to Litigation
2000	54	9	4
2001	29	22	0
2002	29	12	7
2003	34	33	4
2004	23	44	0
2005	33	33	4
2006	50	33	2

Years	Conciliations	Investigations	Transferred to Litigation
2007	51	15	4
2008	17	5	0
2009	24	10	1
2010	18	15	1
2011	417	416	0

110. In addition to the enforcement system of the FEC, some cases are handled under the system of Alternative Dispute Resolutions (ADR), described in more detail under "sanctions", below. This process, which has been in place since 2000, is less formal than the enforcement system and it produces, if successful, a negotiated settlement that focuses more on correcting behaviour than on penalties. The chart below reflects the number of cases per year handled by alternative dispute resolution since its beginning in October of 2000.

Year	Cases Referred to ADR
2000	13
2001	54
2002	39
2003	46
2004	72
2005	83
2006	68
2007	65
2008	40
2009	53
2010	23
2011	338

111. The FEC also has the authority to impose penalties on political committees that fail to file disclosure reports or file those reports late. The Commission refers to this as the Administrative Fine Program, described in more detail under sanctions, below. The following chart shows the number of cases handled through this system since 2000.

Year	Administrative Fine Cases
2000	58
2001	328
2002	154
2003	384
2004	133
2005	210
2006	107
2007	255
2008	105
2009	248
2010	64
2011 (to date)	49308

Department of Treasury, Internal Revenue Service

112. ~~The US Department of the Treasury (IRS) plays two roles in the administration of federal campaign finance law. Firstly, the department jointly with the FEC administers the Presidential Election Campaign Fund. The Department establishes the fund from contributions collected through federal income tax returns and disburses funds to candidates as certified by the FEC, 26 U.S.C. 9005-06 and 26 U.S.C. 9036-37. Secondly, the IRS administers the Internal Revenue Code as it applies to any organization, and becomes the only monitoring mechanism over political organizations that do not qualify as political committees. Such organizations (named after the pertinent sections of the Internal Revenue Code) are permitted to engage in candidate election campaigning. The tax exempt so called "527 organizations" and "501(c)(4) organizations", both fall under the exclusive IRS monitoring, the former but not the latter being subject to disclosure requirements in respect of donors identity. Please add a table listing number of cases investigated/identified by the IRS, if any.~~The US Department of the Treasury plays a role in the administration of federal campaign finance law, jointly with the FEC, by administering the Presidential election Campaign Fund. The Department establishes the fund from contributions collected through federal income tax returns and disburses funds to candidates as certified by the FEC, 26 U.S.C. 9005-06 and 26 U.S.C. 9036-37. The Department of the Treasury or the IRS plays an other role in the administration of federal campaign finance law but neither collect reporting requirements for tax exempt organizations provide additional transparency of campaign finance information. Organizations who wish to be treated as tax exempt under the tax code must meet the applicable requirements both as types of activities and information reported. IRS oversight is for purposes of proper application of the tax code and its reporting requirements. Organizations who are found to have failed to maintain the standards required for their tax exempt status, for example through their activities or their failure to meet reporting requirements, are subject to penalties under the IRC.

Comment [wgp13]: Because the IRS's responsibility is enforcing tax compliance, not campaign finance law compliance, our core information does not correlate to that discussed above under the FEC sections

Department of Justice

113. The US Department of Justice (DOJ) possesses the authority to enforce criminal violations of federal election and ~~political~~ patronage laws, 2 U.S.C. 437g(a)(5)(C); 18 U.S.C. 594-610. The Department of Justice is a cabinet-level executive agency administered by the Attorney General, who is appointed by the President of the United States with the advice and consent of the United States Senate. As a member of the President's cabinet, the Attorney General reports to the President.

114. Prosecution of FECA crimes is handled by the Justice Department's 94 United States Attorneys' Offices throughout the country and by the Public Integrity Section of the Criminal Division at Department headquarters in Washington, DC. The Public Integrity Section is charged with prosecuting public corruption cases, including campaign financing fraud in violation of the FECA. The Section has an Election Crimes Branch, which is responsible for supervising the investigation and prosecution of FECA crimes by the United States Attorneys' Offices. The Election Crimes Branch also periodically publishes an election crime manual for the guidance of Department prosecutors and FBI special agents, Federal Prosecution of Election ~~Crimes~~Offenses, Seventh Edition (May 2007)(revised August 2007). The manual is available to the public at http://www.justice.gov/criminal/pin/docs/electbook-rvs0807.pdf

115. The GET was provided with the following statistics of cases concerning political financing violations, 2 USC 431 THRU 457 (extracted from the United States Attorneys' Case Management System) :

YEAR	DEFENDANTS FILED	DEFENDANTS TERMINATED	DEFENDANTS GUILTY

2007	3	4	3
2008	2	0	0
2009	4	7	7
2010	3	2	2
TOTAL	12	13	12

These statistics do not include convictions under 18 U.S.C. 371 (conspiracy) or 1001 (false statements) for conspiring to impede the FEC and making false statements to the FEC.

State and Local level

116. Some states and some municipalities maintain their own election and campaign finance laws. States and municipalities use a variety of mechanisms and officers, including Secretaries of State, Attorneys-General and local officials, to clarify and enforce election and campaign finance law at that level.

iii) Sanctions (Article 16 of Recommendation Rec(2003)4)

Federal Election Commission

Administrative Fines Program

117. The FEC is authorised to impose civil sanctions (fines) for violations of federal election law involving the failure to file a report on time, the failure to file a report at all and the failure to file within 48-hour notices, 2 U.S.C. 437g(a)(4); 11 CFR 111, Subpart B. If the Commission finds, by an affirmative vote of at least four of its members, that there is "reason to believe" that one of the above listed violations has occurred, the Commission is to send a notification to the political committee and its treasurer, 11 CFR 111.32. Such a notification would include the factual and legal basis for the finding, the schedule of penalties, notice of violations in the current or immediately previous election cycle, a proposed civil penalty and an explanation of the right to challenge the finding and penalty. The respondent must pay the amount or challenge the finding within forty days. If the respondent challenges the determination and the Commission votes to uphold its initial determination, the respondent may challenge the final determination within thirty days before a federal court.

118. The Commission considers four factors when determining a civil money penalty:
- the election sensitivity of a late report;
- whether the report is considered filed late or not filed;
- actual level of activity on the report filed late or the estimated level of activity on a report not filed; and
- the number of previous violations in the administrative fines programme.

MUR Process and Litigation

119. The Commission may also investigate alleged violations of campaign finance law through the "matter under review" (MUR) process. The Commission receives complaints of violations from the public, through its internal review of disclosure reports, by referral from other government agencies, and by individuals who believe that there have been violations of the campaign finance law. If the Commission determines that there is a "reason to believe" that a violation *may* have occurred, the Commission staff will investigate the matter, 2 U.S.C. 437g(a)(2). After an

investigation, the Commission votes on whether there is "probable cause to believe that any person has committed, or is about to commit, a violation of this Act", 2 U.S.C. 437g(a)(4)(A)(i). The GET was informed that the Commission may, and often does, use pre-probable cause conciliation when the facts relating to the violation and the conciliation process are reasonably clear.

120. Once the Commission makes a probable cause determination, it is required to enter into conciliation negotiations. A conciliation agreement may require the respondent to pay a monetary penalty, 11 CFR 111.18. The FECA and Commission regulations provide that the maximum penalty may be no more than $7,500 or "an amount equal to any contribution or expenditure involved", 11 CFR 111.24(a)(1). However, if a respondent has knowingly and willfully violated the FECA, the Commission may require a civil penalty that "shall not exceed more than "$16,000 or an amount equal to 200% of any contribution or expenditure involved in the violation", 11 CFR 111.24(a)(2)(i). A knowing and willing violation of 2 U.S.C. 441f – contributions made in the name of another – may result in a civil penalty "not [] less than 300% of the amount involved in the violation and shall not exceed the greater of $60,000 or 1000% of the amount of any contribution involved in the violation" (11 CFR 111.24(a)(2)(ii)).

121. If the Commission and respondent cannot negotiate a conciliation agreement, the Commission may institute a civil action for relief against the respondent in a federal court. The Commission may seek a permanent or temporary injunction, a restraining order or any other appropriate order including a civil penalty, 2 U.S.C. 437g(a)(6).

122. The Commission and the Department of Justice (DOJ) have concurrent jurisdiction to enforce FECA violations. Whereas the Commission has exclusive civil jurisdiction over all FECA violations, DOJ only has criminal jurisdiction over knowing and willful FECA violations aggregating $2,000 or more in a calendar year. DOJ's jurisdiction in this regard is not exclusive; knowing and willful violations can be addressed both civilly by the FEC and criminally by DOJ. The cases most often seen with criminal and civil overlap are (1) Section 441f, conduit reimbursement schemes, (2) Section 439a, embezzlement schemes, (3) Section 441h, fraudulent representation/solicitation schemes, and (4) Section 434, intentional misreporting to the FEC. ~~DOJ only has criminal jurisdiction over knowing and wilful FECA violations. DOJ's jurisdiction in this regard is not exclusive; knowing and wilful violations can be addressed both civilly by the FEC and criminally by DOJ. The cases most often seen with criminal and civil overlap are (1) Section 441f reimbursement schemes, (2) embezzlement schemes, (3) Section 441h fraudulent representation/solicitation schemes, and (4) intentional misreporting to the FEC.~~ It was explained to the GET that since Congress enhanced the criminal and civil penalties for knowing and willful reimbursement schemes in its enactment of the Bipartisan Campaign Reform Act (BCRA, which amended the FECA in 2002), "441f-violations" have been DOJ's top priority in terms of criminal prosecution of FECA violations.

Alternative Dispute Resolution (ADR)

123. The ADR Office, which operates as part of the FEC's Compliance Division, receives cases either by referral from the Office of General Counsel (OGC), the Reports Analysis Division (RAD), the Audit Division (Audit) or by assignment from the Commissioners. The ADR Office will conduct an initial review and evaluation to determine whether or not a case is appropriate for ADR. In order to have a case considered for processing in the ADR programme, the respondent may file a response to the complaint or referral, but must agree, in writing, to the terms for participation in the ADR. The terms require that the respondent agrees to: (1) participate in good faith in the ADR

process; (2) set aside the statute of limitations while the case is in the ADR Office; and (3) participate in interest-based negotiations and, if appropriate, mediation. While the ADR programme's negotiation process is similar to the procedures used in the enforcement process described above to obtain a conciliation agreement, there are some important differences;. a conciliation agreement usually includes civil penalties and an admission of having violated the FECA. While an agreement reached by the ADR Office may contain a monetary penalty, its primary focus will be the remedial terms negotiated by the parties. Furthermore, ADR tends to place more emphasis on remedial measures, such as hiring compliance specialists or having persons responsible for FEC disclosure attending Commission educational conferences. Also, agreements reached in ADR may modify or exclude an admission of having violated the FECA.

Responsable subjects

124. The Commission may investigate and sanction any person whom the Commission has reason to believe has violated federal campaign finance law, 2 U.S.C. 437g(a). The definition of person at 2 U.S.C. 431(11) includes an individual, partnership, committee, association, corporation, labor organisation, or any other organisation or group of persons, but does not include the federal Government. When the Commission ~~brings~~ initiates an enforcement action against a political committee, the treasurer is usually named as a respondent along with the committee itself (*Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings*, 70 Fed. Reg. 3, 3 (Jan. 3, 2005). The treasurer can be named and found liable in his/her official capacity as a representative of the committee. Also, the treasurer can be named and found liable in his/her personal capacity if s/he knowingly and wilfully has violated the FECA or intentionally deprives himself/herself of the operative facts giving rise to the violation. Even when an enforcement action alleges violations that occurred during the term of a previous treasurer, the Commission usually names the current treasurer as a respondent in the action. The treasurer as well as the committee itself can be charged as responsible subjects and political committees may be responsible whether or not they have incorporated.

Internal Revenue Service

125. The Internal Revenue Code provides sanctions for violation of the tax law, including various fees, penalties, and additional taxes due. For tax-exempt organizations, noncompliance also can result in the revocation of their tax exemption where appropriate. ~~To be added: sanctions under IRS~~

126. The IRS maintains a regular examination program that reviews information submitted on Form 990 and selects organizations for examination. In addition, all allegations of noncompliance by exempt organizations are reviewed by IRS staff to determine if they warrant further action. When the allegations involve political campaign intervention, a second review is conducted by a committee of career civil servants. If further action is warranted, the case is referred for examination.

Statistics

~~125~~ 127. The chart below shows the amounts collected in civil penalties from enforcement cases, alternative dispute resolution cases and administrative fine cases for each year starting in 2000. As noted above, these are the result of agreements signed by respondents at the end of the conciliation process. (The figures for 2011 are through October; includes only January.)

Comment [wgp14]: The figures in the following table have been updated through Oct 31, 2011, if you wish to use that information

Civil Penalties				
Years	Enforcement	Alternative	Administrative	Total

		Dispute Resolution	Fine Program	
2000	$563,680.00	$850	$96,305	$660,835.00
2001	$579,513.00	$32,793	$515,565	$1,127,871.00
2002	$1,864,325.00	$25,000	$390,143	$2,279,468.00
2003	$2,184,375.00	$27,950	$751,839	$2,964,164.00
2004	$2,356,895.00	$90,150	$320,690	$2,767,735.00
2005	$1,807,769.27	$169,300	$509,810	$2,486,879.27
2006	$6,018,300.00	$119,099	$229,403	$6,366,802.00
2007	$4,779,878.00	$81,100	$343,927	$5,204,905.00
2008	$504,143.00	$76,995	$130,956	$712,094.00
2009	$956,500.00	$130,400	$368,892	$1,455,792.00
2010	$584,600.00	$87,100	$63,527	$735,227.00
2011	~~$1,800.00~~$444,925.00	~~$4,500~~$-47,200	~~$34,602~~450,099	~~$40,902.00~~942,224

Other questions

~~127.~~128. There are no immunities under campaign finance law allowing for any persons to avoid proceedings or sanctions for violating political funding regulations.

129. Both the FEC and the Department of Justice have a five-year statute of limitation period for bringing actions, which is measured from the time of the violation, 2 U.S.C. 455; 28 U.S.C. 2462 (civil); 18 U.S.C. 3282 (criminal).

~~128. The FEC has a five year statute of limitation period for both civil and criminal actions, which is measured from the time of the violation, 2 U.S.C. 455; 28 U.S.C. 2462.~~

IV. ANALYSIS

~~129.~~130. Political financing in the United States has ~~since~~ long been subject to a well developed and comprehensive system of regulations based on constitutional requirements, detailed legislation and caselaw at federal and state level. At the outset of this analysis some specific features of the US system are highlighted for a better understanding of the dynamics of the political financing model in the United States.

~~130.~~131. Political parties in the USA have broad structures and are rather loosely organised. The two dominating parties (the Democratic Party and the Republican Party) have, for example, no legal personality. The political parties as such are therefore not directly involved in the flows of political financing, that being the responsibility of the so called political party committees which are distinct organisations ~~under~~ representing the parties. Moreover, the federal election model is extraordinarily candidate-centred and even if election candidates are accredited as belonging to particular political parties, they enjoy extensive autonomy from the parties when running their campaigns, including the financing thereof. Candidates who are running for a federal office are obliged to designate one or more political committee(s) to channel the financial flows relating to their campaigning. Another type of organisation in respect of political financing are the so called Political Action Committees ("PACs"); these are neither party committees, nor candidate committees. The PACs, whose purpose is to influence candidate elections and, therefore, are section 527 organizations under the tax legislation, are significant stakeholders in political financing and they appear to play an increasingly important role in the overall financial contributions to election campaigning, whether they coordinate with candidates, political parties or act independently of these stakeholders. ~~The PACs, which may appear under various legal definitions in the tax legislation, are significant stakeholders in political financing and they appear~~

~~to play an increasingly important role in the overall financial contributions to election campaigning, whether they focus on candidates, political parties or election issues independently of these stakeholders.~~

~~131.~~132. The political finance system is subject to multi level legislation; federal and state legislation have been developed separately and wherever there are overlaps or conflicts between the various levels the "*Supremacy Clause*" of the United States Constitution comes into play; it overrules the authority of state legislation at federal level. U.S. Constitution, Art. VI, cl. 2. The current report is limited to the federal system of political financing and the paramount legislation at this level is the Federal Election Campaign Act of 1971 (FECA), which has been amended several times since its inception. The purposes of the FECA ~~is~~ are to regulate and provide for transparency of political financing and, to this end, it contains detailed regulations concerning matters such as limitations on donations, reporting requirements and rules on public disclosure. The FECA also establishes the Federal Election Commission (FEC), ~~which is the supervisory agency over elections for federal offices~~primary agency tasked with interpreting, implementing, and enforcing Federal campaign finance law. In addition to the statutory rules, the system is based on caselaw and, as a consequence, the regulations do not only develop as intended by the legislature; a significant initiative also lies with those being subject to the regulations through their possibilities to challenge the law or the decisions of the FEC before a court of law. Consequently, the United States Supreme Court and the federal judiciary more generally also has a pivotal role in shaping the political financing regulatory framework.

~~132.~~133. Political financing in the USA is ~~almost exclusively~~heavily reliant on private funding. Public funding is available in respect of presidential elections; however, it is subject to certain conditions, in particular in relation to limitations ~~to~~ on the spending by those who may benefit from it, and has therefore not been used by leading presidential candidates in recent years. Furthermore, although there have been attempts to develop some forms of public funding in respect of congressional elections, these have never materialised. Neither is there any form of indirect public funding available. Foreign donations in all forms are prohibited under federal legislation. The GET was informed that, traditionally, the most dominant funding in federal elections has been ~~donations~~ contributions from individuals. However, while corporations and labour organisations are prohibited from making contributions to federal candidates and party committees, it appears that ~~contributions~~ independent expenditures ~~from~~ by corporations and unions – which in the past were prohibited under federal law – are gaining increasing importance as a result of a recent US Supreme Court ruling (*"Citizens United v. Federal Election Commission"* (2010) ~~indicating~~ holding that ~~limitations on contributions~~limitations on independent spending from such entities are unconstitutional as they violate the *right to freedom of speech* of the US Constitution. This important court ruling is further discussed below under transparency.

Comment [USA15]: This was used by John McCain in the 2008 election

~~133.~~134. While the FECA does provide for far reaching limits on the amounts of contributions to candidates and political committees, there are generally no limitations on campaign spending in the US system as the US Supreme Court has also held in this respect that such limitations would violate the *freedom of speech* provisions of the Constitution[15]. Consequently, the financial resources used in federal election campaigning in the USA have been considerable for a long time now and it would appear that this trend has even been reinforced in recent presidential and congressional elections; for example, spending in the midterm elections of 2010 was more than 4 times higher than it was in 2006, and the 2008

[15] "Buckley v. Valeo" (1976)

presidential elections were the most expensive in US history, exceeding $5 billion; spending in 2012 is expected to surpass that amount[16].

~~134~~135 An overarching challenge in regulating political financing in the United States appears to be one of size and scale. There is a multitude of stakeholders; a vast web of legislation and regulations serves to define which organisations and which activities are subject to political financing disclosure rules. Accordingly, what appear to be very similar organisations in terms of purpose may sometimes be subject to different transparency and oversight requirements. The distinction between political financing to support particular candidates or parties on the one hand and the so called issue of advocacy (support of a cause) on the other is currently subject to much debate in the USA, not least in the aftermath of the "*Citizens United*" case referred to above.

~~135~~136 The following analysis focuses on the three distinct areas of concern for the present evaluation, namely transparency of political financing, the supervision of such financing, and the sanctions applicable when funding rules are violated and their enforcement.

Transparency

~~136~~137 The FECA provides a comprehensive legislative framework in respect of a big portion of the total political financing at the federal level in the USA. This law is applicable in respect of all types of "political committees", a term which is well defined in the law and which comprises committees established on behalf of political parties (party committees) and election candidates (principal campaign committees or other forms of committees authorised by candidates); the FECA is also applicable in respect of the so called "connected organisations" (often referred to as PACs) that are not political committees, but which directly or indirectly establish, administer or financially support political committees. The provisions of the FECA requires, *inter alia*, that political committees are obliged to have a treasurer who must keep detailed accounts of all contributions received by the committee, whether monetary or in-kind. The bookkeeping requirements are very similar for all political committees. The FECA is clear and detailed in respect of what is to be considered a contribution, which, *inter alia*, comprises any gift, membership subscription, income from fundraising event, loan (except solid bank credits or the like), advance or deposit of money etc. Payments for personal compensation are also covered. The FECA contains clear definitions of what does not represent a contribution, for example, volunteer services provided without compensation. In addition to the FECA, there are guidelines issued by the FEC containing further details concerning matters such as what is to be considered income from property, leasing out of office space etc.

~~137~~138 The FECA requires that the accounts of political committees contain the name and address of any person making a contribution in excess of $50 along with the date and the amount of the contribution. This implies that anonymous donations to political committees are not allowed in excess of that amount. Moreover, in respect of contributions exceeding $200 per year the required details are even stricter in that the contributor's identity (ie name, address, occupation, and employer) is to be noted in the accounts. No ~~cash~~ currency contributions exceeding $100 are allowed ~~(Please define "cash")~~. In addition, the FECA provides for a full range of limits as regards the amounts of the contributions that may be provided to the various forms of committees by individuals as well as by other committees[17]. Furthermore, the FECA prescribes that any

Comment [USA16]: Cash means currency, bills, and coins

[16] Source: Center for Responsive Politics

[17] For details see table in the Descriptive part, paragraph 68.

disbursement ~~made~~ over $50 is to be accounted for together with the name and address of the receiver. The accounts are to be held by the committee for at least three years.

~~138.~~139. The FECA obliges political committees to submit financial reports to the Federal Election Committee, which in turn makes them publicly available on-line. There is no independent obligation upon any of the various political committees to make their accounts public themselves; ~~however, the FECA obliges parties to submit financial reports to the Federal Election Committee, which in turn makes them publicly available on line.~~ The FEC has developed detailed standard forms to be used to this end, requiring, *inter alia*, precise information concerning ~~all~~ contributions, donors, disbursements and receivers. In this context it is important to bear in mind that the US legislation does not make a distinction between routine party funding and campaign financing. All contributions ~~and expenditures~~to federal candidates are aggregated on the basis of an election cycle, which begins on the first day following the date of the previous general election and ends on the date of the election day, while contributions to political party and other political committees are based on a calendar year. Nevertheless, the intensity of the reporting may differ. For example, a national party committee is obliged to file monthly reports in both election and non-election years, a principal campaign committee of a congressional candidate must file a financial report 12 days before and another report 30 days after the election in addition to quarterly reports every year. The FECA prescribes that the financial reports are to be made public within 48 hours; however, the GET was told that in most cases the FEC manages to make reports available on-line already within 24 hours.

Comment [wgp17]: There are minimum thresholds

~~139.~~140. The GET is of the opinion that the overall transparency of political financing under the FECA is of an exemplary high level and fully in line with the pertinent requirements of the Council of Europe *Recommendation Rec (2003)4 on common rules against corruption in the funding of political parties and electoral campaigns* and it appears that there is also a generally high degree of compliance in practice with the relevant legislation and prescriptions of the FEC. The regulatory framework, which has evolved over four decades and is continually adapting to new legislation, court rulings and political financing practices, is broad and covers a wide range of actors, including in particular the various forms of political committees. The disclosure obligations are comprehensive, including the requirements to disclose detailed information at regular intervals. The Federal ~~Electoral~~ Election Commission plays a key role in ensuring transparency in political financing under the FECA; it manages a state-of-the art financial database and publishes the information on its website within very short timescales. The GET wishes to stress that the FEC's website is an impressive source of information and financial information can be viewed and downloaded by anyone for further analysis.

~~140.~~141. In respect of congressional and presidential elections, financial information is submitted electronically to the FEC. However, the GET noted with some concern that in the case of Senate elections, the information is submitted in paper a PDF format to the FEC ~~and can only be put on-line once the papers have been electronically scanned, which can often cause considerable delays~~which posts those reports online, usually within 48 hours. Data from those reports used in the interactive information on contributors and recipients must be hand-entered before included in that system. This takes approximately 30 days. The GET was told that in the past, the FEC has recommended to Congress that electronic filings should be required for senate elections as well, but this has not materialised to date. Furthermore, a general concern identified by a number of interlocutors met on-site relates to the sheer volume of data that is submitted to the FEC. While all this information is made publicly available, the vast quantity of information can, in practice, make it difficult and time-consuming to conduct analyses and identify problematic issues relating to political financing. The GET was informed that the FEC does not at present undertake any data

analysis and that in many cases journalists and academics do not have enough time and/or resources available in order to undertake this kind of research. The GET understood that some think-tanks and academic projects are attempting to address this matter; however, more work would be beneficial in this area. Indeed, FEC officials acknowledged that a simplification of the current filing structure would improve the possibilities to navigate through the system. While the GET realises that there is no easy solution to this challenge, it is an issue that needs to be borne in mind by the United States authorities. Apart from these remarks, the GET did not come across any significant shortcomings and representatives of civil society met on-site did not flag any other major problems in respect of the general transparency under the FECA. The GET recommends **that the US authorities pursue their efforts ~~i)~~ to provide for electronic filing also in respect of financial reports concerning Senate elections** ~~and ii) to improve the current filing system of financial reports submitted to the Federal Election Commission (FEC) in order to facilitate the use and analysis of the massive information publicly available on line~~.

Comment [USA18]: What specifically is meant by "filing structure"?

Comment [wgp19]: With regard to part (ii) of the recommendation, we request its deletion unless the GET can clarify "filing structure"/ "filing system" and give examples of what they perceive as the problem with posting all reports online

~~141~~ 142 Leaving aside the well developed system for transparency under the FECA, the GET notes that not only the organisations covered by this particular legislation engage in political financing in the USA. Different types of other organisations that do not necessarily qualify as political committees under the FECA, and are thus not subject to FECA regulations, are also involved in political financing to various degrees. Of particular concern in this respect are two types of tax-exempt organisations, the so called "527-" and the "501(c)-organisations", named after "their" respective sections in the federal tax legislation, the Internal Revenue Code (IRC).

~~142~~ 143 Section 527 IRC comprises "political organisations", including the various political committees regulated by the FECA and the so called PACs. The 527-organisations ~~are often~~ can be run by interest groups to raise funds ~~(without the limits of the FECA)~~ for a specific party or candidate ~~on issue advocacy (for a particular cause and not for a party or a candidate). Such organisations are only covered by the tax legislation, which does not require public disclosure of income and expenditure.~~ While such advocacy groups are independent from party and candidate committees, they could possibly coordinate amongst themselves to support the electoral campaigns of candidates and parties more broadly. Regardless of their tax status, these organizations are still subject to FECA requirements and except those that are required to report to states, tax-exempt 527 organizations are either required to report to the FEC or to the IRS However, if a "527 organization" directly advocates for or against a candidate or a party, it must under tax legislation report its income and expenditure for public disclosure, similar to what applies in respect of political committees under the FECA. The information about their donors and their expenditures is public. See paragraph

Comment [wgp20]: This paragraph seems to have been intended to make a point that is incorrect when you cite to 527 committees

~~143~~ 144 ~~More problematic in this respect are some of the~~ The so-called "501(c)-organisations", ~~which~~ are also non-profit and tax-exempt as defined in the IRC. This varied group includes, for example, ~~civil liberty associations and~~ social welfare organisations (501(c)(4) IRC), labour organisations (501(c)(5) IRC) and chambers of commerce (501(c)(6) IRC). Under existing rules, such organisations may raise money to support their tax-exempt purposes without ~~the limits provided for in the FECA and without any disclosure requirements as to their income and expenditure~~. These organizations may engage in some political campaign activity, but that activity along with any other activity that is not in furtherance of the exempt purposes must be limited. To keep their tax-exempt status, they must be primarily engaged in activities that further their exempt purposes; if they primarily engage in political campaign activity, they are subject to penalties under the tax laws. Regardless, these organizations are also subject to FECA ~~as long as the majority of their activities are deemed not to be "political". That is, if a 501(c) organization can show that less than 50 per cent of their activities are "political", their election campaign~~

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~~financing is not subject to any limits or to any disclosure requirements concerning income and expenditure. The GET notes that in practice it may be difficult to contest whether or not an organisation exceeds that 50 per cent disclosure threshold.~~ Because the role of the IRS is to administer the tax laws and not to administer campaign finance laws. ~~Furthermore, while these organisations are to submit financial information to the US tax authorities,~~ In practice there appears to be little dialogue between tax authorities and the FEC except in educational efforts to help tax-exempt organizations understand which reporting requirements are applicable. ~~It is therefore if political financing disclosure requirements are being met.~~ The GET learned from numerous sources and interlocutors that these 501(c) organisations, some of which have significant financial resources at their disposal, can serve as vehicles for so called "soft money" to support parties and candidates outside the political financing regulatory framework, enabling donors to remain anonymous.

~~144.~~ 145. ~~The lax transparency of political financing in respect of organisations not registered with the FEC, in particular concerning organisations dealing with "issue advocacy" (527-organisations) and those dealing with any form of campaigning (certain types of 501(c) organisations) represent important loopholes in the system as a whole.~~ The GET understood from a number of interlocutors that this issue is currently much debated in the USA, not least in the light of the US Supreme Court decision in the case *Citizens United v. FEC* (2010) which lifted, the previous prohibition on corporations and unions from using their general treasury funds to make electioneering communications. It was explained to the GET that "soft money" campaign spending in the 2010 midterm elections by groups not subject to the disclosure rules of the FECA had increased following the above Supreme Court decision and it was expected that such funding, e.g. for vast media campaigns, would further increase in the future. GET interlocutors also provided the view that such funding provides a vehicle for more aggressive candidate-specific attack campaigns, without the corresponding accountability that arises with public disclosure of donors or funding sources. When asked, interlocutors agreed, however, that the organizations about which they were speaking, were not under the control of a party or a candidate. In fact the GET heard from some interlocutors that these organization's activities were not always welcome by the parties or candidates even when perceived by the public to be in support that party or candidate.

~~145.~~ 146. To sum up, the GET concludes that the so called "issue advocacy" or campaigning, whether carried out by "527-" or "501(c)-organisations" does not appear to be contradictory to the requirements of the Recommendation Rec (2003)4, which is directed towards the transparency in respect of political parties and election candidates. Moreover, candidate or political party supporting campaigns are subject to disclosure rules, similar to those of the FECA. ~~However~~ While candidate or political party campaigning by certain types of 501(c) organisations, may raise concerns in the larger context of political campaign activities and funding in the US, this is outside the scope of this review ~~where income and spending are not publicly disclosed does not appear to be in line with the disclosure requirements of Recommendation (2003)4. In the light of the preceding comments, the GET recommends to seek ways to increase the transparency in respect of political financing provided by organisations such as those defined in section 501(c) of the Internal Revenue Code (IRC) when these support election campaigns for the benefit of particular candidates and/or political parties.~~

Supervision

Internal auditing

Comment [wgp21]: There is not a 30% rule ; they must report on a public form their income and expenditures any any contributions they give a political committee will show these as well as on the recipients FECA filing . The only information that is not public is their contributors . Certain of that information is reported to the IRS but is is not public because it is the contributors tax information

Comment [wgp22]: This sentence is based on a misunderstanding of the IRS public reporting requirements as well as the extent of the allowed activities of 501© organizations

Comment [wgp23]: Clarify what « this issue » means » or deleted the sentence

Comment [wgp24]: This is not necessary in the context of your sentence

Comment [wgp25]: Please remember that if any one of these organizations gives money to a candidate or a party, that information is reported on the candidate or party committees FEC report. What you are suggesting is that contributors who give money to a right to life organization or Planned Parenthood should have their contributions disclosed because that organization does use some of that money for political campaign issues or lobbying

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~~146~~147 There are no special requirements at federal level for the various forms of political committees or any other forms of organisations engaged in political funding to have their accounts or disclosure reports audited. However, the GET learned during the on-site visit that national party committees would only submit their accounts or reports after having had them certified by auditors and that auditors are used to check accounts and reports to a large extent in respect of other forms of political committees and organisations as well.

Monitoring

~~147~~148 The Federal Election Campaign Act (FECA) provides the primary responsibility for the monitoring and regulation of campaign financing to the Federal Election Commission (FEC). The FEC, which over the past 35 years has been supporting transparency and disclosure of political financing through its activities, is established as an independent agency with the main duties to disclose campaign finance information, to enforce the provisions of the law such as the limits and prohibitions on contributions and to oversee the public funding of Presidential elections. The Commission is made up of six members, who are appointed by the President and confirmed by the Senate. Members are according to the law to be chosen, *inter alia*, on the basis of their experience, integrity, impartiality and good judgment and they may not be part of the executive, legislative or judicial branches. Commissioners and other employees, once in office, are also subject to a number of restrictions, such as to retain the right to participate in political activities or other business that may appear to create conflicts of interest. Each member serves a single six-year term. On the basis of these legal requirements, the GET is of the strong opinion that the institutional independence of the FEC is well provided for under law.

~~148~~149 The FEC has a wide scope of activities, including the publication of financial reports of political committees, enforcing the law, clarifying the law and regulating when necessary in the form of advisory opinions etc. The FEC appears to be a well-resourced organisation with some 350 employees and a budget of $66 million, apparently adequate for its current tasks. The GET has already praised the high degree of transparency provided for by the FEC web page in respect of the financial reports which are, to a large extent, promptly made accessible on-line for public scrutiny. The GET furthermore notes that public scrutiny is an important part of the monitoring as most of the FEC investigations originate as complaints from the public. Anyone may submit a complaint to the Commission; however, the FEC may also initiate cases ex officio. Currently the FEC does not carry out random audits of the accounts of political committees (and does not have the resources to do so), its immediate control being limited to the checking of the disclosure forms, other information or complaints. In case the FEC starts an investigation, however, it may request the accounts and justifications for an in-depth audit of the finances of the political committee in question.

Comment [USA26]: Do you mean *sua sponte*?

~~149~~150 The GET furthermore notes that the FEC has a range of different measures at its disposal once violations of the financing regulations have been discovered. Above all, these measures focus on conciliation which includes ~~both~~ public admissions of responsibility for violations of the law, civil financial penalties, and other measures such as assistance and education. A conciliation process may start without any formal investigation if the facts are clear. It was explained to the GET that most cases are solved within the conciliation process which is largely about explaining how to apply the financing rules. Only very few cases go to litigation, and this is often in situations where the dispute is about the interpretation of the law, for example, whether to define an organisation as a political committee obliged to report to the FEC or as any other form of organisation subject only to the supervision of the Internal Revenue Service. The FEC decides whether to open an investigation as well as on the final result of an investigation: for

example to agree on a conciliation agreement, on sanctions or whether to submit a case to the Department of Justice for criminal investigation and prosecution. The different possibilities to handle violations of the political financing legislation depend on the issue and level of complexity of the case. The variety of tools at the disposal of the FEC – some of which are also explained under "Sanctions" below – is a strength of the system and the GET is of the opinion that this monitoring, as established by the FECA, goes well beyond the requirements of Recommendation Rec (2003)4.

~~150~~ ~~151~~ Having said that, the GET cannot disregard that the bi-partisan composition of the six-member Federal Election Commission influences the nature of some of its decisions regarding political financing issues in practice and sometimes prevents the Commission from taking action. Under the existing legislation, no more than three members of the Commission may be affiliated with the same political party and at least four votes are required for the FEC to take official action. In reality, the Commission has always consisted of three Commissioners affiliated with the Democratic Party and three with the Republican Party. This setting may sometimes result in ~~voting~~ "deadlocks" situations where the Commission is divided evenly on a decision ~~as a result of party line votes~~ and therefore no action can be taken. The GET was informed by interlocutors representing civil society as well as political committees, that the perceived bi-partisan ~~structure~~ nature of the FEC in conjunction with the even number of Commissioners, hampers the FEC's ability to operate effectively in controversial cases ~~divided along "party lines"~~. These interlocutors stated that FEC decisions as a result had occasionally been inconsistent, depending on the composition of the FEC. Other interlocutors, however, emphasised that this structure is appropriate given the partisan nature of the United States political system as a whole. The GET understood that ~~"deadlocks"~~ the situations in which the Commission is evenly divided would typically appear in enforcement matters in relation to issues such as reporting requirements, political committee status and the like. When the Commission is evenly divided, it does not make an affirmative ~~"deadlock" in the Commission results in no~~ decision ~~being taken~~ on a case and, in matters in which a potential criminal violation of FECA occurred, ~~thus impedes potential referrals~~ they do not make a referral to the Department of Justice (DOJ). ~~(Could this be an obstacle to DOJ investigation and prosecution?)~~ All decisions of the Commission are public, and comments by the Commissioners as to their votes are also public. The GET is of the opinion that the current structure of the Commission in combination with the voting requirements provided by the FECA has a clear potential to hamper the efficiency of the Commission and there have been legislative attempts in the past to fix this problem by changing the number of Commissioners, ~~which~~ these attempts have failed. The GET, which overall has a very positive view of the FEC and its efficiency, believes that the problem of ~~"deadlocks"~~, an evenly ~~-~~divided Commission votes, which may appear in respect of crucial matters, requires further attention by the US authorities. The GET therefore recommends ~~to consider introducing measures to prevent evenly divided votes situations of so-called "deadlocks" within the decision making process of the Federal Election Commission (FEC) to the extent possible~~ study the effect of evenly-divided votes to determine the steps that could be taken to address, to the extent possible, the perception by the public that these situations undermine the effectiveness of the Commission.

Comment [USA27]: Incorrect. Currently, the Commission consists of three Republicans, two Democrats, and one Independent

Comment [USA28]: The DOJ does not, however, require a referral from the Commission to initiate a criminal investigation

~~151~~ ~~The GET is also concerned that certain types of expenditures in particular the "issue advertisements" and "party support" activities carried out by political parties, which are not considered under the FECA, and the lobbying activities, which may be covered as party activities in the absence of clear rules, are not sufficiently regulated. The GET is of the opinion that these activities should be regulated in such a way as to ensure transparency, thereby enhancing the integrity of the system.~~

~~subject to the rigorous rules of the FECA, and may well be used as means for avoiding not only the transparency requirements of that legislation but also the control of the FEC. The GET does not question that the IRS can be considered to be an independent agency as such; however, it is not as developed as the FEC in its limited monitoring of the 527 organisations with respect to political financing in relation to candidate or party campaigning. As it appears that both these types of organisations are increasingly being used for political financing of "soft money" in various forms, the GET is of the firm opinion that the lack of monitoring, similar to that of political committees, constitutes a shortcoming in the system, which requires further consideration by the US authorities. It is therefore recommended to strengthen the monitoring of organisations, such as the so called "501(c) organisations" and "527 organisations", which provide financing in order to support political parties and/or election candidates, ideally in line with the system relating to political committees under the Federal Election Campaign Act.~~

Comment [USA29]: The FEC is the agency charged with enforcing federal campaign finance rules. The IRS administers federal tax laws, including ensuring that organizations claiming tax-exemption adhere to the requirements for that exemption. Organizations participating or intervening in federal political campaigns are subject to, and must comply with, both sets of rules. Thus both agencies have concurrent, but separate, jurisdiction over these organizations. An organization's tax status does not in any way lessen or alter its reporting requirements under federal election law.

Sanctions

152. As already noted in this report, the FECA provides for various enforcement actions depending on the type of violation. Similarly, there are a number of possible civil sanctions available under the FECA, well connected to the actions taken by the FEC. Furthermore, the Department of Justice is responsible for the enforcement in relation to criminal infringements of the law and those sanctions are to be decided by the courts.

153. Once the FEC has taken a decision that there are reasons to believe that a violation has occurred, a notification is to be sent to the political committee and its treasurer, which includes the facts and legal basis of the case and the schedule of penalties and the proposed civil penalty. The level of the penalty is to be calculated on the basis of a well defined formula provided for in the law where factors such as how late a report has been submitted, or if it has not been submitted at all. The details of a report and the sensitivity of the reporting in relation to the election are taken into account in conjunction with the amounts involved. In the Administrative Fines context, ~~T~~the respondent has to pay the fine or challenge it before a court. In situations where the FEC chooses to enter into ~~an administrative fines programme,~~ a conciliation process or an alternative dispute resolution process, a final agreement may be combined with a civil fine. This enables FEC officials to negotiate directly with individuals/organisations to resolve compliance issues in ~~less complex~~ cases that do not set legal precedents. This allows for speedy resolution of cases and ~~, particularly in the context of the ADR process,~~ focuses on educating, rather than punishing those involved.

Comment [USA30]: The ADR process, in particular, focuses on education, but the language is overbroad for the general MUR process.

154. There is also the possibility for the FEC to refer cases to the Attorney General (Department of Justice) in order to have a case prosecuted following the criminal justice process, where possible sanctions include fines, restitution and imprisonment.

155. The GET concludes that the FEC has a rather impressive range of enforcement and sanction tools at its disposal, which can be used – and are apparently being used – in a flexible way depending on the particular situation. The fines available range from ~~very low~~zero to ~~considerable amounts~~hundreds of thousands of dollars **(is it possible to quantify??)** As an example the GET was informed that a national political party committee had received a $75,000 fine for filing one day late. The Department of Justice also has a proven track record (appended to the report) of pursuing criminal cases concerning offences relating to political financing. Penalties have included prison sentences, probation, repayment of funds and fines. The GET also notes that the FEC may in principle investigate and sanction any person involved in violations of the law, including ~~physical~~ natural and legal persons. The various enforcement measures and sanctions

available to the FEC allow for proportionality to reflect the nature of infringements and to encourage future compliance. This is a strength of the US system.

156. Finally, the GET wishes to stress that should the US authorities further consider the establishment of more in depth monitoring of organisations for political financing, currently under the purview of the federal tax authorities, such mechanisms would also need to be able to impose sanctions which are effective, proportionate and dissuasive.

V. CONCLUSIONS

157. Political financing in the United States is subject to Constitutional requirements, detailed legislation, caselaw and regulations, which overall ensures for an extraordinarily transparent system in respect of the main stakeholders providing political financing at the federal level, the various forms of political committees, operating on behalf of political parties, election candidates or other interest groups. The Federal Election Campaign Act (FECA), which has been operational for more than 35 years, contains detailed regulations concerning limitations on donations, reporting requirements and public disclosure of contributions as well as the identity of contributors.

158. The enforcement of these rules is entrusted to the Federal Election Commission (FEC), a well resourced independent agency in charge of a wide scope of activities, most notably to supervise and publicise financial reports submitted by some 8 000 political committees and other organisations registered with the FEC. Moreover, this agency is also a regulatory body, equipped with tools for the effective implementation of the FECA regulations, *inter alia*, through processes of conciliation and education. The detailed disclosure of financial reports is particularly impressive; nevertheless, this system run by the FEC could possibly be further streamlined in order to facilitate the use of the massive amount of information it makes available on-line. A more controversial matter highlighted in the report is the bi-partisan composition of the Federal Election Commission which, in combination with the voting requirements of this agency to act (4 out of 6 votes required), sometimes leads to "deadlocks" (3-3) that prevent the Commission from taking action.

159. Moreover, the FECA provides the FEC with means to investigate any person suspected of violations of the political financing legislation and regulations as well as a wide range of proportionate and dissuasive sanctions, which may be adapted to reflect the nature and seriousness of the infringements and to encourage future compliance, e.g. following a conciliation process. This is a strength of the system.

160. While the FECA regulation of the flow of so called "hard money" deserves much praise for its transparency and efficient monitoring, there are stakeholders contributing financially in the election campaigning which are not covered by the rigorous regulations of the FECA. Political financing for a particular cause ("issue advocacy") and not directly for or against a political party or a candidate is not covered by the transparency rules. Moreover, the report highlights in particular the so called "501(c) 4" – organisations, ~~which under certain conditions are not subject to any public disclosure concerning their income and expenditure related to election campaigning.~~ The potential use of such organisations as vehicles to escape public transparency for political financing ("soft money") in respect of parties and candidates appears to be an increasing phenomenon along with the general rise in the total election campaign spending in all federal elections.

Comment [USA11]: These organizations are always required to report their political expenditures on Form 990, which is publicly available. They disclose their donors to the IRS, but that information is protected by taxpayer privacy laws and cannot be disclosed. Candidates or party committees who receive contributions from such organizations must publicly report those contributions.

The FEC is the agency charged with enforcing federal campaign finance rules. The IRS administers federal tax laws, including ensuring that organizations claiming tax-exemption adhere to the requirements for that exemption. Organizations participating or intervening in federal political campaigns are subject to, and must comply with, both sets of rules. Thus both agencies have concurrent, but separate, jurisdiction over these organizations. An organization's tax status does not in any way lessen or alter its reporting requirements under federal election law.

161. In view of the above, GRECO addresses the following recommendations to the United States of America:

i. ... (paragraph 14[10]);
ii. ... (paragraph 14[55]);
iii. ... (paragraph 15[10]);
iv. ... (paragraph 15[24]).

162. In conformity with Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of the United States of America to present a report on the implementation of the above-mentioned recommendations by 30 April 2013.

163. Finally, GRECO invites the authorities of the United States of America to authorise, as soon as possible, the publication of the report.

SFC 001183

RE: Reporting Violations to IRS
"Lerner Lois G" to: mshonkwiler
Nov 03 2006 05:32 PM
Hide Details

From: "Lerner Lois G" <l[redacted]>
To: <mshonkwiler[redacted]>

That would be my shop. You can send it to me and I will forward to our Classification Office, which handles referrals. You can either hand deliver to me at:

Lois G. Lerner
Director Exempt Organizations
[redacted] NW
[redacted] Guard's Desk

or mail it to me at
[redacted]
Washington, DC 20224

From: mshonkwiler@[redacted] [mailto:[redacted]]
Sent: Friday, November 03, 2006 5:14 PM
To: Lerner Lois G
Subject: Reporting Violations to IRS

Lois

I was wondering if you could give me some guidance as to which division/office of the IRS would be in the best position to receive a report from the Commission pursuant to 2 U.S.C. 437d(a)(9) regarding apparent violations of the law in connection with an organization which claims tax exempt status under Section 501(c)(4) status, yet appears to be be focused primarily, if not exclusively, on electoral politics - and actually is registered as a state political committee ?

Thank you for your help

Mark Shonkwiler
Assistant General Counsel
[redacted]

SFC 001184

IRS PowerPoint - COGEL

"Kennedy, Kevin - GAB" to: "mikesully@SFC SF", "barbara.u.wong@SFC SFC", "scottgluck2@SF SFC", "deniser@SFC SF", "rsouth@SFC SFC", "phorowitz@SFC SF", "mrenaud@SFC SFC", "ehallstrom@SF SF"

Dec 10 2009 10:45 AM

Cc: "lois.g.lerner@irs.gov" <lois.g.lerner@irs.gov>

Hide Details

From: "Kennedy, Kevin - GAB" <SFC v>

To: "barbara.u.wong@SFC SF" <barbara.u.wong@SFC SFC>, "deniser@SFC SF" <deniser@SFC SF>, "ehallstrom@S SF" <ehallstrom@S SFC>, "mikesully@SFC SF" <mikesully@SFC SF>, "mrenaud@SFC SF" <mrenaud@SFC SFC>, "phorowitz@SFC SF" <phorowitz@SFC SFC>, "rsouth@SFC SF" <rsouth@SFC SFC>, "scottgluck2@S SF" <scottgluck2@S SFC>

Cc: "lois.g.lerner@irs.gov" <lois.g.lerner@irs.gov>

Attached is the PowerPoint Lois Lerner referred to in her COGEL presentation.

Thank you for your interest in the panel on regulating political speech.

Kevin Kennedy 2008 Pol Activity Lerner Long.ppt

Council on Governmental Ethics Laws

December 2008

Lois G. Lerner, Director
Exempt Organizations
Internal Revenue Service

"Material provided in this presentation is for educational use only and is not intended to establish IRS position or practice and may not be relied on or cited as precedent. For more detailed information, please refer to the "Charities and Nonprofits" section of IRS.gov."

Types of Exempt Organizations that engage in political or lobbying activities:

§ 501(c)(3) – charities, schools, churches, foundations

§ 501(c)(4) – social welfare

§ 501(c)(5) – labor

§ 501(c)(6) – business leagues

§ 527 – political

Other types of exempt organizations may engage in advocacy but these are the most common ones.

1650

§501(c)(3) Status
Charities/Foundations

- An organization must be *organized* and *operated* exclusively for an *exempt purpose—charitable, religious, educational, scientific, etc.*

1651

§ 501(c)(4) Status
Social Welfare Organizations

- An organization must be *operated* exclusively for the *promotion of social welfare--promoting the common good and general welfare of the people in the community*

§ 501(c)(5) Status

Labor Organizations

- An organization must be *operated* for the betterment of conditions of those engaged in their pursuits and their earnings may not inure to the benefit of any member.

§ 501(c)(6) Status
Business Leagues

- Organizations that are associations of persons with a common business interest which promote the common interest and do not conduct a regular trade or business for profit.

§ 527 Status
Political Organizations

- An organization that is *organized* and *operated* primarily for the purpose of directly or indirectly accepting contributions or making expenditures for the function of attempting to influence the selection, nomination, election or appointment of any individual to Federal, State, or local public office.

1655

Political Campaign Activity

- Attempting to influence political campaigns through direct and indirect candidate support, including:
  - Contributions
    - To candidates
    - To PACs
  - Participation in campaigns
  - Public statements for/against a particular candidate

1656

Lobbying

- Attempting to influence legislation through:
  - Directly contacting members of a legislative body
  - Encouraging the public to contact members of a legislative body
  - Advocating a position on a public referendum

General Advocacy

- Attempting to:
- Influence Public Opinion
- Non-Legislative Governing Bodies (the executive branch, regulators)
- Encourage Voter Participation:
  - Voter Registration
  - GOTV Drives
  - Voter Guides
  - Candidate Debates

Advocacy by § 501(c)(3) Organizations

Political Campaign Activity – Absolutely prohibited

Lobbying – cannot be a substantial activity of the organization

General Advocacy - permitted

Advocacy by § 501(c)(4), (c)(5), or (c)(6) Organizations

- ***Political Campaign Activity-*** Permitted so long as it does not constitute the organization's primary activity

- ***Lobbying*** - Unlimited amount of lobbying in furtherance of their exempt purpose permitted

- ***General Advocacy*** – Unlimited amount in furtherance of their exempt purpose permitted

1660

Advocacy by § 527 Organizations

- ***Political Campaign Activity -*** Permitted
- ***Lobbying*** - Limited amount permitted
- ***General Advocacy -*** Limited amount permitted

	501(c)(3)	501(c)(4)	501(c)(5)	501(c)(6)	527
Receive Tax-Deductible Charitable Contributions	YES	NO	NO	NO	NO
Engage in Candidate Election Activity	NO	LTD	LTD	LTD	YES
Engage in Legislative Activity	LTD	YES	YES	YES	LTD
Engage in Public General Advocacy Not Related to Legislation or Election of Candidates	YES	YES	YES	YES	LTD

SFC 001198

1662

Compliance

- PACI Program:
  - 501(c)(3)s, driven by outside information, immediate response
  - Education and enforcement components
- Internet Issues:
  - Rules apply in this context as well
  - Focus on links between 501(c)(3) and unrelated party
  - Will not consider links from a 501(c)(3) to the home page of a related 501(c)(4)
- 501(c)(4) Compliance:
  - Not included in PACI program
  - Political intervention permissible if not "primary"
  - Examinations conducted after year-end

501(c)(4) Going Forward

- Possible shift of political work from 527s to 501(c)(4)s due to non-tax election laws
- Examine whether (c)(4)s are paying tax on political expenditures
- Ensure they are not doing primarily political activity

1664

Governance and Related Organizations

- Related 501(c)(3), 501(c)(4) and connected PAC(527) structures are common
- Disclosure of transfers to related organizations and collection of funds on new Form 990
- IRS considering project to review flow of funds and resources in these affiliated structures

Disclosure

- Political Organizations (527)
- FEC Filers – www.FEC.gov
- State Filers – State web sites
- IRS Filers – www.IRS.gov/polorgs
- Detailed contribution and expenditure information available.

- Other Exempt Organizations
- Form 990 filings available via www.Guidestar.org
- Form 990 available to view at organization
- Contributor information not available.

1666

For More Information

- IRS Charities & Nonprofits Website: www.irs.gov/eo
- Guidance:
  - Fact Sheet 2006-17 (plain language)
  - Revenue Ruling 2007-41 for 501(c)(3) organizations
  - Revenue Ruling 2004-6 for 501(c)(4), (c)(5) and (c)(6) organizations
  - Publication 1828: *Tax Guide for Churches and Religious Organizations*
- Subscribe to *EO Update*:
- eo-update-subscribe@lists.qai.irs.gov

SFC 001204

Teleconference Background
"Kennedy, Kevin - GAB" to: eweintraub, lois.g.lerner, pryan Dec 03 2008 12:49 PM
Hide Details

From: "Kennedy, Kevin - GAB" [redacted]
To: <eweintraub@[redacted] <lois.g.lerner@[redacted] <pryan@[redacted]

Ellen, Lois and Paul,

A description of the panel is set out below. Larry Noble, Mike Wittenwyler and Doug Chalmers,(al attorneys in private practice) will be on the beginning panel from 9:15 to 10:30 on Wednesday, December 10th. The will focus on what their clients want and how they provide advice on compliance. There will be a 15 minute break before your panel which begins at 10:45 and runs until 12 noon.

Where Does the Money Come From? A Look at the Methods of Financing and Sometimes Regulating Political Speech

Having trouble figuring out who is behind that slick ad touting the accomplishments of a candidate for public office? Do you wonder who is behind the sleazy innuendo laden telephone calls about the incumbent seeking re-election? What about the scorecards describing the voting records of candidates for public office? This panel will offer an in-depth look at the structure and organization of various committees and organizations spending money to discuss candidates and issues during the campaign season.

This is an extended presentation, so there will be plenty of time to discuss what can or cannot be regulated and disclosed. The first session presents a look at what the private bar advises individuals and organizations seeking to make themselves heard at campaign time. The second session provides the perspective of regulators and watchdogs with respect to their role in administering registration and reporting campaign activity.

Kevin J. Kennedy
Director and General Counsel
Wisconsin Government Accountability Board
[redacted]
[redacted]

RE: Hello

From: Lerner Lois G <SFC [redacted]>
To: Jonathan Levin/SFC [redacted]
Date: Feb 22 2002 04:00:22 PM

Nice to hear from you. It's pretty exciting that the campaign finance stuff may actually go through. I enjoyed lunch also. things are crazy right now so it'll have to be a few weeks. Maybe the week of the 11th?

-----Original Message-----
From: Jonathan Levin [SFC [redacted]]
Sent: Friday, February 22, 2002 3:55 PM
To: Lerner Lois G
Subject: Hello

I just wanted to say hello. I'm studying Shays-Meehan right now. It's not easy
reading a bill before its provisions are incorporated into the specific U.S. Code sections (although the bill obviously describes which sections the amendments will be attached to).

I'd like to have lunch again soon. I had a very good time when we had lunch at the Old Ebbitt. I don't have a specific date in mind yet.

I don't have much to tell you, except that I'm fighting my annual February
or March cold. (Obvious play for sympathy)

I hope everything is going well with you.

- att1.htm

SFC 001206

RE: Happy Birthday
Lerner Lois G to: "jlevin@SFC "

Oct 12 2004 05:25 PM
Hide Details

From: Lerner Lois G <Lois.G.Lerner@SFC >
To: "jlevin@SFC " <jlevin@SFC >

Don't worry--I'm the worst at connecting with people--I'm way too busy at work and then too tired at home--after the election, we'll get together--hopefully to celebrate, but it sure looks iffy!

-----Original Message-----
From: jlevin@SFC [mailto:jlevin@SFC]
Sent: Tuesday, October 12, 2004 3:22 PM
To: Lerner Lois G
Subject: Re: Happy Birthday

Thank you so very much. And Happy Birthday to you. I meant to send you that message this morning but I have been in the middle of co-supervising and drafting a 20-day AO.

I have been so bad about getting in touch with you. I'm sorry. I need to organize my life in a better way. Things are going well at work but I can't say that for anything else.

Once this election is over, we need to get together. I do miss you.

Lerner Lois G <Lois.G.Lerner@SFC >

10/12/2004 02:49 PM

To "jlevin@SFC " <jlevin@SFC >
cc
Subject Happy Birthday

I know I'm a bit early, but I have to do these things when I think of them. Hope all has been going well. I missed your Rosh Hashanah call. Hope your holiday was enjoyable. I met a guy from your temple at my friend's house, but can't recall his name--can't recall a lot of things these days! Harley says hi!

SFC

POLITICS

ACORN Branches Rebrand After Video Scandal

Published March 15, 2010 6 0 0

AP

An ACORN employee is shown in one of many hidden camera sting operations by two independent journalists reporting on wrongdoing. (YouTube)

CHICAGO -- Affiliates of the once mighty liberal activist group ACORN are remaking themselves in a desperate bid to ditch the tarnished name of their parent organization and restore federal grants and other revenue streams that ran dry in the wake of a video scandal.

The letters A, C, O, R and N are coming off office doors from New York to California. Business cards are being reprinted. New signs with new names are popping up in front of offices.

The breakaways are trying to shed the scandal that emerged six months ago when videos showed some ACORN workers giving tax tips to conservative activists posing as a pimp and prostitute. But while their names are different, most groups

have kept the same offices and staff.

That, critics say, means the groups really haven't started anew and severed all ties to ACORN, which faced accusations of mismanagement and rampant voter registration fraud well before the video brouhaha sent even longtime Democratic backers scattering.

Even the national office of ACORN, or the Association of Community Organizations for Reform Now, doesn't blame affiliates for bolting from under its umbrella -- conceding its entire 40-state network has been devastated by what backers characterize as right-wing attacks.

More on this...

ACORN Agrees to Give Up Its Ohio Business License

Judge Rules Government Can't Block Money to ACORN

ACORN Hopes New Image Can Save Disgraced Advocacy Group

"It is true that these range of attacks do damage to your brand and your good name," said Kevin Whelan, ACORN's communication's director. "The other reality is that we are starting to win some vindication on the facts. But vindication doesn't necessarily pay the rent."

ACORN's financial situation and reputation went into free fall within days of the videos' release in September. Congress reacted by yanking ACORN's federal funding, private donors held back cash and scores of ACORN offices closed.

On Wednesday, a U.S. judge reiterated an earlier ruling that the federal law blacklisting ACORN and groups allied with it was unconstitutional because it singled them out. That doesn't mean any money will automatically be restored, however.

For years, ACORN could draw on 400,000 members to lobby for liberal causes, such as raising the minimum wage or adopting universal health care. Locally, its activists pushed city officials to fix broken street lights and it pressured banks to offer more favorable loans to low-income Americans. ACORN was arguably most successful at registering hundreds of thousands of low-income voters, though that mission was dogged by fraud allegations, including that some workers submitted forms signed by 'Mickey Mouse' or other cartoon characters.

There's a chance the national group could disband, and it, too, may consider changing its name.

"The sorts of attacks ACORN has faced as an organization are unprecedented since the McCarthyism in the '50s, and it remains an open question whether an organization can survive that," Whelan said. "Time will tell."

One of the latest groups to adopt a new name is ACORN Housing, long one of the best-funded affiliates. Now, the group is calling itself the Affordable Housing Centers of America.

Others changing their names include what were among the largest affiliates: California ACORN is now Alliance of Californians for Community Empowerment, and New York ACORN has become New York Communities for Change. More are expected to follow suit.

The housing affiliate has lost more than most. The federal cutoff slashed its budget 75 percent, from $24 million in 2009 to $6 million in 2010. It's closed half of its 33 offices, cut half its 250 staff and reduced numbers of low-income families it gives financial advice to from 20,000 to 10,000.

SEC 001209

An unadorned paper sign with the new name was taped at the entrance of the group's Chicago headquarters on a recent afternoon. But much else is unchanged: The new group is in the same offices; and the head of the old group, Mike Shea, is the head of the new one.

Still, insisted Shea, "We really have no relationship with ACORN whatsoever."

Many opponents don't buy it. A distinguishing feature of ACORN for years has been its complex web of affiliates, some of which shared money and manpower without ever assuming ACORN's name, said Frederick Hill, spokesman for Republicans on the U.S. House oversight and government reform committee.

"The idea that some ACORN organizations are trying to obscure who they really are should be troubling to Americans," he said.

A recent report on ACORN compiled by the House Republicans whom Hill represents describes ACORN as a "shell game" with a structure "designed to conceal illegal activities, to use taxpayer and tax-exempt dollars for partisan political purposes, and to distract investigators."

To credibly claim a clean break, argued Hill, the new groups should at least have hired directors from outside ACORN.

"But I can't tell you of a single example our committee has seen where we say, 'Geez, it really looks like they're purging all the individuals who are with national ACORN,'" he said.

The breakaways insist they have changed in more than just name, pointing to tougher ethics rules and better management. Shea said his Chicago-based housing group brought in independent auditors to pour through its books; all, he says, gave them high marks.

"We can prove to our stakeholders that we've put reforms in place and what you saw on the video can never happen again," he said.

In the end, all the confidence-building measures may do little good when it comes to divisive, politically active groups like ACORN. Foes like Hill and a vast range of longtime detractors are sure to harken back to the old ACORN names at every opportunity.

"If a company changes its name, the hubbub eventually dies down," said Bill Lozito, head of Minneapolis-based branding firm, Strategic Name Development. "Changing a name associated with politics is a lot tougher. People won't let go of the original name and won't forget."

Tax Exempt Organizations Frequently Asked Questions

I want to start a non-profit organization. What do I do?

I have received a determination letter from the IRS. What do I do for Georgia?

Will form 3605 get me an exemption from sales tax also?

We are a tax exempt organization. What do we file with the Georgia Department of Revenue?

We are filing form 990, 990EZ or 990PF with the IRS. What do we file with Georgia?

We are filing form 990-T with the IRS (unrelated business income tax return). What do we file with Georgia?

Our pension plan/employee benefit plan is filing form 5500 with the IRS. What do we file with Georgia?

What is the mailing address for forms 3605 and 600-T, and the Georgia copies of forms 990 and 5500?

We are a Homeowners Association. What do we file with Georgia?

I am trying to get a raffle license, and the application says I need a letter from the Georgia Department of Revenue saying we are tax exempt. Can you send me/fax me a letter?

The Internal Revenue Service may require small tax-exempt organizations, whose annual gross receipts are normally $25,000 or less, to electronically submit Form 990-N, also known as the e-Postcard, unless they choose to file a complete Form 990 or Form 990-EZ. The Form 990-N must be completed and filed electronically with the IRS as there is no paper form. The e-Postcard is due avery year by the 15th day of the fifth month after the close of your tax year. The e-Postcard cannot be filed until after your tax year ends. However, the Georgia Department of Revenue (DOR) currently does not accept electronic filing of exempt organization returns. What or how do I file with the DOR?

We file a federal Form 1120-POL, the federal return for a political organization that can be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes. However, in certain instances the political organization may have taxable income. Georgia does not have a comparable form. What form(s) do I file with the Georgia Department of Revenue?

Q. I want to start a non-profit organization. What do I do?

A. For income tax purposes, your first step is to obtain IRS permission to be recognized as tax exempt (package 1023 or package 1024). Also see IRS Publication 557. The IRS' forms number is 1-800-829-3676, and their website address is at www.irs.gov/charities. If you are going to be incorporated, or if you are going to solicit contributions from the public, check with the Georgia Secretary of State's Office. They handle the registering of corporations doing business in Georgia (404-656-2817) and the Charitable Solicitations Act (404-856-4910), or go to their website at www.sos.georgia.gov. For tax years beginning before 1/1/08; after you have received your determination latter from the IRS, and your certificate of incorporation from the Secretary of State's Office, you must file form 3605 with the Georgia Department of Revenue, to apply for a state income tax determination letter. For tax years beginning on or after 1/1/2008, Form 3605 will no longer be required. The IRS determination letter allowing exempt status for the corporation along with the letter of incorporation will suffice. Attach these forms to the relevant exempt organization federal return that is filed with Georgia

If you have employees, you need to register for withholding the same as any other employer. If you have questions on any other type of tax, contact the division that administers that tax.

Q. I have received a determination letter from the IRS. What do I do for Georgia?

A. For tax years beginning before 1/1/2008, file form 3605 (application for state income tax determination letter) with the required organizational documents listed on the form. For tax years beginning on or after 1/1/2008, this form is no longer required. Instead, a copy of the Internal Revenue Service determination letter, along with a copy of all formation documents must be attached to the applicable, initial exempt organization tax return filed with the State of Georgia. Additionally, copies of the determination letter and all formation documents must also be retained by the organization and be available upon request. For returns filed subsequent to the initial return, attach the IRS determination letter and any other relevant forms.

Q. Will form 3605 get me an exemption from sales tax also?

A. Contact the Sales & Use Tax Unit at 1-877-GADOR11 (1-877-423-6711) to see if you qualify for an exemption from sales tax.

Q. We are a tax exempt organization. What do we file with the Georgia Department of Revenue?

A. It depends on what you are filing with the IRS.

Q. We are filing form 990, 990EZ or 990PF with the IRS. What do we file with Georgia?

A. You are required to file a copy of the federal form 990, 990EZ or 990PF with the Georgia Department of

Revenue. We do not have a form equivalent to the IRS informational returns 990, 990EZ or 990PF so no Georgia form is required. The 990, 990EZ or 990PF should be mailed to Georgia Department of Revenue, P.O. Box 740395, Atlanta GA 30374-0395.

Q. We are filing form 990-T with the IRS (unrelated business income tax return). What do we file with Georgia?

A. File Georgia form 600-T, and attach a copy of form 990-T.

Q. Our pension plan/employee benefit plan is filing form 5500 with the IRS. What do we file with Georgia?

A. File a copy of the federal Form 5500. Georgia does not have an equivalent Form 5500. For plan years beginning on or after January 1, 2009, the federal Form 5500 and its schedules must be filed electronically under the computerized ERISA Filing Acceptance System. The Department of Revenue does not currently accept these electronically filed returns. Therefore, file a hard copy of the electronically filed federal form with Georgia..

Q. What is the mailing address for form 3605 and the Georgia copies of forms 990 and 5500?

A. Form 600-T should be mailed to the address on the form.
The mailing address for Form 3605 is Georgia Taxpayer Services Division, 1800 Century Center Blvd. N.E., Suite 15311, Atlanta, GA 30345-3205. (No longer required for tax years beginning on or after 1/1/2008.)
Forms 990 and 5500 should be mailed to Georgia Department of Revenue, P.O. Box 740395, Atlanta GA 30374-0395.

Q. We are a Homeowners Association. What do we file with Georgia?

A. If you file IRS form 1120-H, file Georgia form 600. (We do not have a form equivalent to form 1120-H.) List only the federal taxable income on form 600, and attach a copy of form 1120-H. If your association is not organized for profit, write in the net worth tax area of form 600, "not applicable - homeowners association."

Q. I am trying to get a raffle license, and the application says I need a latter from the Georgia Dept. of Revenue saying we are tax exempt. Can you send me/fax me a letter?

A. For tax years beginning on or after 1/1/2008 you no longer have to submit Georgia form 3605 requesting such an exemption. Contact your local sheriff at your specific county to request and obtain the relevant license for conducting a raffle. Attach the IRS determination letter allowing exempt status for the corporation along with the latter of incorporation with the appropriate federal exempt return that is filed with Georgia.

Q. The Internal Revenue Service may require small tax-exempt organizations, whose annual gross receipts are normally $25,000 or less, to electronically submit Form 990-N, also known as the e-Postcard, unless they choose to file a complete Form 990 or Form 990-EZ. The Form 990-N must be completed and filed electronically with the IRS as there is no paper form. The e-Postcard is due every year by the 15th day of the fifth month after the close of your tax year. The e-Postcard cannot be filed until after your tax year ends. However, the Georgia Department of Revenue (DOR) currently does not accept electronic filing of exempt organization returns. What or how do I file with the DOR?

A. File a copy of the receipt received from the IRS for the e-Postcard along with a brief statement as to why there is no paper return. Once the DOR accepts electronic filing of exempt returns, the e-Postcard will also need to be filed electronically with the DOR.

Q. We file a federal Form 1120-POL, the federal return for a political organization that can be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes. However, in certain instances the political organization may have taxable income. Georgia does not have a comparable form. What form(s) do I file with the Georgia Department of Revenue?

A. File a copy of Form 1120-POL with DOR if there is no taxable income. If the organization is subject to tax, file Form 600-T.

Return to Top

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stein@huffingtonpost.com (mailto:stein@huffingtonpost.com)

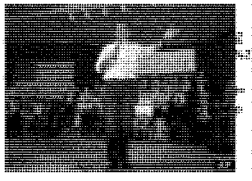
Mitt Romney's PAC Funded Anti-Gay Marriage Group Under The Radar

Posted: 03/30/2012 1:59 pm EDT | Updated: 03/30/2012 2:37 pm EDT

2.1k (javascript:void(0))

1.8k

883



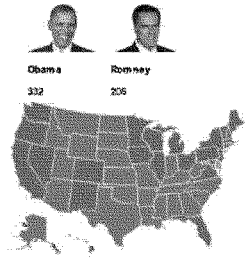
NEW YORK -- In 2008, Mitt Romney's political action committee made a $10,000 donation to the National Organization of Marriage at a time when the anti-gay rights organization was seeking repeal of a California law legalizing marriage equality.

While neither the donation nor Romney's opposition to same-sex marriage were a secret, the precise way in which he contributed to NOM remained under tight wraps until Friday. One of the only public comments on the matter came when the former Massachusetts governor's top spokesman, Eric Fehrnstrom, told the *Deseret News* (http://www.deseretnews.com/article/705258483/Despite-speculation-about-2012-Romney-focuses-on-GOP-in-08.html) that Romney supported California's Proposition 8, which would reverse the state law allowing for same-sex marriage, and that he would be writing a check to NOM.

"The governor feels strongly that marriage is an institution between a man and a woman, and one of the most high-profile fights on this subject is happening in California," Fehrnstrom said at the time.

ADVERTISEMENT

2012 Election Results
(http://elections.huffingtonpost.com/2012/results)



(http://elections.huffingtonpost.com/2012/results)
Obama leading
Obama won
Romney leading
Romney won

Battleground States

Obama

Virginia (http://elections.huffingtonpost.com/2012/results/virginia) 51.2% (http://elections.huffpo

But when Romney eventually made his donation, he did so quietly, and through an unusual channel. Records filed by Romney's Free and Strong America PAC with the Federal Election Commission did not include details of that $10,000 donation. Nor did NOM's public 990 form. In fact, record of the payment was only uncovered Friday when the pro-gay rights Human Rights Campaign was sent a private IRS filing from NOM via a whistleblower. The Human Rights Campaign shared the filing (http://big.assets.huffingtonpost.com/NOM2008schedB.pdf) with The Huffington Post.

Asked for comment, an aide to Romney said that the donation was made through the Alabama chapter of the Free and Strong America PAC. State records confirm this (http://arc-sos.state.al.us/PEL/SOSELPDF.001/E0090860.PDF). However, the 990 NOM filed lists the donation as having come from PO Box 79226 in Belmont, Massachusetts.

Romney is far from the only (http://blog.al.com/sweethome/2011/07/national_candidates_can_take_a.html) national politician to take advantage of Alabama's lax campaign finance and disclosure laws. Several others have set up PACs in the state, for the purposes of raising money. Alabama does not put a limit on the individual amount that a donor can give to a PAC.

But the secretive nature of the donation raised the eyebrows of Human Rights Campaign officials. Romney, after all, didn't have to send his check to NOM through the Alabama chapter of his PAC.

"It's clear now that Romney was a major financial donor to Prop. 8," said Fred Sainz, HRC's vice president for communications. "But it's also clear that his campaign very cleverly hid this contribution in an obscure Alabama PAC."

"His spokesperson said that Romney had financially supported Prop 8 but there's no disclosure of a contribution to any Prop. 8 effort, personal or through the national or Alabama PAC," Sainz added. "He instead chose to give to NOM, an organization that has a history of shielding its donors. For what other purpose would you contribute $10,000 to NOM three weeks before the election other than Prop 8?"

Free and Strong America's donation to NOM takes on a bit of additional significance this week after it was revealed that the organization has plotted ways to turn blacks and gays against one another. As BuzzFeed reported (http://www.buzzfeed.com/buzzfeedpolitics/in-secret-documents-anti-gay-marriage-group-plott):

> The leading opponents of same-sex marriage planned to defeat campaigns for gay marriage by "fanning the hostility" between black voters from gay voters and by casting President Obama as a radical foe of marriage, according to confidential documents made public in a Maine court today.
>
> The documents, circulated by the gay rights group Human Rights Campaign, are marked "confidential" and detail the internal strategy of the National Organization for Marriage.
>
> "The strategic goal of this project is to drive a wedge between gays and blacks—two key Democratic constituencies," says an internal report on 2008 and 2009 campaigns, in a section titled the "Not A Civil Right Project."
>
> "Find, equip, energize and connect African American spokespeople for marriage, develop a media campaign around their objections to gay marriage as a civil right; provoke the gay marriage base into responding by denouncing these spokesmen and women as bigots," advises the document, which is a road map to the successful campaign against same-sex marriage in California.
>
> The document also targets Hispanic voters, whom conservatives have long hoped would join the backlash against gay rights.

ALL-ALSO-ON-HUFFPOST

Mitt Romney Gay, Mitt Romney Gay Marriage, Video, Elections 2012, Mitt Romney 2012, Romney Gay Marriage, Free and Strong America, Mitt Romney, Romney Gay Marriage Funding, Election 2012, Marriage Romney, Romney National Organization of Marriage

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Florida (http://elections.huffingtonpost.com/2012/results/florida)		50.0% (http://elections.huffingtc
N. Carolina (http://elections.huffingtonpost.com/2012/results/north-carolina)		48.4% (http://elections.huffingtc carolina)
Ohio (http://elections.huffingtonpost.com/2012/results/ohio)		50.7% (http://elections.huffingtc
New Hampshire (http://elections.huffingtonpost.com/2012/results/new-hampshire)		52.0% (http://elections.huffingtc hampshire)
Colorado (http://elections.huffingtonpost.com/2012/results/colorado)		51.5% (http://elections.huffingtc
Wisconsin (http://elections.huffingtonpost.com/2012/results/wisconsin)		52.8% (http://elections.huffingtc
Iowa (http://elections.huffingtonpost.com/2012/results/iowa)		52.0% (http://elections.huffingtc
Nevada (http://elections.huffingtonpost.com/2012/results/nevada)		52.4% (http://elections.huffingtc

Popular Vote

	Obama	Romney
Total	65,899,660	60,932,152
Percent	51.1%	47.2%

Senate
(http://elections.huffingtonpost.com/2012/results/senate)
33 out of 100 seats are up for election. 51 are needed for a majority.
Democrat leading
Democrat won
Holdover
Republican leading
Republican won

	Democrats*	Republicans
Current Senate	53	47
Seats gained or lost	+2	-2
New Total	55	45

* Includes two independent senators expected to caucus with the Democrats: Angus King (Maine) and Sen. Bernie Sanders (Vt.).

House
(http://elections.huffingtonpost.com/2012/results/house)
All 435 seats are up for election. 218 are needed for a majority.
Democrat leading
Democrat won
Republican leading
Republican won

	Democrats	Republicans
Seats won	201	234

Click for Full Results
(http://elections.huffingtonpost.com/2012/results)

HUMAN RIGHTS CAMPAIGN.org

HRC Blog

Search the HRC Blog GO

One of NOM's Top Secret Donors Revealed: Mitt Romney

March 30, 2012 *by Dan Reiter, Associate Director of Communications*

Share 705 Tweet 290

We often talk about how hard NOM works to hide their donors -- even if it means circumventing the law -- but now, we've learned the identity of one of their high-profile financial supporters: Mitt Romney.

Financial documents obtained by HRC reveal that Mitt Romney donated $10,000 to the National Organization for Marriage in 2008 -- essentially funding NOM's strategy (http://www.hrc.org/blog/entry/breaking-previously-confidential-documents-shed-light-on-nom-strategy) of using racial division and unfounded scare tactics to attack LGBT equality, at the same time that NOM was fighting for Prop 8 in California.

Join HRC in calling on Mitt Romney to immediately denounce NOM's divisive strategy. Act now (https://secure3.convio.net/hrc/site/Advocacy?cmd=display&page=UserAction&id=1401).

The money came via Romney's "Free and Strong America" PAC during a time when NOM was heavily engaged in passing Proposition 8. HRC reviewed copies of Romney's Free and Strong America PAC's filings with the Federal Election Commission -- and no contribution to NOM was disclosed in those documents. The filings are available from the FEC (http://query.nictusa.com/cgi-bin/fecimg/?C00449280). But, HRC did discover an Alabama-based "Free and Strong America" PAC that in 2008 does disclose the $10,000 contribution to NOM. Available on page 3 at: http://arc-sos.state.al.us/PEL/SOSELPDF.001/E0090860.PDF (http://arc-sos.state.al.us/PEL/SOSELPDF.001/E0090860.PDF).

The evidence continues to pile up and is painting a very clear picture of Mitt Romney's anti-LGBT associations. A candidate can't claim to be "better for gay rights than [Ted] Kennedy" when it's convenient, but then fund a far-right anti-LGBT strategy to keep other interest groups happy. Act now (https://secure3.convio.net/hrc/site/Advocacy?cmd=display&page=UserAction&id=1401) and tell Romney to denounce NOM's strategy.

HRC Blog Tip Line

INTERNATIONAL BUSINESS TIMES

IRS Scandal Claims Second Agency Casualty: Joseph Grant To Retire Over Controversy

By Howard Koplowitz @howardkoplowitz h.koplowitz@ibtimes.com
on May 16 2013 5:09 PM

UPDATE 5:30 p.m. EDT: Grant was promoted to deputy director of the IRS' tax exempt and government entities division on May 8 -- just eight days ago. A statement from Grant's erstwhile boss, Steven Miller, praised Grant and another IRS official being promoted as "strong leaders who will provide strong leadership and continuity in these critical parts of the IRS."

UPDATE 5:18 p.m. EDT: A bit of background --- according to the IRS, the "mission" of Grant's division is ""to provide [tax exempt/government entity] customers top quality service by helping them understand and comply with applicable tax laws and to protect the public interest by applying the tax law with integrity and fairness to all."

UPDATE 5:02 p.m. EDT: Joseph Grant has been named as the IRS official who plans on retiring, according to the AP. Grant, who heads the agency's tax exempt and government entities division, will retire June 3.

This is a breaking news story. Stay tuned for updates.

The IRS scandal over the agency's alleged targeting of tea party groups appears to have claimed a second casualty.

Following Wednesday's resignation of acting IRS Commissioner Steven Miller, a second unnamed IRS official will be retiring in wake of the scandal, according to a tweet from the Associated Press. The tweet cites an IRS memo but gives no other information:

The scandal broke on Friday, when a report from the IRS inspector general's office was leaked to the media that indicated the agency was targeting for audits tea party and conservative groups who were seeking 501 (c)(4) designation, which would make them tax-emempt organizations.

Obama addressed the nation about the scandal on Wednesday, when he announced that Miller handed in his resignation. The president also said the IRS actions were "unacceptable" during a joint press conference Thursday with Turkish Prime Minister Recep Tayyip Erdogan.

"What I'm absolutely certain of is the actions described in that IG report is unacceptable . ...It is just simply unacceptable for there to be even a hint of ... ideology when it comes to the application of our tax laws ," Obama said from the Rose Garden in the White House. "My main conern is fixing a problem and we began that process yesterday by asking and accepting the resignation of the [IRS] acting director. We will be putting in new leadership to follow up on the IG audit, get all the facts."

Shortly after the news conference ended, Obama announced the appointment of budget official Danny Werfel to head the IRS. Wefel's first day on the job is expected to be May 22.

"Throughout his career working in both Democratic and Republican administrations, Danny has proven an effective leader who serves with professionalism, integrity and skill," the president said in a statement announcing the appointment. "The American people deserve to have the utmost confidence and trust in their government, and as we work to get to the bottom of what happened and restore confidence in the IRS, Danny has the experience and management ability necessary to lead the agency at this important time."

Instructions for Form 4506-A

(Rev. August 2014)

Department of the Treasury
Internal Revenue Service

Request for Public Inspection or Copy of Exempt or Political Organization IRS Form

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Form 4506-A and its instructions, such as legislation enacted after this form and instructions were published, go to *www.irs.gov/form4506*.

What's New

Beginning January 1, 2014, CDs are no longer available; however, DVDs can still be ordered.

General Instructions

Purpose of Form

Use Form 4506-A to request under section 6104:

- A copy of an exempt or political organization's return, report, notice, or exemption application, or
- An inspection of a return, report, notice, or exemption application at an IRS office.

You **do not** have to complete Form 4506-A to get copies of the following forms.

- Form 8871, Political Organization Notice of Section 527 Status, and Form 8872, Political Organization Report of Contributions and Expenditures, are available for inspection and printing from the Internet. The website address for both forms is *www.irs.gov/polorgs*.
- Exempt or political organizations must make their returns, reports, notices, and exempt applications available for public inspection. You can visit the organization to inspect the material instead of requesting it from the IRS. The organization may be able to mail the copies to you.
- You may request images of Form 990-N (e-Postcard), for Tax-Exempt Organizations Not Required to File Form 990 or 990-EZ, filings at *www.irs.gov/app/ePostcard*.
- If you want to determine if charitable contributions are deductible, use EO Select Check, *www.irs.gov/Charities-&-Non-Profits/Exempt-Organizations-Select-Check*.

TIP *To see an organization's current activities or financial data, you can use www.guidestar.org.*

CAUTION *An organization, or its officers, may request a copy of the organization's own return on Form 4506-A. However, they will only receive the copy that is "Open for Public Inspection." The publicly available copy will not include, for example, information that may identify a contributor and documents that were filed with the return, but are not open to public inspection. An organization, or its officers, may request a complete copy of the organization's own return by completing Form 4506, Request for Copy of Tax Return, and paying the applicable fee.*

DVD

The IRS can provide copies of exempt organization returns on DVD. Requesters can order the complete set (for example, all Forms 990 and 990-EZ or all Forms 990-PF filed for a year) or a partial set by state or by month. If you are ordering a partial set on DVD, indicate the format (Alchemy or raw), state(s), and month(s) you are ordering. Sample DVD requests are not available for individual states. DVDs and sample DVDs are not available for individual exempt organizations. Complete information, including the cost, is available on the IRS website. Search *Copies of Scanned EO Returns Available* at *www.irs.gov/Charities-&-Non-Profits/Copies-of-Scanned-EO-Returns-Available*.

Formats

Alchemy. DVDs contain image files associated in an Alchemy database to simplify visual searching of the tax returns. All required Alchemy software is provided. This format is best for users who wish to examine returns visually. Individual state DVDs are only available in Alchemy format.

Raw. DVDs contain image files in Tag Image File (TIF) format for returns selected for the month or quarter requested. This format is best for users who intend to process the image files through their data software.

How Much Will It Cost?

You may inspect a return, report, notice, or exemption application at an IRS office free of charge.

If you want a photocopy of a return, report, notice, or an exemption application, see the chart below.

Note. The IRS will send you a bill for the photocopy cost. If your cost is over $250, we will ask for payment in advance.

IF you are. . .	THEN the charge for paper copies is . . .
A commercial user	$ .20 per page
An educational institution, media, non-commercial scientific institution, or all other requesters	First 100 pages free, $ .20 per page thereafter

DVD requests and sample DVD requests must be prepaid. Please include your payment with your request. Search *Copies of Scanned EO Returns Available* at *www.irs.gov/Charities-&-Non-Profits/Copies-of-Scanned-EO-Returns-Available* for the cost of DVDs and sample DVDs. A check or money order for the fee should be payable to "United States Treasury."

Reminder. Fees for DVDs are updated in January of each processing year. Refer to IRS.gov to determine the required fee related to the processing year the request is submitted for. For example – Processing year 2015 DVD fees are updated January 2015.

Where To File

Use the following chart to determine where to fax or mail (depending on the service needed) Form 4506-A.

IF you want . . .	THEN file Form 4506-A with the . . .
To inspect a return, report, notice, or exemption application at an IRS office*	Internal Revenue Service Disclosure Scanning Operation - Stop 93A P.O. Box 621506, Atlanta, GA 30362-3006
To inspect a return, report, notice, or exemption application at IRS National Headquarters	Internal Revenue Service Attn: Freedom of Information Reading Room 1111 Constitution Avenue NW Washington, DC 20224
A copy of an exemption application, Form 1023, Form 1024, Determination Letter, or updated Determination Letter (includes all supporting documents)	Internal Revenue Service Attn: Correspondence Unit P.O. Box 2508, Room 4024 Cincinnati, OH 45201 Fax no. 513-263-3434
A copy of a return, report, or notice	Internal Revenue Service RAIVS Unit MS: 6716 Ogden, UT 84201 Fax no. 801-620-7896

*The office handling your request will contact you to schedule an appointment when the item is available for inspection.

How Long Will It Take?

Generally, it may take up to 60 days for us to process your request.

Specific Instructions

Line 1

Exempt or political organization. Enter the organization's official name under which exempt status was approved, address, and employer identification number. If you do not enter the official name, we may not be able to locate the requested form. Complete a separate Form 4506-A for each organization.

Line 2

Requester. Enter the requester's name, address, phone number, and the name of a contact person.

Line 3

Category of requester. Check the appropriate category of the requester. You **must** check a box.

Line 4

Reason for request. To avoid being charged the commercial rate, all requesters except commercial users must provide a reason for requesting the records and explain how the records will be used.

Lines 5-9

For each applicable form, check the box(es) for the item(s) you are requesting. You may request more than one form. For each form requested, check either the copy, inspection, DVD, or sample DVD box and enter the specific tax year(s) or period(s) as indicated. If ordering a partial set on DVD or sample DVD, indicate the format, state(s), and month(s) requested. If ordering a sample DVD, check the sample DVD box, indicate the format, and write in the calendar year(s). Sample DVD requests are not available for individual states. Individual state DVDs are only available in Alchemy format.

Incomplete requests will be rejected.

Note. Tax returns are generally available only for 7 years from filing before they are destroyed in accordance with applicable provisions of law.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need the information to gain access to the return or other exempt or political organization IRS form you requested in our files and properly respond to your request.

The authority to ask for the information requested on this form is section 6104 and its regulations. You are not required to provide the information requested on this form. However, if you do not furnish the information, we may not be able to fulfil your request. Providing willfully false or fraudulent information may subject you to criminal penalties. Routine uses include disclosing the information to the Department of Justice for civil or criminal litigation. We may also disclose this information to federal and state agencies to enforce federal nontax criminal laws and to federal law enforcement and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103. The time needed to complete and file Form 4506-A will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	6 min.
Learning about the law or the form	10 min.
Preparing the form	21 min.
Copying, assembling, and sending the form to the IRS	20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 4506-A simpler, we would be happy to hear from you. You can send us comments by going to www.irs.gov/formspubs/, clicking on "More Information," and then clicking on "Give us feedback." You can also send your comments to:

Internal Revenue Service
Tax Forms and Publications Division
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Do not send Form 4506-A to this address. Instead, see *Where To File*.

Part 1. Organization, Finance, and Management

Chapter 1. Organization and Staffing

Section 5. Office of the Commissioner

1.1.5 Office of the Commissioner

- 1.1.5.1 Office of the Commissioner
- 1.1.5.2 Office of the Chief of Staff
- 1.1.5.3 Office of the Deputy Commissioner for Services and Enforcement
- 1.1.5.4 Office of the Deputy Commissioner for Operations Support

1.1.5.1 (10-28-2008)
Office of the Commissioner

1. The **Commissioner of Internal Revenue** is the chief executive officer for the IRS. The Commissioner is nominated by the President of the United States and confirmed by the Senate for a five-year term, and may be reappointed to more than one term.
2. The Commissioner is responsible for establishing and interpreting tax administration policy and for developing strategic issues, goals and objectives for managing and operating the IRS. The Commissioner is responsible for overall planning, directing, controlling and evaluating IRS policies, programs, and performance.
3. The Office of the Commissioner consists of the Commissioner, Deputy Commissioner for Services and Enforcement, Deputy Commissioner for Operations Support, and their immediate staffs.
4. The Commissioner directly supervises the:
   A. Deputy Commissioner for Services and Enforcement
   B. Deputy Commissioner for Operations Support
   C. Special Assistant to the Commissioner
   D. Chief of Staff
   E. Chief, Appeals - see IRM 1.1.7, *Organization and Staffing, Appeals*
   F. National Taxpayer Advocate - see IRM 1.1.8, *Organization and Staffing, National Taxpayer Advocate*
   G. Chief, Equal Employment Opportunity and Diversity - see IRM 1.1.10, *Organization and Staffing, Equal Employment Opportunity and Diversity*
   H. Director, Research, Analysis and Statistics see IRM 1.1.18, *Organization and Staffing, Research, Analysis and Statistics*, and
   I. Chief, Communications and Liaison - see IRM 1.1.11, *Organization and Staffing, Chief, Communications and Liaison*

   Note:

   The Chief Counsel reports to the Commissioner except as specified in the IRS Restructuring and Reform Act of 1998. The IRS Chief Counsel also reports to the Treasury General Counsel on certain matters.
5. The **Chief Counsel** is appointed by the President of the United States with the advice and consent of the U.S. Senate. As the chief legal advisor to the IRS Commissioner on all matters pertaining to the interpretation, administration and enforcement of the Internal Revenue Laws (as well as all other legal matters) the Chief Counsel provides legal guidance and interpretive advice to the IRS, Treasury and to taxpayers.

1.1.5.1.1 (10-28-2008)
Special Assistant to the Commissioner

1. The **Special Assistant to the Commissioner** is the Commissioner's personal assistant. As the Commissioner's principal advisor on general management and administration of the IRS, he or she is a facilitator, organizer and communicator. The Special Assistant to the Commissioner works closely with the Commissioner, Deputy Commissioners and other members of the Commissioner's office on overall policy, operations and management of the IRS. The Special Assistant to the Commissioner plans, performs and coordinates significant assignments spanning all program and functional areas including other government organizations; and represents the Commissioner in contacts with high-level officials of the U. S. government, foreign governments and non-government organizations.
2. Other **Assistants and Senior Advisors** to the Commissioner serve on the immediate staff of the Commissioner to provide advice and guidance on a variety of policy or technical issues of interest to the Commissioner or the IRS.

1.1.5.2 (10-28-2008)
Office of the Chief of Staff

1. The **Chief of Staff** supervises the following:
   - Deputy Chief of Staff
   - Executive Secretariat
2. The Chief of Staff reviews and appraises major policy issues and questions with implications for the IRS' position on a wide variety of issues. Responsibilities include:
   A. coordinating the review and analysis of policy proposals of direct interest to the Commissioner;

B. providing advice and evaluation of proposals, recommendations and reports requiring the Commissioner's approval;

C. overseeing the management of the Commissioner's schedule and correspondence; and

SFC 001219

D. managing a variety of executive oversight and decision-making processes.

1.1.5.2.1 (10-26-2006)
Executive Secretariat

1. The **Executive Secretariat** reports to the Chief of Staff and provides financial and program support to the Commissioner's staff and to component offices within the Office of the Commissioner.

2. The **Commissioner's Correspondence Office** reports to the Executive Secretariat and receives and processes all correspondence addressed to the Commissioner and Deputy Commissioners; and prepares acknowledgment letters to taxpayers. The staff also oversees business unit responses to taxpayers and to Freedom of Information Act (FOIA) requests.

1.1.5.3 (10-26-2006)
Office of the Deputy Commissioner for Services and Enforcement

1. The **Office of the Deputy Commissioner for Services and Enforcement** serves as the Commissioner's first assistant acting on behalf of the Commissioner in establishing and enforcing tax administration policy. The Deputy Commissioner for Services and Enforcement fosters the IRS's mission to provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities .

2. The Deputy Commissioner for Services and Enforcement's direct reports include the Assistant Deputy Commissioner and

3. The following offices report to the Deputy Commissioner for Services and Enforcement:

   A. Wage and Investment Division - see IRM 1.1.13, *Organization and Staffing, Wage and Investment Division*

   B. Large and Mid-Size Business Division - see IRM 1.1.24, *Organization and Staffing, Large and Mid-Size Business Division*

   C. Small Business and Self Employed Division - see IRM 1.1.16, *Organization and Staffing, Small Business/Self Employed Division*

   D. Tax Exempt and Government Entities Division - see IRM 1.1.23, *Organization and Staffing, Tax Exempt and Government Entities Division*

   E. Criminal Investigation - see IRM 1.1.19, *Organization and Staffing, Criminal Investigation*

   F. Office of Professional Responsibility - see IRM 1.1.20, *Organization and Staffing, Office of Professional Responsibility*

   G. Whistleblower Office - visit http://irweb.irs.gov/AboutIRS/bu/wo/default.aspx

1.1.5.4 (10-26-2006)
Office of the Deputy Commissioner for Operations Support

1. The **Office of the Deputy Commissioner for Operations Support** provides executive leadership for customer service, processing, tax law enforcement and financial management operations, and is responsible for overseeing IRS operations and for providing executive leadership on policies, programs and activities. The Deputy assists and acts on behalf of the Commissioner in directing, coordinating and controlling the policies, programs and the activities of the IRS; in establishing tax administration policy, and developing strategic issues and objectives for IRS strategic management.

2. Along with the Assistant Deputy Commissioner for Operations Support, the following offices report to the Deputy Commissioner for Operations Support:

   A. Agency-Wide Shared Services - see IRM 1.1.17, *Organization and Staffing, Agency-Wide Shared Services*

   B. Chief Financial Officer - see IRM 1.1.21, *Organization and Staffing, Chief Financial Officer*

   C. Human Capital Officer - see IRM 1.1.22, Organization and Staffing, Human Capital Office

   D. Office of Privacy, Information Protection & Data Security - visit http://irweb.irs.gov/AboutIRS/bu/pipds/default.aspx

   E. Modernization & Information Technology Services - see IRM 1.1.12, *Organization and Staffing, Chief Information Officer*

IRS

Part 1. Organization, Finance and Management

Chapter 54. TE/GE Division Organization and Management

Section 1. TE/GE Roles and Responsibilities

1.54.1 TE/GE Roles and Responsibilities

- 1.54.1.1 Responsibilities of Management for Casework
- 1.54.1.2 Elevating Issues
- 1.54.1.3 Why issues are elevated
- 1.54.1.4 Issues that are Candidates for Elevation
- 1.54.1.5 Level to which Issues should be Elevated
- 1.54.1.6 Determining the Level to which Issues should be Elevated
- 1.54.1.7 Referral to or Consultation with Counsel
- 1.54.1.8 Issues Reported or Resolved Outside the Internal Revenue Service
- 1.54.1.9 Avoiding Inappropriate Elevation by Appropriately Exercising Responsibility
- 1.54.1.10 Reaching Down
- 1.54.1.11 Consulting with front-line employees and managers

1.54.1.1 (01-01-2006)
Responsibilities of Management for Casework

1. The Tax Exempt and Government Entities (TE/GE) Division's new structure creates new patterns for reporting information and for making decisions. A key feature of the reorganization of the IRS, and of the transformation of Employee Plans/Exempt Organizations (EP/EO) into TE/GE, is the restructuring of lines of authority.

   A. Previously, EP/EO employees and managers who worked outside of the National Office reported to local District Directors, rather than to the Assistant Commissioner (EP/EO). Under this arrangement, the Assistant Commissioner (EP/EO) did not have direct authority over the work performed by most EP/EO employees, nor did the Directors of the Employee Plans or Exempt Organizations Divisions.

   B. Now that has changed. All TE/GE employees, wherever they are physically located, report through a chain of command that begins with immediate supervisors, includes Area Managers, or their equivalent, and National Directors, and goes ultimately to the Commissioner, TE/GE. Stated another way, everyone within TE/GE is part of a single, unified organization, and the lines of authority within it run from the Commissioner, TE/GE downward to every individual.

2. There are two consequences of this reorganization that are of immediate and practical concern for every TE/GE employee, manager and executive.

   A. In order for the organization to function well, certain types of information and certain decisions must be elevated from working levels of the organization to managerial and executive levels. Employees, managers and executives need to know what kinds of information and what decisions should be elevated, and to what level within TE/GE.

   B. The new structure means that it is now appropriate, and sometimes essential, for higher ranking managers and executives to involve themselves directly in the direction and decision of cases being worked or considered at a lower level. In some instances, managers and executives will involve themselves in cases to apply their experience and judgment at an early stage in the development of the case. In other instances, they will involve themselves as observers, in order to educate themselves about the manner in which work is performed in the field.

3. Employees should understand that involvement in cases or issues by senior managers and executives is appropriate, is undertaken for good reasons, and does not suggest or imply criticism of how work is being performed at lower levels. Employees should also understand that such managerial or executive involvement is required for the sound management of a complex organization such as TE/GE, and does not reflect political influence, or other inappropriate meddling in cases.

1.54.1.2 (01-01-2006)
Elevating Issues

1. The first purpose of this section is to describe the circumstances when an employee of the Tax Exempt and Government Entities Division (TE/GE) should elevate an issue, that is, bring an issue which comes to his or her attention in the ordinary course of business to the attention of a higher-ranking manager or executive. In accomplishing this purpose, this section defines the following terms and concepts:

   A. Elevation,

   B. Issue,

   C. Why issues should be elevated, and

   D. The level within the organization to which different kinds of issues should be elevated.

2. A second purpose of this section is to describe the circumstances when a higher ranking manager or executive of TE/GE may wish to inquire about an issue — especially a case — which is being worked or awaiting decision at a lower level within TE/GE.

3. A third purpose of this section is to note that front-line employees and managers should be consulted when certain policies and procedures are developed.

1.54.1.2.1 (01-01-2006)
Definition of "elevation"

1. The word "elevation," as used in this section of the IRM, means to bring to the attention of higher level managers or executives an issue, concern or situation that those

managers or executives must know about in order to execute the tax law faithfully and to manage TE/GE properly.

2. To elevate an issue is to send it to higher-ranking TE/GE officials for their information or for their decision. One who elevates an issue recognizes that others within the organization need to know about the issue, or that he or she is not authorized, experienced, or knowledgeable enough to handle or decide the issues himself or herself.
3. Elevation does not include a situation in which an employee, manager or executive merely refers an issue laterally within TE/GE or the Service, or undertakes to coordinate an issue with another part of TE/GE or the Service.
4. A referral of a matter to Counsel is not necessarily an elevation, although it can be considered one if we transfer the power of decision over the issue to Counsel.

1.54.1.2.2 (01-01-2006)
Definition of "Issue"

1. The word "issue", as used in this section of the IRM is not intended to have a precise or a restrictive meaning. In general, it means a matter that should not be decided or otherwise resolved in a routine, standard, or uniform manner. Often it involves a new, an unusual, or a sensitive matter. Ordinarily it is a matter that must be decided or resolved through the use of careful analysis, sound judgment, discretion and experience. For example, for purposes of this section, an issue could include the following:

   A. The interpretation or application of law or published guidance to a case;
   B. A non-standard case, including, e.g., unusual aspects of a determination letter application, or of an open or potential examination;
   C. Published guidance, including, e.g., regulations, revenue procedures, announcements and notices;
   D. A new administrative action or procedure, or a revision or an exception to an existing action or procedure, e.g., proposed amendments to a voluntary compliance program or a change in the way user fees are collected;
   E. The interpretation or application to a case of a new or existing administrative action or procedure;
   F. A developing or emerging issue, including issues that have not yet formally been presented to TE/GE by a taxpayer or that have not yet arisen in an examination, e.g., an issue we have learned of through discussions at a practitioner's meeting, or at a meeting of a professional society;
   G. An allegation brought to TE/GE's attention by an outside party, e.g., a report in a newspaper, or a letter from a member of the public, suggesting a possible violation of the Code.

2. For purposes of this section, an issue does not include a matter incorporated in routine and regularly scheduled reports of ordinary events. In other words, this section of the IRM is not intended to supplement or replace guidance concerning the elevation of issues that are covered by well-established and well-defined reporting schemes. Employees, managers and executives already have instructions concerning the preparation and reporting of these matters.

1.54.1.3 (01-01-2006)
Why Issues are Elevated

1. A variety of sound business reasons suggest that many issues arising at lower levels of the organization should be elevated to higher levels. Whenever one of these reasons is present with respect to an issue that you are responsible for or dealing with, you should consider elevating the issue to your immediate supervisor. In general, issues need to be elevated for one of two reasons:

   A. To inform managers and executives of things they need to know, and
   B. To present matters to them for decision.

2. In considering whether to elevate an issue, there are two questions that are appropriate for an individual, at any level of TE/GE, to ask.

   A. "Am I technically capable, authorized, and comfortable about deciding this issue myself?" If the answer to any part of the question is no, or doubtful, you should elevate the issue to your immediate supervisor.
   B. "Is this issue something that my manager, or a higher-ranking manager or executive, would want to know about or should know about in order to perform his or her duties?" Another way of looking at the question is to put yourself in a manager or executive's shoes, and ask if you would want to be aware of the issue if you were the manager or executive. If the answer to any of these questions is yes, you should elevate the issue to your immediate supervisor.

3. In case of doubt about whether to elevate an issue, the better practice is to elevate it. One to whom an issue is elevated may, in his or her discretion, decline the elevation and refer the matter back to the originating employee or manager for resolution.

1.54.1.3.1 (01-01-2006)
Elevation to Inform Managers or Executives

1. Reasons to elevate an issue for the purpose of informing managers or executives include, but are not limited to, the following:

   A. Inform managers and executives of issues that may eventually require action, approval, or a response, or that have the potential to become problems, but which will not come to managers' and executives' attention through an established reporting program. Examples of such issues include: sensitive issues, high-impact cases, matters which may generate publicity, or matters which have been handled inappropriately;
   B. Secure the cooperation of, or the coordination with, another part of TE/GE, another part of the IRS, or another government agency;
   C. Obtain the assistance or solicit the views of Counsel or Treasury;
   D. Obtain the assistance or solicit the views of the TE/GE Senior Technical Advisor;
   E. Obtain or promote the uniform application of the law, or the achievement of uniform results;
   F. Recommend improved administrative practices, or bring to light weaknesses in existing administrative practices;
   G. Notify managers and executives of deviations from established administrative practices, and the reasons for the deviations;
   H. Bring to light a sensitive or other important issue that is obscured by procedural or other issues.

1.54.1.3.2 (01-01-2006)
Elevation to Obtain a Decision

1. Reasons to elevate an issue for the purpose of obtaining a decision include, but are not limited to, the following:

   A. Present managers and executives with issues that require their action, approval or response;

   B. Comply with a statute, regulation, procedure, or directive that specifies the level at which a particular type of decision is to be made, e.g.: certain issues must be submitted for mandatory technical advice; requests for section 7805(b) relief must go to the Commissioner, TE/GE; closing agreements must go to the Commissioner, TE/GE or to the Director of EP, EO or GE; and field directives may require that certain cases be forwarded to specific places for decision;

   C. Obtain a decision when the issue is one of first impression, precedent setting sensitive, or otherwise of such significance that it should be decided at a higher level within the organization, e.g., a case in which a decision must be made between alternative interpretations of the law;

   D. Obtain a decision where the correct resolution of an issue is unclear or not well established;

   E. Offer senior managers or executives the opportunity to concur with or dissent from the proposed resolution of an issue when the proposed resolution is novel, sensitive, or precedent-setting;

   F. Obtain a decision where there is disagreement among employees, managers, or different organizations within TE/GE or the IRS as to how a technical issue should be resolved;

   G. Obtain a decision where there is disagreement among employees, managers or different organizations within TE/GE or the IRS as to how an administrative issue should be resolved;

   H. Obtain a decision where the organizational interests of different organizations within TE/GE or the IRS are in conflict, or where an impasse has been reached because of such conflict;

   I. Obtain personnel, IS, budgetary, or other resources.

1.54.1.4 (01-01-2008)
Issues that are Candidates for Elevation

1. Closely related to the question of why issues should be elevated is the question of what issues should be elevated. It is not possible to present a definitive or exclusive list of all issues that should be elevated, because such a list changes in accordance with changes in the tax, business, or organizational environment, and with the context in which the issue arises. However, a representative list of issues that ordinarily would be candidates for elevation is presented below. Although the issues are presented as falling into one of two categories, many issues could be listed appropriately under both categories.

2. To inform managers and executives:

   A. Issues that may eventually require action, approval, or response, or that have the potential to become problems, but which will not come to managers' and executives' attention through an established reporting program;

   B. Issues that are sensitive;

   C. Issues requiring coordination with other segments of TE/GE or the IRS;

   D. Issues requiring coordination with Counsel or with Treasury;

   E. Issues requiring coordination, or involving a policy dispute, with other Federal agencies;

   F. Issues that impact a large number of individuals;

   G. Issues with an extreme impact on one or more individual taxpayers, organizations, or entities;

   H. Issues involving substantial dollar amounts;

   I. Issues of concern to the EO, EP, or GE community;

   J. Issues of concern to Treasury, the Congress, or the tax-writing committees;

   K. Issues concerning the uniform application of the law, or the achievement of uniform results;

   L. Complaints from taxpayers about TE/GE policies, practices, employees, managers or executives;

   M. Situations in which TE/GE or the IRS has erred and correction is required;

   N. Situations in which administrative procedures could be improved or are not working as intended;

   O. Situations involving a deviation from an established administrative practice;

   P. Situations that are newsworthy, or that have the potential to become newsworthy;

   Q. Situations involving a state, a municipality or an Indian tribal government;

   R. Inquiries or recommendations from the Government Accounting Office or the Treasury Inspector General for Tax Administration.

3. To obtain a decision:

   A. Issues that require the action, approval or response of a manager or executive;

   B. Issues that are directed by statute, regulation, revenue procedure, or other directive or practice to a particular office or level for resolution or decision;

   C. Issues that are of first impression, precedent-setting, or sensitive, including departures from established positions or practices;

   D. Issues in which the correct resolution is unclear or not well established;

   E. Issues that are sensitive, but whose sensitivity is obscured by procedural or other issues;

   F. Situations in which there is disagreement among employees, managers, or different organizations within TE/GE or the Internal Revenue Service as to how a technical issue, or an administrative issue, should be resolved;

   G. Situations in which the organizational interests of different organizations within TE/GE or the IRS are in conflict, or where an impasse has been reached because of such conflict;

   H. Issues concerning personnel, IS, budgetary or other resources;

1. Situations involving the revocation of a compliance statement or a closing agreement, or the amendment of a compliance statement.

1.54.1.5 (01-01-2006)
Level to which Issues should be Elevated

1. In most cases, employees should elevate issues to their immediate managers, who, in turn, should elevate them, as appropriate, to successively higher levels within the TE/GE chain of command. Generally, it is not necessary that each employee accurately gauge the ultimate level to which an issue should be elevated. If each employee, manager and executive understands his or her own area of responsibility and competence, takes action on issues that are within that area, and elevates to a higher level issues that are outside that area, issues will arrive for decision at the appropriate level.
2. However, as noted above, under the new structure of TE/GE and the Service, it often will be appropriate for managers and executives at higher levels to inquire about or to involve themselves in matters being worked at a lower level. Further, taxpayers with matters pending before TE/GE regularly monitor the progress of their matter, and may become concerned if they find that their matter has been, or potentially may be, elevated above ordinary working levels.
3. To provide a sense of comfort to both employees and to taxpayers as to the reasons a case with which they are involved has become the subject of higher level review, and to alleviate concerns that such a review reflects an adverse judgment by senior management on the work of the employee or on the merits of the taxpayer's case, this section sets forth, in general terms, a description of the types of issues one may expect to be elevated to certain levels within TE/GE and the IRS.
4. In general, the more significant an issue, the more likely it is to be elevated, and the higher it is likely to go up the chain of command. Further, as noted previously, some issues are directed automatically to certain levels within the Service; e.g., requests for 7805(b) relief must be approved by the Commissioner, TE/GE.

1.54.1.5.1 (01-01-2006)
Issues of "Local" and "National Concern"

1. The level to which an issue is elevated may be influenced by whether the issue is "local" or "national" in character.
2. An issue of local concern is one which is of concern either to a single taxpayer, or to a group of taxpayers, generally located within the geographical boundaries of one area, or one which concerns a matter that is unique to or confined to the area in question.
   A. For example, taxpayer complaints about the staffing of EP posts of duty at certain hours, perceived errors in the way a particular employee is interpreting a section of the Code, or significant press reports of misuse of tax-exempt bonds by a particular municipality would be matters of local concern.
   B. Similarly, a conflict between TE/GE practice with respect to a tax-exempt organization and the requirements of a state attorney general's office with jurisdiction over the same organization would be, at least initially, a matter of local concern.
3. By contrast, an issue of national concern is an issue that affects similarly situated taxpayers throughout the country, an issue that is precedent-setting or that will serve as a model for cases in other areas or throughout the country, or a non-routine issue that appears likely to present itself in several areas or throughout the country.
   A. For example, the appearance of a new kind of tax-qualified pension plan, such as the first cash balance plan, would, in most instances, present novel issues of national concern that should be elevated to the Director, Employee Plans Rulings and Agreements, and ultimately to the Director, Employee Plans. Such an issue might appear in a determination letter application, or an agent or manager might be asked a question about it, or hear a presentation on it, at a practitioners' meeting or at a convention of a professional association.
   B. An issue of national concern may also be an issue that affects so prominent a taxpayer, or such a large group of individuals, that the attention of the tax community or of the public at large is drawn to the issue, so that the resolution of the issue effectively establishes a model for the country.

1.54.1.6 (01-01-2006)
Determining the Level to which Issues should be Elevated

1. With the foregoing in mind, the following is a description of issues that are to be decided at successively higher working, managerial, and executive levels within TE/GE.

1.54.1.6.1 (01-01-2006)
Front-line employees

1. Employees are assigned work appropriate to their grade level and to their training. Ordinarily, employees work closely with their group managers and group managers are aware of issues arising in the course of an employee's work. The issue of formal elevation is not, therefore, ordinarily present in the relationship between the employee and his or her group manager. However, front line employees will frequently elevate issues informally to their group managers.
   A. Employees should communicate regularly and frequently with group managers, keeping them informed of the progress of their work, of unusual issues that present themselves, and of any problems they encounter in resolving or concluding their work.
   B. Among other things, employee should notify their group managers of matters that are beyond their training or competence, of procedures that work well or do not work well, and of the reaction of taxpayers to the manner in which TE/GE is serving them.
   C. Employees also should bring to their group managers' attention any issue that must be elevated in accordance with a statute, a revenue procedure, a field directive, or the like. For example, an EO agent must forward to the TEGE National Headquarters office (addressed to the Director, EO Rulings and Agreements) a case presenting an issue requiring mandatory technical advice.

1.54.1.6.2 (01-01-2006)
Group Managers

1. Group managers have the initial responsibility to see that appropriate issues are elevated to the correct level. They are responsible for ensuring that matters within their group or branch that must be elevated in accordance with a statute, a revenue procedure, a field directive, or the like, are identified and appropriately elevated. They should be mindful of the reasons why issues are elevated and of the types of issues that are appropriate for elevation, as discussed above, and should insure the elevation of those issues when they surface within their group or branch.

1.54.1.6.3 (01-01-2006)
Senior Managers (Managers, Directors, etc.)

1. Senior mangers are the first level of management to which issues are formally elevated. In general, issues of local concern should be elevated to senior mangers. Issues of national concern also should be elevated to senior managers who, in most cases, will elevate them further to a national director or to the Commissioner or Deputy Commissioner, TE/GE.
2. Senior Managers include:
   - Area Managers
   - Manager, EO Determinations
   - Manager, EP Determinations
   - Manager, EO Determination Quality Assurance
   - Manager, EP Determination Quality Assurance
   - Manager, EO Technical
   - Manager, EP Technical
   - Manager, EO Technical Quality Assurance
   - Manager, EP Technical Guidance and Quality Assurance
   - Manager, EO Projects/Voluntary Compliance
   - Manager, EP Voluntary Compliance
   - Manager, TEB Field Operations
   - Director, Fed/State/Local
   - Director, Indian Tribal Governments
   - Manager, Field Operations, Tax Exempt Bonds
3. The following types of issues are examples of those that should be elevated to TE/GE senior managers:
   A. Issues whose resolution has been delegated to managers and directors by delegation order, directive or practice;
   B. Issues that are novel or unprecedented;
   C. Issues involving a state, municipality or Indian tribal government within the area;
   D. Issues that are newsworthy within the area;
   E. Issues having an impact on customer service within the area;
   F. Complaints against employees or managers within the area;
   G. Issues relating to errors by TE/GE within the area;
   H. Issues relating to resources necessary to carry out TE/GE's mission within the area.

1.54.1.6.4 (01-01-2006)
Director (TEGE National Headquarters)

1. In general, issues of national concern should be elevated to directors, as appropriate. Directors include:
   - EO Examination
   - EP Examination
   - EO Rulings and Agreements
   - EP Rulings and Agreements
   - Fed/State/Local Governments
   - Indian Tribal Governments
   - Tax Exempt Bonds
2. The following types of issues are examples of those that should be elevated to TEGE Directors.
   A. Issues of national concern;
   B. Issues whose resolution is vested in one of the Directors by statute, regulation, revenue procedure, functional statement, delegation order, other directive, or established practice;
   C. Issues relating to a substantial tax or legal matter involving a municipality, state or Indian tribal government;
   D. Issues relating to the revocation of a closing agreement or a compliance statements;
   E. Issues involving requests for section 7805(b) relief;
   F. Issues involving refunds to taxpayers of $1,000,000 or more, which must be reported to the Joint Committee on Taxation;
   G. Issues affecting an entire category of taxpayers, e.g., an issue affecting all tax- exempt bonds, or all gaming institutions;
   H. Issues relating to significant errors by TE/GE, or errors with national impact;
   I. Issues having a significant or enduring impact on customer service within a locality, an area, or throughout the country;

J. Issues relating to discrimination, sexual harassment, or violation of taxpayers' rights;

K. Unusual personnel or labor relations questions;

L. Matters reported to the Treasury Inspector General for Tax Administration (TIGTA), including violations of section 1105 of RRA (requests by specified Executive Branch employees concerning audits or other investigations);

M. Disputes with other Federal agencies;

N. Issues that are newsworthy within one or more areas, or nationally;

O. Issues involving a large number of taxpayers, a large amount of money, or a well known entity or organization;

P. Issues relating to investigations by the Government Accounting Office (GAO) or TIGTA.

1.54.1.6.5 (01-01-2006)
Division Directors

1. In general, matters of national concern, as outlined above in the discussion of matters elevated to the Directors, EO Exam, EP Exam, EO Rulings and Agreements, EP Rulings and Agreements, Fed/State/Local Governments, Indian Tribal Government, and Tax Exempt Bonds, are also candidates for elevation to the Directors, CAS, EO, EP and GE, as appropriate. The decision to elevate a matter to the Director, CAS, EO, EP or GE is within the discretion of the Directors, EO Exam, EP Exam, EO Rulings and Agreements, EP Rulings and Agreements, Fed/State/Local Governments, Indian Tribal Government, and Tax Exempt Bonds.
2. Division Directors include:
   - Director, Customer Account Services (CAS)
   - Director, Exempt Organizations (EO)
   - Director, Employee Plans (EP)
   - Director, Government Entities (GE)
3. The Directors, CAS, EO, EP and GE retain the authority to request that any issue under consideration at any level within their respective organizations be elevated to their offices.
4. The Directors, CAS, EO, EP and GE retain the authority to request the Commissioner or Deputy Commissioner, TE/GE, to refer to the Senior Technical Advisor any issue under consideration at any level within their respective organizations. The decision to refer an issue to the Senior Technical Advisor rests in the sole discretion of the Commissioner or Deputy Commissioner.

1.54.1.6.6 (01-01-2006)
Commissioner and Deputy Commissioner, TE/GE

1. In general, issues of national concern, as outlined above in the discussion of matters elevated to the Directors, CAS, EO, EP, GE, EO Exam, EP Exam, EO Rulings and Agreements, EP Rulings and Agreements, Fed/State/Local Governments, Indian Tribal Governments, and Tax Exempt Bonds are also candidates for elevation to the Commissioner or Deputy Commissioner, TE/GE. The decision to elevate an issue to the Commissioner or Deputy Commissioner, TE/GE, is within the discretion of the Directors, CAS, EO, EP, GE, EO Exam, EP Exam, EO Rulings and Agreements, EP Rulings and Agreements, Fed/State/Local Governments, Indian Tribal Governments, and Tax Exempt Bonds.
2. The Commissioner and the Deputy Commissioner, TE/GE retain the authority to request that any issue under consideration at any level within TE/GE be elevated to their offices.
3. The Commissioner and the Deputy Commissioner, TE/GE, retain the authority, in his or her sole discretion, to refer any issue under consideration at any level within TE/GE to the Senior Technical Advisor for review or recommendation, in accordance with procedures established for the Office of the Senior Technical Advisor.
4. Authority to decide several categories of issues is vested only in the Commissioner, TE/GE, and such issues must be elevated to that office. These include, but are not limited to:

   A. Issues relating to the revocation of closing agreements; and

   B. Issues relating to requests for section 7805(b) relief.

1.54.1.6.7 (01-01-2006)
Commissioner, IRS

1. In general, matters of national concern, as outlined above in the discussion of matters elevated to the Directors, CAS, EO, EP, and GE, are also candidates for elevation to the Commissioner, IRS.
2. The decision to elevate a matter to the Commissioner, IRS, is within the discretion of the Commissioner or Deputy Commissioner, TE/GE.

1.54.1.7 (01-01-2006)
Referral to or Consultation with Counsel

1. TE/GE employees and managers should refer to Counsel or consult with Counsel in those instances in which legal advice is needed to properly interpret and apply the Code, or when legal advice on other matters is needed. Such referral or consultation is often akin to elevation.

   A. Typically, referral or consultation is advised whenever the correct interpretation or application of law is uncertain, or when a taxpayer seriously challenges the position TE/GE has taken with respect to an issue.

   B. Counsel also is consulted to confirm that the judgment of TE/GE with respect to the Code is correct.

   C. Additionally, national and local procedures sometimes call for TE/GE employees to refer specific issues to Counsel for guidance or concurrence. For example, in the early days of the EP Closing Agreement Program (CAP), local CAP coordinators were asked to obtain Counsel's concurrence on proposed CAP agreements.

2. Area Counsel. In general, TE/GE employees and managers outside the Washington post of duty consult with Area Counsel which serves their post of duty.

3. Washington Counsel. In general, TE/GE employees and managers in the Washington post of duty consult with the Washington office of Chief Counsel.

1.54.1.7.1 (01-01-2006)
Concurrent elevation to Counsel and within TE/GE

1. In most instances, whenever TE/GE employees or managers refer non-routine matters to or consult with Counsel, employees and managers also should elevate to their immediate supervisors the facts giving rise to the referral or consultation.

1.54.1.7.2 (01-01-2006)
Issues to Bring to Counsel's Attention

1. The following are examples of issues that TE/GE employees should bring to the attention of Counsel:

   A. Novel or unsettled issues of law;

   B. Cases in which the prospect of litigation is present, whether the prospect is remote or imminent;

   C. Cases in which referral to or consultation with Area Counsel is required by law, revenue procedure, other written directive or procedure, or local practice;

   D. Questions of disclosure, bankruptcy, summons, etc.;

   E. Proper implementation of new or amended Code provisions;

   F. Questions relating to proposed regulations, revenue procedures, announcements, notices and other forms of technical guidance;

   G. Resolution of Technical Advice cases in which novel, uncertain or unsettled issues of law are present;

   H. Unusual personnel or labor relations questions; or

   I. Disputes with other Federal agencies.

1.54.1.8 (01-01-2006)
Issues Reported or Resolved Outside the Internal Revenue Service

1. Some issues must be reported to, or resolved by, an organization or entity outside the Internal Revenue Service. Although the referral of such issues outside the Service does not constitute the elevation of an issue to higher levels within the Service, understanding how such issues are to be dealt with is similar to understanding how issues are to be elevated. For that reason such referrals are discussed here.
2. Joint Committee on Taxation. Under section 6405 of the Internal Revenue Code, notice of a refund or credit in excess of $1,000,000 must be given to the Joint Committee on Taxation at least 30 days before such a refund or credit is given.
3. Treasury Inspector General for Tax Administration (TIGTA). In general, reports or allegations of employee waste, theft, fraud and wrongdoing must be referred to the TIGTA.

   A. Particular attention should be paid to Section 1105 of RRA'98 which added section 7217 of the Code. This section, with three exceptions, makes it unlawful for specified high-level Executive Branch employees to request an IRS employee to conduct or terminate a tax audit or other investigation of any particular taxpayer. Section 7217 further requires any employee to whom such a request is made to report the request immediately to the Treasury Inspector General for Tax Administration, and provides criminal penalties for failure to report such a request.

   B. Although the occurrence of illegal contacts under section 7217 also should be elevated to higher management and executives within TE/GE, it should be stressed that elevation within the Service is not sufficient to comply with the requirements of section 7217. Reports of such illegal contacts must be made directly to TIGTA.

4. Department of Labor. Before disqualifying a plan qualified under section 401(a) of the Code for a violation of the exclusive benefit rule, the Director, Employee Plans must give the Secretary of Labor 60 days to object to the proposed disqualification.
5. Pension Benefit Guaranty Corporation. Before granting or modifying a waiver of the minimum funding standard under section 412(d) of the Code, or before granting or modifying an extension of the amortization period under section 412(e) of the Code, the Director, Employee Plans must give the Pension Benefit Guaranty Corporation 30 days in which to comment.

1.54.1.9 (01-01-2006)
Avoiding Inappropriate Elevation by Appropriately Exercising Responsibility

1. This existence of this section of the Manual should not lead employees and managers to hesitate to carry out responsibilities or make decisions that fall within their areas of responsibility and expertise. The Commissioner, TE/GE, and other high-ranking officials, cannot, and should not, make all decisions for TE/GE. Employees and managers should decide issues within their areas of responsibility and expertise.
2. In considering whether an issue should be elevated, employees and managers should ask:

   - Does the issue fall within my duties as defined in my position description?
   - Am I evaluated on my ability to decide and handle issues of this nature?
   - Am I authorized to make decisions or to handle matters of this sort?
   - Are issues like this normally decided at my level?
   - Is the issue one that has arisen before and can it be resolved according to an established practice or routine?
   - Am I personally competent to decide or handle this issue?

3. If the answer to those questions is yes, the issue usually should not be elevated.

1.54.1.9.1 (01-01-2006)
Issues that should not be elevated above a certain level

1. In some instances, exceptions should be made to the rules outlined above for elevating issues within the Internal Revenue Service. The rules outlined above are intended to serve as a guide, and to be indicative of the types of issues that should be elevated to particular levels. However, it is neither possible nor desirable to define with precision where each and every issue should be elevated. Discretion and judgment on the part of every employee, manager and executive is required to make a system of elevation work well.

2. Those to whom an issue is elevated ordinarily have the discretion to decline to accept the elevation, and to refer it back down the chain of command to the place where the issue could be decided or resolved best. Of course, it is not appropriate to decline an elevation in cases in which the level of decision is established by statute, regulation, or delegation order, and re-delegation to a lower level is prohibited.

3. Employees, managers and executives should bear the following in mind when considering the elevation of an issue:

   A. Routine or Trivial Matters. Routine or trivial matters ordinarily should not be elevated, even if they meet, in one fashion or another, one or more criteria for elevation. For example, a routine inquiry from a member of the Senate Finance Committee or the House Ways and Means Committee about the status of a determination letter application submitted by one of the Senator's or Representative's constituents need not be elevated, notwithstanding that the inquiry is coming from a member of one of the Congressional tax-writing committees.

   B. Political Appointees. The Internal Revenue Service has a practice of not involving political appointees (viz., the Commissioner of Internal Revenue and the IRS Chief Counsel) in the handling of specific taxpayer matters, to the degree possible. Matters involving specific taxpayer matters should, if possible, be resolved in the office of the Commissioner, TE/GE, or in the office of the Deputy Commissioner of Internal Revenue, rather than being elevated to the Commissioner of Internal Revenue or to the IRS Chief Counsel.

   C. Contacts by Certain Executive Branch Officials and Employees. Section 1105 of the Internal Revenue Restructuring and Reform Act of 1998 (RRA '98) prohibits certain Executive Branch officers and employees (the President, the Vice President, any employee of the executive offices of the President or Vice President, Cabinet Secretaries, the Commissioner of Social Security, the Director of National Drug Control Policy, the Director of the Office of Management and Budget, and the U.S. Trade Representative) to directly or indirectly request any IRS employee to conduct or terminate a tax audit or other investigation of any particular taxpayer, subject to three exceptions. Employees who receive such a request should immediately contact the local TIGTA office and report the incident. Employees may contact the TIGTA Hotline, 1-800-366-4484 if they are unable to contact the local TIGTA office. See, memorandum dated March 16, 2000 from Bob Wenzel to All Employees, "Section 1105 of the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA '98)."

   D. In addition to contacting TIGTA, employees, managers, and executives should elevate the occurrence of such a contact up the chain of command for informational purposes, but no action should be taken on the request.

1.54.1.10 (01-01-2006)
Reaching Down

1. From time to time, managers and executives of TE/GE will not wait for an issue to be elevated to them, but will reach down into the organization for the issue. That is, they will ask that an issue arising, being worked, or awaiting decision at a lower level of TE/GE be transferred to them for informational purposes, for review, or to be decided.

2. Reaching down was uncommon under the old structure of EP/EO, and in many instances would have been inappropriate, because employees in the field answered to District Directors rather than to the Assistant Commissioner (EP/EO), and because the Assistant Commissioner (EP/EO) did not have line authority over the work performed in the field.

3. However, the new structure of TE/GE is hierarchical, and requires that higher ranking managers and executives have the ability both to inquire about work being performed at every level of the organization, and to participate or become involved in it as necessary to accomplish a variety of purposes. This concept flows logically from the responsibility which the Commissioner, TE/GE has for accomplishing the mission of TE/GE, and for the manner in which the mission is accomplished.

4. A manager or executive may reach down for an issue for a number of important and valid reasons, including the following:

   A. To become familiar with an emerging issue;

   B. To resolve a technical or administrative problem;

   C. To create uniformity throughout the Country in the administration of the law;

   D. To insure that quality control standards are met;

   E. To resolve a dispute or problem with taxpayers or within the Service; or

   F. To insure that the organization functions efficiently and properly.

5. When a manager or executive does reach down into the organization for an issue, he or she generally should provide to the employee or manager working the issue an explanation of the reasons for involving himself or herself in the issue. Providing such an explanation will help insure that affected taxpayers and employees, and any entity making subsequent inquiry such as TIGTA or GAO, understand that the manager or executive has reached down for the issue for an appropriate reason.

1.54.1.11 (01-01-2006)
Consulting with front-line employees and managers

1. Although much of this section is devoted to a discussion of the circumstances in which issues should be elevated upward to increasingly senior managers and executives, there also are times when it is important for senior managers and executives to consult with front-line employees and managers when policies or procedures are developed.

2. The ability of an organization to accomplish its purpose efficiently and accurately depends upon the ability of each employee, at every level, to understanding and expertly perform his or her job. It follows that, at every level of the organization, employees will develop specialized expertise.

   A. Some will have an expert understanding of the tax law we administer.

   B. Some will have an expert understanding of the needs and characteristics of the customers we serve.

   C. Others will have an expert understanding of the information systems we depend upon, or of the personnel system, or of how TE/GE coordinates with other divisions of the Service.

3. This accumulated expertise, residing within employees at all levels and at all locations of TE/GE, represents an important asset of TE/GE that managers and executives should call upon as pertinent policies and procedures are developed. In developing policies and procedures, managers and executives should be mindful of the following principles:

   A. Front-line employees and managers with specialized information or experience should be consulted when policies or procedures within their area of expertise are under consideration;

   B. When an issue has been elevated, and several possible resolutions of the issue are under consideration, front-line employees and managers with specialized information or expertise concerning the taxpayer or the subject-matter area should be consulted as to the best solution;

C. When an issue relating to the manner in which front-line work is to be performed is under consideration, front-line employees and managers with experience in performing the work should be consulted.

More Internal Revenue Manual

Part 7. Rulings and Agreements

Chapter 15. Employee Plans TEDS User Manual

Section 6. Navigating the Tax Exempt Determination System (TEDS)

7.15.6 Navigating the Tax Exempt Determination System (TEDS)

- 7.15.6.1 Overview
- 7.15.6.2 Document Repository
- 7.15.6.3 Cabinets
- 7.15.6.4 Accessing a Case File
- 7.15.6.5 Case Information File
- 7.15.6.6 Viewing Documents in TEDS
- 7.15.6.7 Display Screen Options
- 7.15.6.8 User Profile
- 7.15.6.9 Query and Search Capabilities
- 7.15.6.10 Viewing TEDS Documents Using Optical Character Recognition (OCR)
- Exhibit 7.15.6-1 Screen Selection Options
- Exhibit 7.15.6-2 TEDS Case File Main Screen
- Exhibit 7.15.6-3 Removing Column Headers
- Exhibit 7.15.6-4 Re-order Column Headers
- Exhibit 7.15.6-5 Advanced Search Query Screen
- Exhibit 7.15.6-6 Selecting Object Type
- Exhibit 7.15.6-7 Searching by Properties' Field
- Exhibit 7.15.6-8 Adding Additional Property Values
- Exhibit 7.15.6-9 Removing Search Properties
- Exhibit 7.15.6-10 Searching by Date
- Exhibit 7.15.6-11 Searching by Size
- Exhibit 7.15.6-12 Query Results Count Only
- Exhibit 7.15.6-13 Sample Search Results/How to Begin Edit Search
- Exhibit 7.15.6-14 Methods of Saving a Search
- Exhibit 7.15.6-15 Naming he Saved Search
- Exhibit 7.15.6-16 Finding a Saved Search
- Exhibit 7.15.6-17 Running a Saved Search
- Exhibit 7.15.6-18 Remove and Add Column Preferences
- Exhibit 7.15.6-19 Exporting to an Excel Worksheet

Manual Transmittal

September 23, 2014

Purpose

(1) This transmits revised IRM 7.15.6, *Employee Plans TEDS User Manual, Navigating the Tax Exempt Determination System (TEDS).*

Background

Tax Exempt Determination System (TEDS) is a Web-based information system that provides an electronic case and inventory management system used across Tax Exempt and Government Entities (TE/GE) Determinations business units.

TEDS was launched as a pilot in 2003 and from that ime on, with a few excep ions, Employee Plans (EP) Determination applications have been processed using this electronic system. EP Determina ion applications are uploaded to TEDS and using on-screen capabilities, specialists review and process cases.

Material Changes

(1) IRM 7.15.6.7.3, *Adding Column Headers*, is moved to IRM 7.15.6.9.3, *Exporting Search Results*.

(2) IRM 7.15.6.9, *Modifying Data*, is moved to IRM 7.15.7.3, *Modifying Data*, to better align the topics within the TEDS IRMs. All subsequent sections are re-numbered.

(3) The following exhibits are moved to IRM 7.15.7, *Employee Plans TEDS User Manual, Electronic Case Processing*:

- Exhibit 7.15.6-7, *Case Folder Level*
- Exhibit 7.15.6-8, *Change Case*
- Exhibit 7.15.6-9, *Modify Entity Information*
- Exhibit 7.15.6-10, *Modify Entity Information Screen*
- Exhibit 7.15.6-11, *Send Update to EDS*
- Exhibit 7.15.6-12, *Make Case Disclosable/Confirmation*
- Exhibit 7.15.6-13, *Accessing Case Information From the Case Information View*
- Exhibit 7.15.6-14, *Accessing Case Information From the My Cases View or Search Results*
- Exhibit 7.15.6-15, *EP Properties Info Screen*
- Exhibit 7.15.6-16, *EP General Case Info. Screen*

- Exhibit 7.15.6-17, *Editing Case Category*
- Exhibit 7.15.6-18, *Add, Remove or Reorder Case Category*
- Exhibit 7.15.6-19, *EP Plan Info Tab*
- Exhibit 7.15.6-20, *Receipt and Handling Tab*
- Exhibit 7.15.6-21, *Entity Data Tab*
- Exhibit 7.15.6-22, *Contacts Tab*

SFC 001230

(4) IRM 7.15.6.10, *Case Indicators*, is deleted. All subsequent sec ions are re-numbered.

(5) IRM 7.15.6.11.4, *Importing and Moving Documents*, is moved to IRM 7.15.7.4, *Importing and Moving Documents*, to better align the topics within he TEDS IRMs. All subsequent sections are re-numbered.

(6) The following exhibits are moved to IRM 7.15.7, *Employee Plans TEDS User Manual, Electronic Case Processing*:

- Exhibit 7.15.6-39, *Import File Screen*
- Exhibit 7.15.6-40, *Import: Object Definition Screen*
- Exhibit 7.15.6-41, *Document to be Moved/New Folder Destination*
- Exhibit 7.15.6-42, *Destination Confirmation Screen*
- Exhibit 7.15.6-43, *Select Document for Editng/Select File Edit*
- Exhibit 7.15.6-44, *Check In Document*
- Exhibit 7.15.6-45, *Check In Screen*

(7) IRM 7.15.6.11.5, *Copying TEDS Documents*, is moved to IRM 7.15.7.5, *Copying TEDS Documents*, to bettor align he topics wi hin the TEDS IRMs. All subsequent sections are re-numbered.

(8) Exhibit 7.15.6-46, *Copy Document to Another Case*, is moved to Exhibit IRM 7.15.7-30, *Copy Document to Another Case*.

(9) IRM 7.15.6.12, *Document Splitting and Editing*, is deleted. The informa ion is obsolete.

(10) Exhibit 7.15.6-47, *Document(s) Check Out*, is deleted. The informa ion is obsolete.

(11) Exhibit 7.15.6-48, *Edit Menu Option/Inside Working Folder*, is deleted. The information is obsolete.

(12) Exhibit 7.15.6-49, *Two Copies Document in Working Folder*, is deleted. The information is obsolete.

(13) Exhibit 7.15.6-50, *Select Document to Split*, is deleted. The information is obsolete.

(14) Exhibit 7.15.6-51, *Checking In Document(s)*, is deleted. The information is obsolete.

(15) IRM 7.15.6.13.1, *Using Optical Character Recognition*, is deleted. The information is obsolete.

(16) IRM 7.15.6.13.2, *Document Image Icons*, is deleted. The information is obsolete.

(17) IRM 7.15.6.14, *Multiple Employer Plans Searches*, is deleted. The information is obsolete.

(18) Exhibit 7.15.6-2, *TEDS Inbox Screen*, is deleted. The informa ion is obsolete.

(19) Exhibit 7.15.6-4, *Selecting Additional Column Headers*, is deleted. The information is obsolete.

(20) Exhibit 7.15.6-30, *Query Results Large Request*, is deleted. The information is obsolete.

(21) Exhibit 7.15.6-52, *Search Documents Using Optical Character Recognition*, is deleted. The informa ion is obsolete.

(22) Exhibit 7.15.6-53, *Row One/Row Two Icons*, is deleted. The information is obsolete.

Effect on Other Documents

IRM 7.15.6, dated June 6, 2013, is superseded.

Audience

TEGE (Employee Plans)

Effective Date

(09-23-2014)

Robert Choi
Director, Employee Plans
Tax Exempt and Government Enti ies

7.15.6.1 (09-23-2014)
Overview

1. This IRM provides guidance on naviga ing the Tax Exempt Determination System (TEDS).
2. The guidance explains:
    - The function of the TEDS Repository and how to use it to search, retrieve and view case data and images.
    - How to change TEDS case data and entity informa ion.
    - How to create, edit and execute (run) search queries.
    - How TEDS interacts with Employee Plans-Exempt Organizations Determination System (EDS) in the case closing process.

- How to use Optical Character Recognition (OCR).

3. The guidelines are for all personnel involved in the issuing of Employee Plans (EP) determina ion letters. SFC 001231

7.15.6.2 (06-12-2013)
Document Repository

1. The TEDS Document Repository is a virtual storehouse for all case data, images and workpapers. It contains electronic cabinets and individual case folders that store documents, reports, templates, messages, and personal files.
2. The document repository enhances the ability to:
   - Organize work processes.
   - Manage case inventory.
   - Identify and associate documents with the correct case folder.
   - Facilitate the processing of determination applica ions.
   - Research bo h open and closed inventory.
3. The documents repository is used to search, retrieve and view data and images. Users gain access to the different system components through the "Navigation" screen. Users are given roles and permissions that allow access to specific aspects of the system. The permissions will vary based on the role of the user. (See IRM 7.15.4, *Tax Exempt Determination System (TEDS) Roles and Delegations.*)

7.15.6.2.1 (06-12-2013)
Screen Selection Options

1. The following terms are used to describe different parts of a TEDS screen:
   - Navigation Pane - contains the user's Inbox, My Cases, Templates, etc. and allows the user to navigate through he repository.
   - Data Grid - displays case information.
   - Column Labels - list the attributes for a case, can be sorted and displayed in any order, and can be customized by each user.
2. The File, Edit, View, Tools and Reports options allow different ac ions based on where the user is in TEDS.
3. To navigate the system the user has various options. See *Exhibit 7.15.6-1, Screen Selection Options.* Selecting any of the following options will allow the user to navigate through the system.
   - Inbox
   - My Cases
   - Saved Searches
   - Cabinets
   - Reports
   - Recently Viewed
4. Located in he lower center of the screen is the data grid which displays the case information.
5. The function buttons are located above he "column labels." They can be sorted and displayed in any order and can be customized by each user. See *Exhibit 7.15.6-1.* The following options allow different actions based on the users location in TEDS:
   - File
   - Edit
   - View
   - Tools
   - Reports

7.15.6.3 (06-12-2013)
Cabinets

1. Cabinets are the highest level of organization in the repository. Cabinets store and organize file folders and provide easy access to case files as well as templates.
2. There are two types of cabinets:
   - Universal
   - Personal

7.15.6.3.1 (06-12-2013)
Universal Cabinets

1. TEDS Universal Cabinets are listed in Figure 7.15.6-1, *TEDS Universal Cabinets* along with a description of their various functions.
2. Only he Records Manager and the Na ional Unassigned Inventory Manager can see he National Unassigned Inventory (NUI), he National Assigned Inventory (NAI) and the Archived Cabinet.

Figure 7.15.6-1

Cabinet	Description
• Highest levels of organization for TEDS cases are: A. National Unassigned Inventory B. National Assigned Inventory	

C. Archived Cases

SFC 001232

TEDS Inventory Cabinets	• Cases are sorted by Employee Plans (EP) or Exempt Organization (EO), by year and by month. • EP cases display for EP users. • EO cases display for EO users. • Cases move from one cabinet to another based on status code changes. • Group 7849 - The queue for printing Repository Notices and Letters.
National Unassigned Inventory (NUI)	• NUI cabinets store unassigned cases.
National Assigned Inventory (NAI)	• NAI cabinets store cases that are assigned to a group or to a specialist.
Archived Cases	• Archived Cases "year" cabinets store closed cases including cases that have been scanned into TEDS after closing on EDS. Currently, TEDS closed cases remain in the National Assigned Inventory in Status 57 or 59. (A case closed on TEDS will move from the NAI to the Archived Cases when updated to status 21.)

7.15.6.3.2 (09-23-2014)
Personal Cabinets

1. Personal cabinets are unique to each user and are used to notify the user of new messages as well as to organize each user's assigned case files, workpapers, documents, and reports. TEDS personal cabinets are:
    - Specialist Standard Employee Identifier (SEID) (a five-character IRS employee/contractor number)
    - Inbox
    - My Cases
    - Saved Searches
    - Cabinets
    - <User Name>
    - <User Group Number>
    - Group 7849
    - Templates
    - Reports
    - Recently Viewed

7.15.6.3.2.1 (09-23-2014)
Inbox Cabinet

1. The Inbox cabinet alerts a user that a system event has occurred or a request has been received. It has functionality similar to an Inbox in Microsoft Outlook.
2. The Inbox cabinet receives notifications of:
    - New case assignments or cases returned from the manager.
    - Receipt of new documents.
    - A related case.
    - Case sent to manager for review or proposed closing.
    - Routing slip.
    - Role delegation.
3. Only automatic notifications are allowed. Users are not able to send or receive messages.
4. To open a message, double click on the link. Opening a message provides additional information about the notification. See *Exhibit 7.15.6-2, TEDS Case File Main Screen.*

7.15.6.3.2.2 (06-12-2013)
My Cases Cabinet

1. The My Cases cabinet contains cases that have been assigned to the user and provides easy access to the user's inventory.
2. By clicking on My Cases a user can access assigned cases. My Cases provides all the access that the user needs to work an assigned case in TEDS including:
    - Viewing case data
    - Viewing case file images
    - Creating a case chronology entry
    - Viewing payment information
3. A manager's My Cases cabinets contain all cases assigned to the group including unassigned group inventory or group suspense.
4. Managers also have an additional cabinet, titled User Cases. The User Cases allows the manager to select and display a specific group member's case listing. It contains links to cases that are currently assigned to the user and any direct reports (e.g., a specialist and the group manager have dual ownership of a case).

7.15.6.3.2.3 (09-23-2014)

Saved Searches Cabinet

1. The Saved Searches cabinet allows a user to access a saved search. The cabinet appears after the user has saved one or more searches.

SFC 001233

7.15.6.3.2.4 (09-23-2014)
Reports Cabinet

1. The Reports cabinet provides the ability to generate various reports such as:
    - Cases by Power of Attorney Report
    - Mul iple Case Summary
    - Case Progress
    - Individual Case Information
    - TEDS Case Processing Reports
    - TE/GE Case Reconciliation Report
    - Case Status Report
    - Case History Record

7.15.6.3.2.5 (06-12-2013)
Recently Viewed Cabinet

1. The Recen ly Viewed cabinet provides a link to recently viewed documents and folders.

7.15.6.4 (09-23-2014)
Accessing a Case File

1. In general, a user views a case file by clicking on the underlined attribute titled "Case Informa ion" or clicking on the yellow folder. Various files and folders contained within the case are displayed.
2. Files are designated by an icon of a piece of paper and are accessed by clicking on the little blue I.
3. Folders are designated by a file folder icon and are accessed by clicking the folder name. The file and folders contained in each case are:
    - Case Information – entity specific data such as Document Locator Number (DLN), applicant name, contacts, address, control date, user fee, etc.
    - Documents - all the documents related to case (applica ion, organizing document(s), work papers, etc.).
    - Case Chronology – all the case chronology entries hat have been created for the case.
    - Case History – information regarding all the status code changes made to the case.
    - Payments – user fee payment information.
    - BRE Results - view results of he Business Rules Engine (BRE).
    - Related Cases – lists cases with the same Employer Identifica ion Number (EIN) and plan number.
4. The TEDS case file "main screen" is shown in *Exhibit 7.15 6-2, TEDS Case File Main Screen*.

7.15.6.5 (09-23-2014)
Case Information File

1. Case information is shown on several different tabs within the Case Information File. Information in his file includes data transcribed at scanning, information derived from opening business rules, receipt and handling information, and informa ion to be entered by users throughout case processing. The Case Information File opens as a separate window. IRM 7.15.7.3.4, *Accessing Case Information*.

7.15.6.6 (09-23-2014)
Viewing Documents in TEDS

1. The Documents folder contains all documents submitted by he applicant as well as any documents prepared and imported by he specialist.
2. Open he Documents folder by double clicking **Documents**.
3. The Documents folder contains he following subfolders:
    A. New Documents. This folder contains all documents received in TEDS after the establishment of the original case. (When new document(s) are received, the number of documents will be in paren heses.)
    B. Working. This folder is for an open rou ing slip.
    C. Disclosable. This folder contains all documents uploaded or scanned when the case is first established.
    D. Non-Disclosable. This folder contains all documents the specialist has determined are non-disclosable.
    E. Purge. The folder contains all items he specialist determines to be immaterial to the administrative case file.
4. Individual subfolders and the documents or files within the subfolders can be accessed and viewed by double clicking the folder or by clicking the underlined document names.

7.15.6.7 (06-12-2013)
Display Screen Options

1. TEDS offers a user he ability to customize the display screens.

7.15.6.7.1 (09-23-2014)
Page Display

1. Items per page is set to a default of 10 items per page, but the user has he option to change he items per page setting to 50 or 100 items per page. (If the op ion to change items per page is not viewable on the screen, scroll to the far right of he screen.)

2. To change the number of items displayed per page, click on the Items per page drop down arrow located on the column label bar and select the desired display setting. The suggested items per page set ing is 50.

3. If there are more items available han can be viewed on the items per page, use the single arrow on the toolbar to move from one page to the previous or next page. Use the double arrows to go to the first or last page of he list.

7.15.6.7.2 (09-23-2014)
Column Headers

1. Each data grid display will contain unique column headers that relate to he specific information being displayed in he data grid. The TEDS user can change the information displayed on he screen by adding, reordering or removing column headers.

2. One example for changing he column header is first click on My Cases then click on the Column Preferences icon located in the column header field on the far right of the screen. Scroll to he right if the icon is not shown.

3. After he TEDS user clicks on the Column Preferences icon, the Preferences: Display Settings menu appears.

7.15.6.7.3 (09-23-2014)
Removing Column Headers

1. Delete column headings from the display by removing them from the default items list. See *Exhibit 7.15 6-3, Removing Column Headers*.

2. To remove a column header:

   A. Click on the column attribute located in the "Selected attributes to display as column:" box on the right.

   B. Click on the left arrow to move the attribute inte he "Select attributes to display" box on he left.

   C. Click OK to accept he changes.

7.15.6.7.4 (09-23-2014)
Re-ordering Column Headers

1. TEDS provides he user with he ability to organize he information on the data grid by choosing the order in which the columns display. The Re-order functionality is available for most cabinets. See *Exhibit 7.15.6-4, Re-order Column Headers*.

2. To move a column header:

   A. Click on the desired column header to be re-ordered in the "Selected attributes to display as column:" box on the left.

   B. Click on the up or down arrow to move he column header to the desired location.

   C. Click **OK** to accept the changes.

3. The attributes are displayed in he "Selected attributes to display as column:" box in he order hat they appear as column headers on the data grid from left to right. The Re-order func ionality is not available for the Inbox.

7.15.6.8 (06-12-2013)
User Profile

1. The User Profile stores user profile and group informa ion and contains information about roles that are assigned to the TEDS user. The User Profile screen is accessed by clicking User Profile next to the Logout button at he top of the screen.

7.15.6.8.1 (06-12-2013)
TEDS Roles

1. One of the items listed in the user profile is the user's TEDS role(s). Each user in TEDS is assigned specific roles based on he position and needs of the user.

2. Additional information on specific roles and role delegations can be found in IRM 7.15.4, *Tax Exempt Determination System (TEDS) Roles and Delegation*.

7.15.6.8.2 (06-12-2013)
Group Profile Screen

1. Group information is also stered within the user profile and is accessed by clicking the underlined Employee Group Number on the User Profile screen.

2. The Group Profile screen provides administra ive information about the group to which the user is assigned.

7.15.6.9 (09-23-2014)
Query and Search Capabilities

1. The query and search features of TEDS are used for such purposes as locating a particular case, finding a particular power of attorney or conducting general research.

2. The ability to query and search makes it easier to research determination case informa ion.

7.15.6.9.1 (09-23-2014)
Query Options

1. TEDS has three query op ions:

   - Simple Search
   - Advanced Search
   - Reports

2. Each query begins wi h the menu options on he top of the Web page.

3. The Search box allows a user to perform a simple query using he TEDS case number.

4. The Advanced Search allows a user to perform a query based on one specific property or multiple properties. An advanced search can also be used to generate a simple case listing report.

5. The Reports query is located on the left side navigation pane and also on the menu bar above the data grid.

SFC 001235

7.15.6.9.1.1 (09-23-2014)
Simple Search Query

1. To perform a simple search query the user follows the following steps:

   A. Enter a TEDS case number (EP-yyyynnn-nnnnnn, or any part hereof) in the box at he top of the Web page

   B. Click Go.

   Note:

   The simple search function is case, dash and space sensitive.

7.15.6.9.1.2 (09-23-2014)
Advanced Search Query

1. The advanced search is used to locate a TEDS case number or search for more than one case.
2. To start an advanced search he user should click **Advanced Search** found at the top of the Web page.
3. The Advanced Search page opens to the Advanced Search General tab displaying the different search options. An advanced search allows a TEDS user to customize a query based on:

   A. Predetermined loca ion(s) in which to search (Object Type).

   B. Single property value or multiple property values (Properties).

   C. Specific actions that occurred during specific time frames (Date).

   D. File size (Size).

4. After entering the desired search criteria, all queries are run by clicking "Search" at the bottom of the page. See *Exhibit 7.15.6-5, Advanced Search Query Screen.*

7.15.6.9.1.2.1 (09-23-2014)
Selecting Object Type

1. Using the advance search query the user can select the search location by clicking on he Object Type drop-down arrow. Each Object Type will have a different set of Property values. See *Exhibit 7.15.6-6, Selecting Object Type.*
2. Object types for which a user can search include:

   - EP Cases
   - Routing Slips
   - TEDS users

7.15.6.9.1.2.2 (09-23-2014)
Properties

1. The user can perform advance searches using the Properties button. See *Exhibit 7.15.6-7, Searching by Properties' Field.*
2. Select Properties to search on by entering the following:

   A. First field: click on the drop-down arrow to select a property.

   B. Third field: enter the search value (e.g., EIN, applicant name, etc.).

3. If this search op ion is used and the = is used, only an exact match will be returned i.e., status = 62 only. No cases wi h sub status code will be returned. If status contains 62, then cases with sub statuses will be returned (62AD, 62AI, etc).

7.15.6.9.1.2.2.1 (09-23-2014)
Add Additional Property

1. TEDS allows a user to search on more than one property. See *Exhibit 7.15.6-8, Adding Additional Property Values.*
2. Search using mul iple proper ies by clicking Add another property and selec ing one of the following options:

   - "And" will return search results that match this property value and the property value on the previous line. This limits the search.
   - "Or" will return search result that match this property value or the property value on he previous line. This expands the search.

7.15.6.9.1.2.2.2 (09-23-2014)
Removing Property

1. If the search result(s) is not the expected outcome, the user can eliminate some properties in the search criteria. See *Exhibit 7.15 6-9, Removing Search Properties.*
2. To remove a property click "Remove" next to the property to be eliminated.

7.15.6.9.1.2.3 (09-23-2014)
Searching by Date

1. The Date field allows a TEDS user to search using various date elements for a specified ime period. See *Exhibit 7.15 6-10, Searching by Date.*
2. To search using he Date field:

   - Select case requirements in he Proper ies line.
   - Select the date and time period in the remaining fields.

7.15.6.9.1.2.4 (09-23-2014)
Searching by Size

1. The Size field allows a TEDS user to search for files within a specific size range. Search by size by selecting the desired size criteria from the drop-down menu. See *Exhibit 7.15.6-11, Searching by Size.*

SFC 001236

7.15.6.9.2 (09-23-2014)
Search Results and Editing Search Criteria

1. Search results display the cases that match the search criteria.
2. If the query is a text-based property, such as" name," he words that match the search value(s) are highlighted.
3. The result of he search will list the cases in control date order.

7.15.6.9.2.1 (09-23-2014)
Count Results

1. If the query produces a large list of results or if only the case count is needed, click **the magnifier** to obtain the number of case results. The query will con inue to be processed.
2. If only the number of case results is required for the search, place a check in the **Show Result Count** box. See *Exhibit 7.15.6-12, Query Results Count Only.*

7.15.6.9.2.2 (09-23-2014)
Editing Searches

1. The user can edit and re-run he query if the query did not return the expected outcome. See *Exhibit 7.15 6-13, Sample Search Results/How to Begin Edit Search.*
2. To edit a query perform the following:
    A. Click on **Edit Search**
    B. Modify the search criteria
    C. Click **Search** to re-run the query

Note:

If an individual case was selected from the results, use the **Last Results** button rather than the **Back** button on the internet browser to return to the most recent search results.

7.15.6.9.2.3 (09-23-2014)
Saving Searches

1. Advanced search query criteria can be saved to be viewed or run again at a later time. See *Exhibit 7.15.6-14, Methods of Saving a Search* and *Exhibit 7.15.6-15, Naming the Saved Search*
2. Complete the Name and Description fields to help identify the saved search:
    A. Click **OK** to save the search.
    B. Click box to uncheck **Include Results.**

    Note:

    By unchecking this box the search parameters are saved and not the specific results of the search.

7.15.6.9.2.4 (09-23-2014)
Finding Saved Searches

1. The user can access saved searches by clicking Saved Searches in the Navigation Pane. See *Exhibit 7.15 6-16, Finding a Saved Search.*

7.15.6.9.2.5 (09-23-2014)
Run a Saved Search Query

1. TEDS users can revise, re-run or delete their own saved searches. See *Exhibit 7.15.6-17, Running a Saved Search.*
2. When the TEDS user reruns a saved search query, the search will use the same parameters but will return updated results.
3. To run a saved search:
    A. Click **Saved Search.**
    B. Right click on the selected search, click **Run Search.**
4. To modify the search parameters before running the search:
    A. Right click on the selected search, click **Edit.**
    B. Edit the desired criteria.
    C. Click **Search** to re-run the search.

7.15.6.9.3 (09-23-2014)
Exporting Search Results

1. Once a search has been completed TEDS users can export the search results to Excel. The user has the option of exporting all of the results or only the desired columns. See *Exhibit 7.15.6-18, Remove and Add Column Preferences*, and *Exhibit 7.15.6-19, Exporting to an Excel Worksheet.*
2. To export a completed search:
    A. Right click on the Search Results, click **Export to CSV.** This opens a second window.
    B. All columns will be selected by default. Select and remove any unwanted columns by clicking on the column name and clicking on he "Left Arrow" to remove.
    C. Click **OK**

D. A file download box will open, click **Open**. The results will be displayed as an Excel spreadsheet.

E. Right Click on Export to CSV.

3. To add column headers from the Preferences Display Settings menu:

   A. Click on the desired column attribute in the "Select attributes to display" box on he left.

   B. Click on the right arrow to move he desired attribute into he "Selected attributes to display as column" box on the right.

4. The new column header attribute has now been moved from the "Select attributes to display" box on the left and added to the "Selected attributes to display" column box on the right.

5. Click **OK** to accept the changes.

7.15.6.10 (09-23-2014)
Viewing TEDS Documents Using Optical Character Recognition (OCR)

1. TEDS provides he user with he ability to search documents for words or phrases using Optical Character Recognition (OCR).

2. OCR is computer software that reads text from paper and translates images into a form that he computer can manipulate. It translates handwritten or typed scanned text into language the machine understands and text that it can edit.

3. After he TEDS user applies the OCR functionality to the document(s), word or phrases searches can be performed using the binocular icon.

Exhibit 7.15.6-1
Screen Selection Options

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Exhibit 7.15.6-2
TEDS Case File Main Screen

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Exhibit 7.15.6-3
Removing Column Headers

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Exhibit 7.15.6-4
Re-order Column Headers

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Exhibit 7.15.6-5
Advanced Search Query Screen

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Exhibit 7.15.6-6
Selecting Object Type

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Exhibit 7.15.6-7
Searching by Properties' Field

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Exhibit 7.15.6-8
Adding Additional Property Values

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Exhibit 7.15.6-9
Removing Search Properties

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Exhibit 7.15.6-10
Searching by Date

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Exhibit 7.15.6-11
Searching by Size

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Exhibit 7.15.6-12
Query Results Count Only

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Exhibit 7.15.6-13
Sample Search Results/How to Begin Edit Search

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Exhibit 7.15.6-14
Methods of Saving a Search

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Exhibit 7.15.6-15
Naming the Saved Search

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Exhibit 7.15.6-16
Finding a Saved Search

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Exhibit 7.15.6-17
Running a Saved Search

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Exhibit 7.15.6-18
Remove and Add Column Preferences

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Exhibit 7.15.6-19
Exporting to an Excel Worksheet

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13. Amendments filed by group exemption organizations are discussed at IRM 7.20.2.7.1.

7.20.2.4.2 (11-01-2004)
Processing Withdrawals

1. An organization may request, in writing, to withdraw its application any time before the determination letter is issued. Even though the application is withdrawn, the application and all supporting documents will be retained by the Service and will not be returned to the organization. For user fee issues, *see IRM 7.20.2.2.*
2. Exempt organization personnel will not take any direct or indirect action that may be interpreted as a solicitation of a withdrawal of an application. Agents may, however, discuss with an organization its option to withdraw its application because it does not appear to qualify for favorable determination. If the option of withdrawing its application is discussed with an organization, the agent will thoroughly document the discussion in the Case Chronology Record.
3. A request for the withdrawal of its application for exemption must be secured in writing from the organization and must be signed and dated by an officer of the organization. The organization should be advised that there can be no refund of the user fee paid to process the application for exemption and that the application will not be processed further. The agent will:

    A. Issue Letter 2244 on EDS to the organization to acknowledge that the application has been withdrawn.
    B. Use the closing status 04 on Form 8670.
    C. Prepare Form 2363 to input the filing requirements on IDRS if the organization was operational and had taxable income. See IRM 7.20.5.3.
4. If two applications (i.e., a Form 1023 and a subsequent Form 1024, or vice versa) are established on EDS due to a request for a change in subsection, the application that will not be processed further should be closed using status 04 on Form 8670. The organization will not be issued Letter 2244 in this situation. The EDS closing sheet for the case that will not be processed further will be given to the manager for closure on EDS even if processing of the remaining application is not yet complete. The new case should have an EDS control.

7.20.2.4.3 (11-01-2004)
Termination of Exempt Status

1. An exempt organization is required to notify the Service of changes to its organizational structure. The requirement to notify the Service is explained in the determination letter sent to the organization.
2. If an organization notifies the EO Determinations Processing Office or the TEGE Customer Accounts Service Office of its dissolution, the case will be controlled on EDS as a Termination or T case. See IRM 3.11 for information received on dissolved organizations through information return filings or taxpayer delinquency investigations.
3. The agent must secure evidence of the dissolution as follows:

IF the organization	THEN the agent will secure
a. Is incorporated and has filed Articles of Dissolution with the State	A complete copy of the filed Articles of Dissolution.
b. Is incorporated and has not filed Articles of Dissolution with the State	A resolution, signed by at least 2 officers, directors or trustees, stating the date of dissolution.
c. Is an unincorporated association or a trust	A resolution, signed by at least 2 officers, directors or trustees, stating the date of dissolution.
d. Submits conflicting information about whether it has dissolved	A statement signed by a majority of the officers, directors or trustees, stating they agree to dissolve the organization.

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Part 7. Rulings and Agreements

Chapter 20. Exempt Organizations Determination Letter Program

Section 5. Review Procedures for EO Determinations

7.20.5 Review Procedures for EO Determinations

- 7.20.5.1 Overview of Review Procedures
- 7.20.5.2 Quality Assurance Reviewer Duties
- 7.20.5.3 Technical Case Review
- 7.20.5.4 Cases Subject to Review
- 7.20.5.5 General Case Review Procedures
- 7.20.5.6 Processing Adverse Letters
- 7.20.5.7 Cases Returned from Post Review
- 7.20.5.8 User Fee Disputes
- 7.20.5.9 IRC 6110 Public Inspection of Written Determinations---Quality Assurance
- Exhibit 7.20.5-1 Denial Checklist
- Exhibit 7.20.5-2 Letter 4036
- Exhibit 7.20.5-3 Letter 4034
- Exhibit 7.20.5-4 Review Bulletin---Advance Approval of Grant Making Procedures under IRC 4945(g)
- Exhibit 7.20.5-5 Review Bulletin---Various Private School Issues
- Exhibit 7.20.5-6 Quality Assurance and Appeals Process Flowchart

7.20.5.1 (08-14-2007)
Overview of Review Procedures

1. These procedures discuss the role and responsibilities of EO Determinations Quality Assurance (Quality Assurance) with respect to procedures for reviewing EO Determinations cases.
2. Quality Assurance advises the Manager, EO Determinations, of areas needing attention and makes recommendations and/or implements programs to effectuate improvements in technical and procedural aspects of determination cases. Quality Assurance reviews determination cases to ensure:
   A. Technical accuracy;
   B. Adherence to written procedures;
   C. Uniform and impartial treatment of exempt organizations' interests while protecting the Government's interest; and
   D. Identification of unfavorable patterns or trends, problem areas, unique issuas, and new or novel techniques developed by determination specialists.
3. Quality Assurance provides analytic support to the Manager, EO Determinations, to measure, report, and recommend improvements in quality within the EO Determination program. This aspect is principelly performed by Quality Assurance's review of cases as part of the Tax Exempt Quality Measurement System (TEQMS) program (see IRM 7.20.5.4(2)). Quality Assurance also reviews EO Determination cases through saturation and special reviews (see IRM 7.20.5.4(5)).
4. Quality Assurance processes determination cases that are forwarded as mandatory review cases (see IRM 7.20.5.4(3)).
   A. Quality Assurance forwards cases requiring Appeals' consideration to Appeals.
   B. Quality Assurance mails favorable or adverse letters on cases it has reviewed and approved
   C. Quality Assurance returns cases requiring additional information to specialists with a Reviewer's Memorendum (Form 5456).
5. Quality Assurance provides assistence to EO Determination specialists and managers by providing training on technical and procedural matters and by issuing Review Bulletins, which are incorporated into the manual as appropriate. See Exhibits 7.20.5-4 and 7.20.5-5 for current Review Bulletins.
6. Quality Assurance provides informal advice based on requests from EO Determination specialists and managers regarding procedural and technical issues.
7. Quality Assurance performs its duties through its review staff.
8. Quality Assurance reports significant trends, problem areas, quality measurements findings, and cases not upheld by Appeals to the Director, EO Rulings and Agraements.

7.20.5.2 (08-14-2007)
Quality Assurance Reviewer Duties

1. Quality Assurance's responsibilities include:
   A. Reviewing the determination cases obtained through mandatory review, saturation review, special reviews, or manager's discretion review (see IRM 7.20.5.4).
   B. Informing management in order to evaluate the technical and procedural effectiveness and efficiency of EO Determination personnel.
   C. Performing TEQMS reviews.
   D. Performing Group reviews.
   E. Preparing Reviewer's Memorandum (Form 5456) after reviewing a case file if significant items of information should be brought to the attention of the specialist and the manager. Reviewer's Memorandum on TEQMS cases may be returned in certain limited situations described in Training Text 4319-0002 (Rev. 11-2003).

F. Responding to requests for comment on the technical and procedural accuracy of proposed new or revised form letters, standardized work papers, and written procedures.

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G. Issuing directions on significant developments on various technical and procedural matters in the form of Review Bulletins.

H. Coordinating EO Critical Initiatives and Significant Cases/Projects with EO Technical, EO Technical Guidance & Quality Assurance, EO Determinations, and other appropriate functions.

2. A Quality Assurance reviewer will also:

A. Analyze processing cycle from the submission date of the application to the closure date.

B. Evaluate time spent on cases.

C. Ensure work papers are fully documented, well organized, brief and concise, yet cover all substantive issues raised by the case and document the specialist's actions taken to support the conclusions reached.

D. Ensure adequacy of determinations (i.e., agreed and unagreed issues properly developed and both the Government's position and the taxpayer's position clearly stated with proper references and citations).

E. Identify and report on unique issues.

F. Confirm group manager involvement in appropriate situations (e.g., in situations that reflect poor case control on the specialist's part, the group manager should become involved and should participate in directing and influencing the prompt closing of the case; in unagreed cases, the group manager must include a statement in the report that he/she agrees with the specialist's position. Adverse Foundation Follow-up cases that receive " no support" during the advance ruling period are not subject to this requirement.

G. Adhere to Service policies and procedures.

3. When evaluating whether an appropriate amount of time was spent on a case, the reviewer will consider the following factors:

A. Complexity of the case and related issues.

B. Grade of case vs. grade of specialist.

C. Duration of the case: the case should be worked in an expeditious manner. The reviewer should note any long and unexplained periods between contacts with the organization or its representative(s).

4. Reviewers will ensure that the case file contains, but is not limited to, the following:

A. All necessary determination letters with appropriate caveats and attachments;

B. Properly executed Forms 5464, 6038, 2363-A, and 5060 when appropriate;

C. Special processing instructions: Form 3198-A (TE/GE Special Handling Notice);

D. All EDS (Exempt Organizations Determination System) and/or applicable processing system documents properly and completely filled out; and

E. Properly completed Form 5866 (EP/EO Information Report) if applicable.

7.20.5.3 (08-14-2007)
Technical Case Review

1. Overall, the reviewer must ensure that relevant facts have been developed, and that law, regulations, published rulings, and court cases adequately support findings.

2. The reviewer should be satisfied that the specialist has:

A. Obtained all pertinent facts regarding technical issues, both favorable and unfavorable; and

B. Explained clearly and concisely the position of the Service when an adverse determination is proposed.

3. The Service aims to resolve unagreed cases at the lowest possible level. The reviewer should ascertain that the specialist has made a reasonable effort to effect an agreement. The reviewer may pursue the following questions:

A. Did the specialist contact the organization (preferably by telephone) to discuss the basis for the tentative adverse issue, any alternatives to the adverse action, the organization's appeal rights, and the consequences of the adverse action?

B. To what extent was the group manager involved?

4. On adverse Foundation Follow-up cases, the reviewer should confirm that the specialist:

A. Considered all alternatives to private foundation status, such as IRC 509(a)(3);

B. Explained termination procedures to determine if the organization terminated during or shortly after its advance ruling period. Explained IRC 507 termination procedures when appropriate;

C. Considered whether reclassification as e private foundation created a need for advance approval of grant-making procedures under IRC 4945(g), and took appropriate steps to serve the customer's needs; and

D. Considered whether the organization could qualify as a private operating foundation and took appropriate steps to serve the customer's needs.

5. On proposed denial letters, the reviewer should confirm that the specialist:

A. Thoroughly considered and documented the possibilities for classification under other subsections.

B. In appropriate instances, offered the customer an opportunity to amend organizational documents and proposed operations to qualify under the organizational and operational tests for exempt status.

7.20.5.4 (03-07-2008)
Cases Subject to Review

1. The types of cases subject to review include:

- TEQMS review
- Mandatory review
- Manager's discretion review
- Saturation or special review

2. TEQMS is a set of guidelines for selecting cases subject to sample review. The guidelines set forth in the TEQMS Training Text are designated to measure the quality of work. In TEQMS, a statistically valid sample of EO determination cases is reviewed. The cases are evaluated by use of a check sheet to determine whether certain predetermined standards are satisfied. At the end of each quarter, a TEQMS Report of trends and other findings is prepared.

3. Mandatory review is a review of open (or "unclosed") cases that are required to be reviewed by Quality Assurance. The EO Determinations groups use Form 3198-A to forward these cases before they are closed on EDS or the applicable processing system. The following cases are subject to mandatory review:

   A. All private and public schools:
   • Located in Mississippi and Louisiana, including "charter schools" and home schools. With respect to cases involving a private school, it is vital that the reviewer confirms compliance with all aspects of Rev. Proc. 75-50 (to determine whether such school has a racially discriminatory policy). The reviewer is also responsible for updating the Forms 3198-A for private elementary and high schools located in Mississippi and Louisiana for Post Review in EO Technical after the case is closed on EDS or the applicable processing system. See IRM 7.21.3.8 for a discussion of determinations subject to Post Review by EO Technical.
   • Previously denied recognition of exemption.
   • That are a successor to a for-profit organization (for example, checked "Yes" to Form 1023, Part VII, Line 1).
   • That engage services from a management services organization.
   • That provide management services to one or more charter schools.

   B. Cases subject to IRC 6110 disclosure (amendment cases involving IRC 4945(g) advance approval of individual grants).

   C. All proposed denials, failure to establish denials, and certain adverse foundation status determinations (except adverse Foundation Follow-up determinations involving organizations with less than $125,000 in gross receipts).

   D. Impact cases (controversial issue involved, or if the outcome of the case may cause widespread adverse publicity for the Service, etc.). Examples of impact cases include controversial church organizations, radical environmental causes, cases involving terrorist countries, and cases where the IRS has received third-party contacts requesting that the applicant be denied exemption.

   E. Health care organizations that are integrated delivery systems; hospitals at which physician practices or physician facilities (e.g., MRI, ambulatory surgery center) have been purchased or where compensation is based on net profits or earnings; hospital management service organizations; preferred provider organizations; physician hospital organizations; and managed care purchasing organizations (i.e., established by hospitals, employers, insurance companies, physician groups, and community groups to set health care rates and enroll participating employers).

   F. Technical advice requests. (On EO determinations, technical advice is usually limited to cases in which the customer has specifically requested it on a proposed adverse case. See Rev. Proc. 2007–5 (updated annually) for more information on technical advice.)

   G. Previously revoked organizations.

   H. Farmers' cooperatives.

   I. Credit counseling.

   J. Partnership cases.

   K. Religious and apostolic organizations (IRC 501(d)).

   L. Exempt operating foundations.

   M. Foreign organizations (not including those formed in U.S. possessions).

   N. Limited liability companies (LLCs).

   O. "War related" cases including applicants involved in Operation Iraqi Freedom, the War on Terror, and Johnny Micheal Spann Patriot Trusts. Applicants that provide assistance to victims of the war are also included.

   P. Group ruling cases. These include cases in which we decline to issue a group ruling (i.e., declination letter). When an individual exemption for the central organization is being approved along with the group ruling for the subordinates, both cases are subject to mandatory review.

   Q. All cases in which an applicant's request for relief pursuant to Rag. 301.9100-1 is not granted. This only applies if the applicant does not accept exemption under IRC 501(c)(4) for the period prior to the effective date of exemption.

   R. EO Technical referrals pursuant to IRM 7.20.1.3.4, except the following:
   • Applications under IRC 501(c)(14) from state-chartered credit unions, cooperatives, and mutual savings banks
   • Applications under IRC 501(c)(15) from small insurance companies and associations
   • Applications under IRC 501(c)(25) from title holding organizations
   • Applications under IRC 501(c)(26) from membership organizations
   • Applications under IRC 501(c)(27) from membership organizations

   S. Touch-and-Go (TAG) cases identified as abusive.

   T. Conservation easements.

   U. IRC 4945(f) ruling requests.

   V. IRC 4942(g) set-asides.

   W. Voluntary requests for private foundation status.

   X. Applications that present sensitive political issues, including the following types of activities:
   • Voter registration
   • Inaugural and convention host committees
   • Post-election transition teams (to assist the elected official prior to officially assuming the elected position)
   • Voter guides
   • Voter polling
   • Voter education
   • Other activities that may appear to support or oppose candidates for public office

Y. Small voluntary employees' beneficiary associations (i.e., IRC 501(c)(9) organizations with 20 or fewer members entitled to receive benefits).

Z. Other cases selected for review by the Manager, EO Quality Assurance.

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4. Manager's discretion cases are subject to mandatory review based on a referral by a group manager who believes that a case may have a significant impact. The manager routes the case (still open at the group level) to mandatory review with an explanation as to why the case needs to be reviewed. Quality Assurance should provide an advisory memorandum (Form 5456) on their analysis to the group manager.

5. Saturation or special review refers to a review that can be handled either as a mandatory review or as a Post Review. Saturation review means that cases of a certain category (e.g., applications, Foundation Follow-ups) and within a certain time period are selected for review (e.g., applications closed within the last two months). Special review means that cases that present a certain issue (e.g., applications from scientific research organizations) are selected for review.

6. Group review refers to a review of cases for a particular group.

7.20.5.5 (08-14-2007)
General Case Review Procedures

1. This section contains general case review procedures for managers, reviewers, and specialists within EO Determinations. Included within these procedures are:
   - Case inventories in Quality Assurance
   - Minor errors found in review
   - Disagreements between reviewers and specialists
2. If the reviewer agrees with the specialist's recommendations on a mandatory review case, then the case is closed at the Quality Assurance level. If the reviewer disagrees with the specialist, then:
   - If the disagreement is minor, the case may be closed at the Quality Assurance level.
   - If the disagreement is more than minor, the reviewer will send the case back to the group with a Reviewer's Memorandum—EP/EO (Form 5456).
3. Reviewers use Form 5456, Reviewer's Memorandums, to inform managers of their findings. The following types of memorandums are issued:
   - Inquiry memos are issued when a significant error is detected and the case must be returned to the specialist for correction.
   - Advisory memos are issued if only insignificant errors that do not affect the outcome of the case are found.
   - No-error memos are issued to address an error that was not caused by the specialist or to return a protest or an appeals decision.
   - Commendatory memos are issued to congratulate the specialist for doing an excellent job.

7.20.5.5.1 (08-14-2007)
EO Case Review

1. Minor errors are sometimes found in determination cases. The reviewer may return a case file to the group manager with appropriate instructions for correction. However, a reviewer may send an advisory memorandum to a group manager to explain the errors without returning the case.
2. There are situations where there are disagreements between the reviewer and a specialist, and the case file needs to be sent back to the specialist.

7.20.5.5.2 (08-14-2007)
Memorandums to Group Managers/Specialists

1. There are two three-part forms used to assist reviewers in preparing memorandums and to help specialists respond to them:
   A. Form 5456 (Reviewer's Memorandum—EP/EO)
   B. Form 5457 (Response to Reviewer's Memorandum—EP/EO)
2. When returning a case file to a group manager:
   A. Complete the identifying information on the Form 5456, and
   B. Attach a computer-generated explanation of the issue, or problem, and suggested revisions, citing precedent.
3. Complete Form 5456 as follows:
   A. Check "Inquiry" block; and
   B. Complete items 1, 2, 4 through 9, 12 and 13.
4. Before the case is sent back to the specialist through the group manager, the review needs the approval of the Manager, Quality Assurance, who signifies approval by completing item 14. Upon approval, the original and a copy of Form 5456 will be returned with the case file to the specialist's group manager. Quality Assurance and Review will keep a copy for control.
5. The group manager will consider the Reviewer's Memorandum.
   A. If the group manager disagrees with the Reviewer's Memorandum, the group manager should discuss the memorandum with the Manager, Quality Assurance. If they cannot agree, they should meet with the Manager, EO Determinations, to try to resolve the issue, consult with EO Technical, or raise the concern to the Director, EO Rulings and Agreements.
   B. If the group manager agrees with the reviewer, the group manager should complete item 3 of Form 5456. The white and yellow copies of Form 5456 will then be forwarded to the specialist. The group manager will maintain appropriate controls. The group manager may pull the copy of Form 5456 for control, but both the original and copies must be returned to Quality Assurance after the specialist completes action.
6. Upon receipt of a Form 5456, the specialist will reactivate the case on the time sheet, take appropriate actions to resolve the issues, and prepare Form 5457 as follows:
   A. Complete items 1 through 8 on Form 5457, using Form 886-A or computer-generated attachment if additional space is required.
   B. In completing item 5 of Form 5457, key the responses to the order of the reviewer's comments on Form 5456.
   C. If an item cited by the reviewer results in a change to the determination letter, input forms, etc., that is explained in the work papers, another explanation on Form 5457 is not necessary. Noting the appropriate page in the work papers where the item is explained will suffice.

D. If an item cited does not result in a change to the determination letter, the input forms, etc., the explanation will be shown on Form 5457.

7. After the specialist makes the agreed upon changes, the group manager will approve the action taken by the specialist by completing item 7 of Form 5457. After approval, the case file and all copies of Forms 5456, 5457, 886-A, and other attachments will be resubmitted to Quality Assurance.

8. Upon review and approval of the action taken by the specialist, the reviewer will complete items 8 through 10 of Form 5457 and, if necessary, advise the Manager, Quality Assurance, about the proposed classification of the memorandum for purposes of the quarterly report on the quality of mandatory review cases.

9. After the reviewer completes items 8 through 10 of Form 5457, the Manager, Quality Assurance, will complete item 11.

10. After the final review and acceptance of the case by Quality Assurance, the reviewer will distribute Forms 5456, 5457, and 886-A (original copies only) as follows:

    A. Original—Administrative File

    B. First copy—Group Manager's File

    C. Second copy—Review File

7.20.5.5.3 (08-14-2007)
Cases Requiring Further Development in the Groups

1. Quality Assurance may return a case to the initiating specialist, through the group manager, with an inquiry memorandum suggesting or requiring the specialist to reconsider an issue.

    A. If the specialist disagrees with Quality Assurance's position, the specialist should discuss his or her disagreement with the group manager.

    B. If the group manager agrees with Quality Assurance's position, the specialist will adopt that position in further dealings with the organization. The specialist should not discuss any internal disputes with the applicant, interested parties, or authorized representatives.

2. If the group manager agrees with the specialist's position, the specialist should document on Form 5457 his or her reasons for disagreeing with Quality Assurance's position. The group manager will advise the Manager, Quality Assurance, of the disagreement, either through discussion or by approving Form 5457.

    A. If, as a result of this exchange of views, the group manager concludes that the reviewer's position is proper, the specialist will adopt such position.

    B. If the group manager and the Manager, Quality Assurance, cannot agree, *See IRM 7.20.5.5.3.* for procedures on how to proceed.

7.20.5.6 (08-14-2007)
Processing Adverse Letters

1. Quality Assurance reviewers should thoroughly review all proposed adverse cases before the 30-day letter is mailed to ensure technical and procedural accuracy.

2. Specialists prepare the appropriate proposed adverse determination letter and redacted copy of the proposed adverse determination letter. A denial checklist is provided in Exhibit 7.20.5-1 and the following letters are available in Exhibits 7.20.5-2 and 7.20.5-3.

    - Letter 4036 should be prepared for proposed denial of exemption under IRC 501(c)(3).
    - Letter 4034 should be prepared for proposed denial of exemption under other than IRC 501(c)(3).

3. The proposed adverse determination letter must follow the format shown in Exhibit 7.20.5-2 and include the following:

    - A legend of the letters, etc, that are used in the determination letter as substitutes for information that is exempt from public disclosure under IRC 6110 (e.g., names, addresses, locations, and other identifying information).
    - The Uniform Issue List (UIL) Index on the first page.
    - Add "Enclosure, Publication 892" on the last page.

4. The redacted copy of the proposed adverse determination letter should be prepared as follows:

    - Delete redactable information from the legend.
    - Remove the applicant's name, mailing address, and employer identification from the letter.

5. The specialist will complete Form 3198-A by checking the " Mandatory Review" box and identifying the case as a proposed adverse determination and specifying the type of case in the fill-in space provided. For example, adverse determination – conservation easements. The case will be submitted to the group manager for review. If the group manager concludes that the proposed adverse letter is correct, the case should be submitted to Quality Assurance.

6. In general, if the reviewer agrees that the letter is correct, the case should be submitted to the Manager, Quality Assurance, for final approval before mailing the letter to the taxpayer.

7. The group secretary in Quality Assurance will mail the adverse letter after appropriate approval. In general, the letters should be mailed via certified mail.

8. In the 30-day protest period, cases will be held in a central location in Quality Assurance pending a response from the taxpayer.

9. If there is no protest from the taxpayer, the case will be returned to the reviewer for closing. The reviewer will consider if any follow-up action, such as preparation of a referral to EO Examination, is appropriate. The reviewer will close the case as follows:

    - Prepare the final adverse determination letter. Letter 4038 should be prepared for denials under IRC 501(c)(3). Letter 4040 should be prepared for denials under other than IRC 501(c)(3).
    - Prepare Notice 437.
    - Prepare the redacted copy of the proposed and final adverse determination letters.
    - Close the case status 02 on EDS or the applicable processing system, and forward to the TE/GE Processing Office.

    Note:

    IRC 7428 requires an organization seeking initial or continuing recognition of exemption under IRC 501(c)(3) to exhaust its administrative remedies by taking timely, reasonable steps to secure a determination prior to filing for declaratory judgment. If an organization fails to protest an EO determination adverse letter, there has been a failure to exhaust administrative remedies available within the IRS, and the case cannot go to court under declaratory judgment procedures.

7.20.5.6.1 (08-14-2007)
Response to Adverse Letter

SFC 001245

1. If a protest is received, the reviewer will carefully consider its effect. The reviewer may choose to contact the taxpayer for clarification of certain points in the protest. If the protest raises facts or arguments not previously considered by the specialist, the reviewer should prepare a " no error" review memorandum to transmit the case to the specialist for further consideration.

2. If the protest does not present new facts or arguments, the reviewer may prepare the case for transmittal to the appropriate Appeals office. Cases sent to Appeals should be routed through the Manager, Quality Assurance, for final approval.

    A. The Quality Assurance secretery will update the case to the proper Appeals status code on EDS or the applicable processing system, and send the case to Appeals on a Form 3210.

    B. The reviewer will notify the organization in writing when a case ie transferred to Appeals.

7.20.5.6.2 (08-14-2007)
Adverse Letters Returned from Appeals

1. The Quality Assurance and Appeals process is outlined in Exhibit 7.20.5-6.

2. Adverse letters upheld by Appeals will be routed back to the reviewer for a final review. At that point, the reviewer should:

    A. Consider any appropriate follow-up action before closing the case, including preparing or processing referrals to EO Examination.

    B. Confirm that the proper steps have been taken to update the Master File and EDS or the applicable processing system.

    C. Send an information copy of the Appeals statement to the specialist who originated the case.

3. Proposed adverse cases that are not upheld in Appeals will also be routed back to the reviewer. The reviewer should confirm that Appeals issued the correct approval letter.

    A. If Appeals does not uphold an IRC 501(c)(3) denial, it will usually not address foundation status. In that event, the reviewer should return the case to the specialist with a "no error" memorandum for a supplemental determination letter on foundation status. If the case does not have to be sent back to the specialist, the reviewer should provide the specialist an information copy of the Appeals statement.

    B. Before the final closing of cases not upheld by Appeals, the reviewer will confirm that the proper steps have been teken for correct establishment on Master File and EDS or the applicable processing system.

4. Reviewers should carefully review the case summaries prepared by Appeals. Any novel legal analyses or procedures used to settle the case should be shared with the specialists. The Manager, Quality Assurance, will consult with the Manager, EO Determinations, and decide how to share the information. The discussion may include contacting the Director, EO Rulings and Agreements, to include representatives from EO Technical and TEGE Counsel in the discussion.

5. The Manager, Quality Assurance, will report to the Director, EO Rulings and Agreements, about cases in which Appeals has not upheld a determination made by EO Determinations.

7.20.5.7 (08-14-2007)
Cases Returned from Post Review

1. One or more Quality Assurance reviewers should be assigned to receive, coordinate, and process Mississippi and Louisiana private school cases that are returned from EO Technical after Post Review.

2. The reviewer will analyze any comments made by EO Technical to decide whether any of the cases should be returned to the specialist for further action. Any returned cases should be transmitted with a "no error" memorandum. The group manager and specialist will decide if the case should be reopened on EDS and/or the applicable processing system. Based on the Post Review memorandum, a case can be re-opened for additional development, referred to EO Technical as a request for technical advice if the organization disagrees with the comments made by EO Technical, or referred to EO Examination. See Rev. Proc. 90-27, 1990-1 C.B. 514, and IRM 7.20.1.4.

3. The EO reviewer will also decide whether the comments made by EO Technical should be shared with the specialists in general. In reaching this decision, the reviewer will consult with the Manager, Quality Assurance. If a decision is reached to share the information, the Manager, Quality Assurance, will also decide how to share the information by consulting the Manager, EO Determinations.

7.20.5.8 (08-14-2007)
User Fee Disputes

1. The Manager, Quality Assurance, has the final authority to resolve disputes involving refunds or waivers of user fees.

2. The cases are processed as follows:

    A. Specialists should summarize the facts and law relative to the user fee dispute on a memorandum to the Manager, Quality Assurance. See IRM 7.20.2.2.4 for procedures.

    B. The case will be expeditiously routed through the group manager to the Quality Assurance secretary, who will assign the user fee matter to the first available reviewer.

    C. The reviewer will analyze the issue and set out his/her position in an attachment to the specialist's memorandum.

    D. The case will then be submitted to the Manager, Quality Assurance, for final review.

    E. If the Manager, Quality Assurance, agrees with the reviewer's recommendation, the reviewer will return the case to the specialist for further processing.

    F. Although orgenizations have no right of appeal regarding user fee decisions, when specialists involved in the case advise an organization about the decision, they should provide an explanation if the decision is adverse.

7.20.5.9 (07-07-2009)
IRC 6110 Public Inspection of Written Determinations—Quality Assurance

1. See IRM 7.28.4.6, *Procedures for Quality Assurance*, and Exhibit 7.28.4-1, *Checklist for IRC 6110 Written Determinations—Adverse Determinations*.

Exhibit 7.20.5-1 (08-14-2007)
Denial Checklist

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Exhibit 7.20.5-2 (08-14-2007)
Letter 4036

SFC 001246

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Exhibit 7.20.5-3 (08-14-2007)
Letter 4034

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Exhibit 7.20.5-4 (08-14-2007)
Review Bulletin—Advance Approval of Grant Making Procedures under IRC 4945(g)

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Exhibit 7.20.5-5 (10-02-2007)
Review Bulletin—Various Private School Issues

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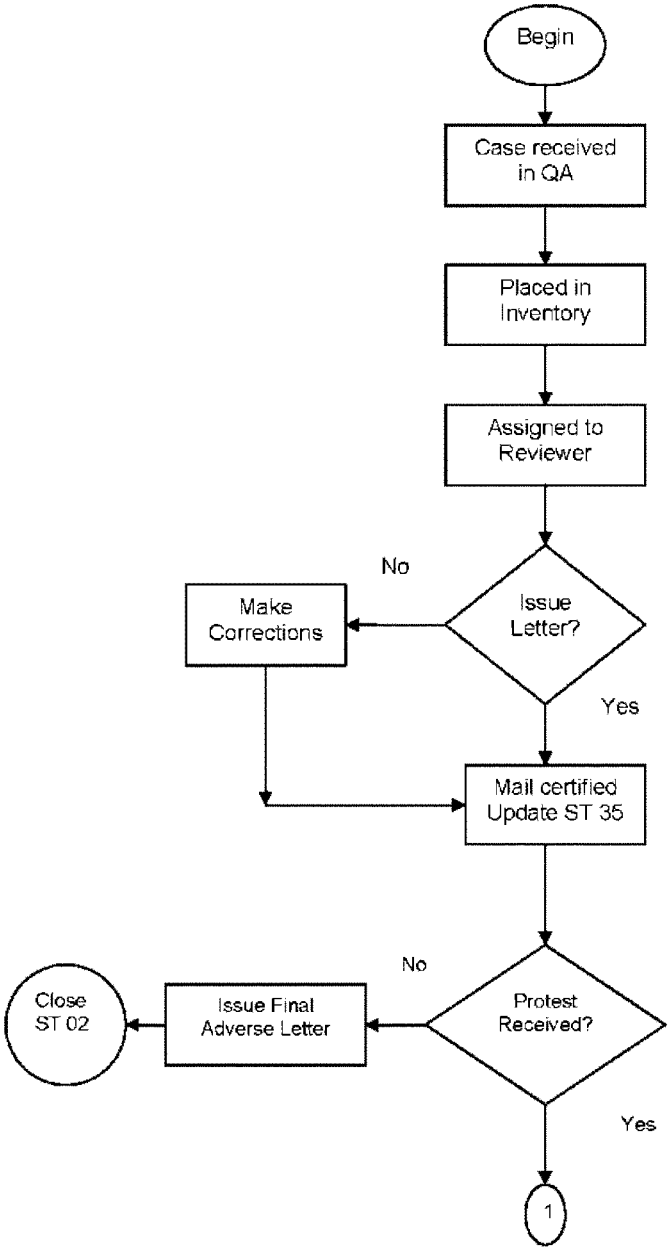
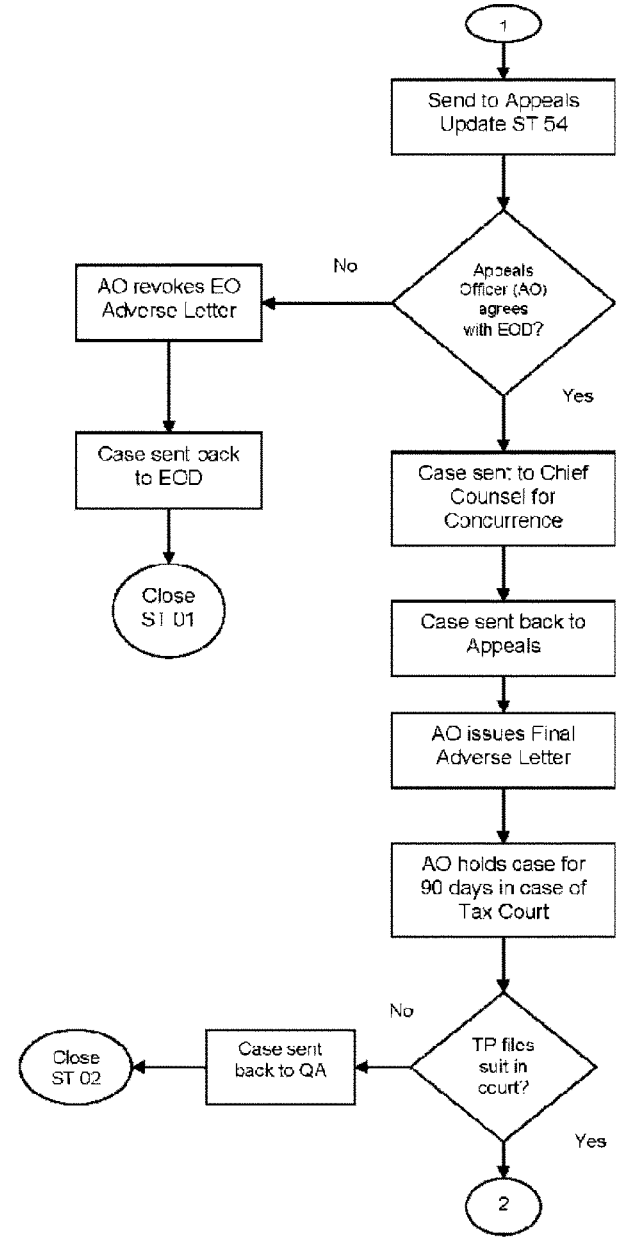
Exhibit 7.20.5-6 (08-14-2007)
Quality Assurance and Appeals Process Flowchart

SFC 001247


Begin
Case received in QA
Placed in Inventory
Assigned to Reviewer
Issue Letter?
No
Make Corrections
Yes
Mail certified Update ST 35
Protest Received?
No
Issue Final Adverse Letter
Close ST 02
Yes
1

SFC 001248



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More Internal Revenue Manual

SFC 001249

IRS

Part 7. Rulings and Agreements

Chapter 29. Exempt Organizations Technical Rulings and Guidance

Section 3. Exempt Organizations Technical Procedures

7.29.3 Exempt Organizations Technical Procedures

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- 7.29.3.2 Processing of Cases by Tax Law Specialists (TLS)
- 7.29.3.3 Favorable Letter Rulings
- 7.29.3.4 Proposed Adverse Letter Rulings on Exemption Applications
- 7.29.3.5 Case Conferences
- 7.29.3.6 Post-Conference Submission
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- 7.29.3.10 Correspondence
- Exhibit 7.29.3-1 Format for Private Letter Ruling
- Exhibit 7.29.3-2 Format for Transmittal Memorandum
- Exhibit 7.29.3-3 Format for Technical Advice Memorandum
- Exhibit 7.29.3-4 Format for IRC 7805(b) Application for Relief Memorandum

7.29.3.1 (07-14-2008)
Introduction

1. This section provides procedures to be used by Exempt Organizations Technical (EO Technical) for the processing of exemption applications, requests for private letter rulings, requests for technical advice or technical assistance, and correspondence. This section also includes procedures for case review, closing action, and, when applicable, coordination with other offices.

7.29.3.1.1 (07-14-2008)
References

1. The following references should be used on an as-needed basis when processing cases:

   A. IRM 1.10.1 – The IRS Correspondence Manual

   B. IRM 1.54.1 – TE/GE Division Organization and Management, TE/GE Roles and Responsibilities

   C. IRM 7.1– TE/GE Administrative Procedures and Programs

   D. IRM 7.20– Exempt Organizations Determination Letter Processing

   E. IRM 7.25– Exempt Organizations Determinations Manual

   F. IRM 7.26– Private Foundation Manual

   G. IRM 7.27– Exempt Organizations Tax Manual

   H. IRM 7.28.2– Exempt Organizations Disclosure Procedures, Disclosure of Information About Exempt Organizations to Appropriate State Officials as Described in IRC 6104(c)

   I. IRM 7.28.4– IRC 6110 Public Inspection of Written Determinations (to be issued)

   J. Rev. Proc. 80-27,1980-1 C.B. 677, as modified by Rev. Proc. 96-40, 1996-2 C.B. 301, sets forth procedures under which a group exemption may be obtained

   K. Rev. Proc. 80-28, 1980-1 C.B. 680, provides the manner in which an exemption letter will be issued when a court determines that an organization qualifies for exemption

   L. Rev. Proc. 2008-4, 2008-1 I.R.B. 121 (or its annual update) provides the procedures for the issuance of ruling letters
   Appendix A provides a sample format for a letter ruling request
   Appendix B provides a checklist to be used by taxpayers to insure that essential information and documents are submitted with a ruling request

   M. Rev. Proc. 2008-5, 2008-1 I.R.B. 164 (or its annual update) contains guidelines for furnishing technical advice

   N. Rev. Proc. 2008-8, 2008-1 I.R.B. 233 (or its annual update) provides instructions on user fees

   O. Rev. Proc. 2008-9, 2008-2 I.R.B. 258 (or its annual update) provides procedures for issuing determination letters and rulings on the exempt status of organizations

7.29.3.2 (07-14-2008)
Processing of Cases by Tax Law Specialists (TLS)

1. Generally, cases are worked in a first in – first out manner, except for approved expedite cases.

2. Upon receipt of a case, the TLS should quickly review the case file to determine if any of the following situations are present:

A. If the organization is under examination by the IRS when starting an exemption application or private letter ruling request, the TLS should consult with his/her Group Manager.

B. If the organization has requested expedited processing of an exemption application or private letter ruling request, the TLS should consult with his/her Group Manager. The TLS will advise the organization in writing about whether the expedite request has been approved or disapproved.

C. If the case is unique or significant, the TLS should notify his/her Group Manager and prepare a short memorandum for the Group Manager summarizing the relevant information that makes it unique or significant. The Group Manager will decide whether to have a sensitive case report that is initiated by the TLS to advise upper managements because the case:
i. Is likely to attract media or Congressional attention,
ii. Presents unique or novel issues,
iii. Affects large numbers of taxpayers,
iv. Potentially involves large dollar amounts ($10 million or greater), or
v. Has another issue that warrants attention. See IRM 1.54.1.4(2).

3. If the case involves an issue under the jurisdiction of the Office of Chief Counsel, the TLS should:

A. Draft a memorandum to the appropriate Chief Counsel Office,

B. Photocopy the relevant portions of the case that need to be sent to Chief Counsel, and

C. Submit the memorandum with the copied case to review.

4. Cases under active consideration.

A. In processing a case, the TLS will:
i. Develop the facts, issues and legal authorities,
ii. Solicit any additional information from the organization that is required to resolve the issues,
iii. Develop a position upon which to make a recommendation to complete the case, and
iv. Take the next appropriate action to bring the case to a conclusion.

B. The TLS will document his/her action(s) and time in processing cases on the case history sheet (Form 9564) and change the status of the case on the appropriate reporting system.

7.29.3.2.1 (07-14-2008)
Development of Cases

1. (1) The TLS will contact the organization in writing (Development Letter) to obtain any additional information or analysis of the issues or law necessary to complete the case.

2. In deciding on the need for a Development Letter, the TLS will balance the need for additional factual information or analysis of the issues or law with the burden such request places upon an organization. Accordingly, the TLS will take into consideration the amount of information requested and the number of Development Letters issued. If more than two Development Letters are needed, the TLS must obtain concurrence from his/her Group Manager before issuing a third Development Letter.

3. The Development Letter should be a written communication for purposes of preserving the administrative record. It is a violation of IRS policy to send e-mails to taxpayers. E-mails to or from taxpayers should not be used to request or to obtain information, even if necessary to process a case. See IRM 1.10.3 – Standards for Using E-mail.

4. When rapid communication is necessary, a Development Letter may be sent by facsimile transmission (FAX). The organization (or authorized representative) should be advised by telephone that a FAX is being sent. Steps must be taken to protect confidential tax information that is transmitted by FAX. At a minimum, a cover sheet should be used that identifies for whom the letter is intended and how many pages are being faxed. See also IRM 7.29.3.3.

5. When a case involves an exemption application described in IRC 501(c)(3), a Development Letter must contain the appropriate IRC 7428paragraphs that advise an organization about the consequence with respect to filing a declaratory judgment of not replying. Exemption applications other than IRC 501(c)(3) do not need such paragraphs.

6. If the TLS believes that the organization is not described in the paragraph of the Code under which it applied, but might qualify under another paragraph, the TLS should confer with the Group Reviewer and, if agreed, the organization should be advised.

A. If an organization appears to qualify under a paragraph of IRC 501(c) other than the one under which it had applied, it may agree to have its qualification considered under that alternate paragraph. Depending on the situation, the organization may need to submit the appropriate application to the TLS to finish processing the application, or the organization may need to provide a signed statement that it requests to be described in the alternate paragraph, if the appropriate application was correctly filed. In either case, if the original request was subject to declaratory judgment under IRC 7428, the applicant must submit a written statement withdrawing its original request. Generally, a new user fee will not be required since the new exemption application is considered a continuation of the same case.

B. When the new application or statement is received, the TLS should advise the organization in writing that the original application has been closed and that the new application is being considered.

C. Before a TLS suggests to an organization that it request recognition of exemption under a paragraph other than the one originally applied for, he/she should have done sufficient research, including a referral to another group if appropriate, to be reasonably sure that the organization does in fact qualify under that alternate paragraph.

D. The TLS should update the type of application (e.g., 501(c)(3), 501(c)(4), etc.) on the appropriate reporting systems.

7. The TLS will sign the Development Letter over his/her signature. The case file does not have to be sent to the Group Reviewer for review or signature on the outgoing letter. The TLS will also enter on the file copy (previously called the yellow copy) of the Development Letter his/her surname, organizational symbols, and the date signed. The TLS will retain the file.

8. The organization should be given twenty-one days to respond to the Development Letter. If the twenty-one days pass without a reply from the organization, the TLS contacts the organization to determine whether the organization intends to respond. The TLS may approve one thirty-day extension, which should be confirmed in writing by the TLS. Any request for an extension of time over the additional thirty days must be submitted by the organization in writing, along with an explanation of the need for the extension, and must be approved by the TLS's Group Manager. The decision of the Group Manager is final. The TLS will inform the organization in writing of the decision.

9. If the organization does not respond to the Development Letter within the time provided, the TLS will prepare a Failure To Establish (FTE) Letter as described in IRM 7.29.3.2.2.2.

10. Replies to Development Letters from the organization must be in writing and added to the administrative file on a case. The TLS should not make any written marks or comments on any part of correspondence between the IRS and the organization. If a TLS wishes to comment on particular information, it should be in the form of a memorandum that can be included in the case file.

11. In certain circumstances, a TLS may determine, with the concurrence of the Group Reviewer, that a Development Conference with the organization is necessary in order to fully understand facts or issues that could affect the case. Such a conference is at the discretion of the Service, and is not a conference of right of the organization. See section 12 of Rev. Proc. 2008-4(or its annual update) and section 9 of Rev. Proc. 2008-9(or its annual update). The procedures for such conference are the same as in IRM 7.29.3.5.1.

7.29.3.2.2 (07-14-2008)
Case Review Responsibilities

1. Except for Development Letters and Acknowledgement Letters, a Group Reviewer serves as the initial reviewer for all written communications initiated in the group.
2. If the Group Reviewer concurs with the proposed ruling letter and the case does not require review outside the Technical Group, the Group Reviewer will sign the letter and arrange for the case to be closed.
3. If the Group Reviewer concurs with the proposed ruling letter and the case requires review outside the Technical Group, the Group Reviewer will initial the letter and arrange for the case to be forwarded to the appropriate level of review. The following cases will be forwarded to EO Technical Guidance and Quality Assurance for review before closing:

   A. Cases involving relief under IRC 7805(b),
   B. Final Adverse Rulings subject to IRC 7428,
   C. Cases subject to IRC 6110, including letter rulings and technical advice memoranda,
   D. Cases seeking concurrence of the Office of Chief Counsel,
   E. Assistance requests to other areas of Chief Counsel, and
   F. Other cases agreed upon between the Manager, EO Technical and the Manager, EO Technical Guidance and Quality Assurance

7.29.3.2.2.1 (07-14-2008)
Review Process

1. The TLS and Group Reviewer are expected to work in a professional and collegial manner to develop a strategy that will resolve the case by reaching a correct technical result in the most efficient manner possible.
2. A case submitted to review will be returned to a TLS if:

   A. The case file is assembled incorrectly,
   B. Some portion of the letter ruling needs to be revised, or
   C. The reviewer disagrees with the proposed position of the TLS.

3. The TLS will give priority consideration of the returned file to complete the recommended action.
4. If the TLS does not agree with the Group Reviewer's recommendation, the TLS should discuss the proposed changes with the Group Reviewer to clarify the problem. If the issue is not resolved, the Group Reviewer will arrange for a meeting with the Group Manager and the TLS in a timely manner.
5. The TLS shall prepare the written communication according to the Group Manager's decision. The TLS or Group Reviewer may prepare a dissenting memorandum for the file if there is disagreement with the decision. In addition, the dissenter should circle his/her name on the file copy of the ruling letter.
6. If the group manager is unable to resolve the conflict, the EO Technical Manager should be consulted.

7.29.3.2.2.2 (07-14-2008)
Failure to Establish (FTE) Procedures

1. If the organization does not submit additional information requested in a Development Letter in a timely manner, the TLS should contact the organization by telephone. The TLS should determine whether the organization intends to submit the information.
2. If the organization has filed an exemption application or a ruling letter request and states that it intends to submit the information, see IRM 7.29.3.2.1(9). If the organization states that it does not intend to submit the information, the TLS will prepare an FTE letter where the case is a request for exemption or presents an issue to which IRC 7428applies. If the exemption application is not subject to IRC 7428, or is a private letter ruling request, and the organization states that it does not intend to submit the information, the TLS will prepare a letter informing the organization that the case has been closed since the organization declined to provide information necessary to process the request.
3. The completed FTE letter, and the case file, should be submitted to the Group Reviewer for processing. The TLS will report the status change on the appropriate reporting systems.

7.29.3.2.3 (07-14-2008)
Withdrawal of Applications

1. An application for recognition of exemption under IRC 501(c) may be withdrawn upon the written request of a principal officer or authorized representative of the organization at any time in the application process prior to the issuance of a proposed adverse letter. An application cannot be withdrawn after the issuance of a proposed adverse letter. The TLS will prepare a letter that will be issued to the organization, with a copy to the authorized Power of Attorney, to acknowledge that the application has been withdrawn. See section 5.01 of Rev. Proc. 2008-9(or its annual update).
2. Even though the application is withdrawn, the application and all the supporting documents will be retained by the IRS and will not be returned to the organization.
3. The organization's user fee will not be refunded. See Rev. Proc. 2008-9(or its annual update).
4. Exempt Organization personnel should not solicit a withdrawal of an application.

7.29.3.3 (07-14-2008)
Favorable Letter Rulings

1. If a TLS recommends issuance of a favorable letter ruling on an exemption application, the TLS will prepare an exemption letter. The TLS will also prepare a supporting File Memorandum that states the relevant facts, cites pertinent legal authorities, and explains his/her rationale for making that recommendation. Before submitting a case for review, the TLS will assemble the case file in accordance with IRM 7.20.2.6.

2. If a TLS recommends a favorable letter ruling on a request for a private letter ruling or a request for technical advice, the TLS will prepare a proposed favorable letter ruling in draft and submit the draft to the Group Reviewer. The proposed favorable private letter ruling should be in the format as shown in Exhibit 7.29.3-1. If there is relevant information that does not appear in the draft, the TLS should prepare a File Memorandum.
3. In a situation where EO Technical is providing language for a ruling request being prepared by another office, such as Chief Counsel, the document is treated as Technical Assistance. See *IRM 7.29.3.8(9)*.
4. When the case file is submitted to the Group Reviewer, the TLS should update the status of the case on the appropriate reporting systems.
5. When the Group Reviewer returns the draft letter, with recommendations, if any, the TLS will prepare a final favorable letter, incorporating the changes noted by the Group Reviewer. The TLS will process the ruling in accordance with IRC 6110procedures in IRM 7.28.4 (to be issued) and IRM 7.29.3.2.2(3). If the TLS disagrees with the Group Reviewer, see IRM 7.29.3.2.2.1(4), (5) and (6).
6. An organization that desires to have an advance copy of a letter ruling faxed to the organization or its authorized representative must make such request in writing, either as part of the original ruling request or prior to the approval of the letter ruling. The request must contain the FAX number and the name of the person to whom the faxed copy is to be sent. Generally, requests for an advance faxed copy will be approved only in situations where the organization has requested expeditious handling of the request for ruling, and such request has been approved. If a faxed copy is approved, the TLS must do the following:

   A. Follow Case Closing Procedures (*See IRM 7.29.3.7.*), which includes the mailing of an original ruling.

   B. The cover sheet should not identify the specific organization by name or EIN, and should be faxed in an order in which it will become the first page covering the faxed tax information. In addition, the following caveat should be used on the cover sheet:
   This communication is intended for the sole use of the individual to whom it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient or the employee or agent for delivering the communication to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication may be strictly prohibited. If you have received this communication in error, please notify the sender immediately by telephone, and return the communication at the address above via the United States Postal Service. Thank you.

   C. The FAX cover sheet will be prepared by the TLS, and the actual faxing will be done by the TLS or his/her designee.

7.29.3.4 (07-14-2008)
Proposed Adverse Letter Rulings on Exemption Applications

1. If a TLS processing a letter ruling relating to an exemption application believes that an organization does not qualify for exemption under IRC 501(c), then a proposed adverse letter ruling should be prepared for review. The letter should state the relevant facts, pertinent legal authorities, and fully explain the rationale for the decision. The TLS should prepare the letter for purposes of IRC 6110as described in IRM 7.28.4 (to be issued) and prepare the letter in accordance with IRC 6104(c)procedures. See IRM 7.26.2.4.1 (to be issued). The TLS will prepare the proposed adverse letter ruling in draft form and submit the draft to the Group Reviewer.
2. If the Group Reviewer agrees with the adverse position, and returns the draft letter, with recommendations, if any, the TLS will prepare the proposed adverse letter, incorporating the changes noted by the Group Reviewer. The TLS will also prepare the IRC 6110 copies as described in IRM 7.28.4 (to be issued). See IRM 7.29.3.2.2(3). After the letter is issued, see IRM 7.29.3.4.1.
3. If the TLS disagrees with the recommendations of the Group Reviewer, see IRM 7.29.3.2.2.2.1 (4), (5), and (6).

7.29.3.4.1 (07-14-2008)
Proposed Adverse Private Letter Ruling

1. If the TLS believes that, based on the information submitted, that a favorable ruling cannot be issued on a proposed transaction, the TLS should prepare a Memorandum for Conference. The memo should explain why an adverse ruling should be issued. The TLS should submit the Memorandum for Conference and the case file to the Group Reviewer.

7.29.3.4.2 (07-14-2008)
No Rule

1. If the TLS believes a ruling is not appropriate based on the criteria for declining to rule set forth in section 8 of Rev. Proc. 2008-4(or its annual update), the TLS should prepare a "No Rule" letter. The TLS should also prepare a memorandum explaining why it is appropriate to decline to rule.

7.29.3.4.3 (07-14-2008)
Submitted Protests

1. When a proposed adverse ruling relating to an exemption application is issued, the organization is permitted to protest the conclusions reached in that letter.
2. The organization has 30 days from the date of the proposed adverse ruling letter to protest the conclusions in that letter.
3. If a protest is received, the TLS should review it to determine whether the organization has been able to refute the conclusions that it does not qualify for exemption under the section applied for.
4. If the TLS determines that the information submitted refutes the conclusions in the proposed adverse ruling, and that the organization does qualify for exemption under the section applied for, then the TLS prepares a favorable ruling for review. The favorable ruling letter will state that it supersedes the adverse ruling letter.
5. If the TLS reviews the protest and determines that the organization has not successfully refuted the conclusions in the proposed adverse ruling, and still does not appear to qualify for tax-exempt status under the section applied for, then the TLS will prepare a Memorandum for Conference in the same manner as described in IRM 7.29.3.4.1 for a letter ruling on a proposed transaction.

7.29.3.5 (07-14-2008)
Case Conferences

1. Case conferences will be held with the applicant organization when:

   A. A proposed adverse position is being taken on an exemption application, on a ruling request on a proposed transaction, or on technical advice (Conference of Right).

   B. Facts need to be clarified or more information needs to be received from an organization (Development Conference).

   C. A pre-submission conference is granted (see section 12.07 of Rev. Proc. 2008-4, 2008-1 I.R.B. 4 (or its annual update).

2. Depending on the issues, conferences may be held by EO Technical or by EO Technical Guidance and Quality Assurance.

3. When preparing for conferences, reviewers need to follow the procedures set forth in section 12 of Rev. Proc. 2008-4(or its annual update).

7.29.3.5.1 (07-14-2008)
Conference of Right

1. A taxpayer is entitled to only one conference of right. However, at the discretion of the Service, an organization may be allowed an additional conference. See section 12 of Rev. Proc. 2008-4 (or its annual update) and IRM 7.29.3.5.1 (9). The person in charge of this conference is the Conferee, who is either the Group Reviewer in EO Technical or a TLS in EO Technical Guidance and Quality Assurance. The TLS initiating the case is also in attendance. The Conferee may consider requesting that other IRS employees or representatives from the office of Chief Counsel attend to bring their expertise.
2. The Conferee notifies the organization, or its authorized representative, of the time and place of the conference. The conference may be in person or over the telephone.
3. The Conferee ensures that the organization's representatives are authorized to represent the organization.
4. The Conferee will explain that this is the organization's conference of right and that if subsequent conferences are needed, they are held at the discretion of the IRS.
5. The Conferee will explain the tentative position of the IRS on the issues and afford the organization an opportunity to explain its views.
6. The Conferee will advise the organization that it needs to provide any additional information, reasoning, or precedents that were discussed at the conference but were not previously presented in writing in order to complete the administrative file. This information should be submitted within twenty-one days from the date of the conference. The Conferee will generally not make a commitment regarding the conclusion that the IRS will finally adopt since the organization's presentation at the conference and any additional information that it may submit would need to be considered. In addition, the conclusion may be made as a result of coordination with others within the Internal Revenue Service or office of Chief Counsel. The Conferee should advise the organization that if no additional information is sent on the matter, the Service will make its decision based on the information in the administrative file.
7. After the conference, the TLS will prepare a conference report that summarizes relevant information that was discussed at the conference, including any additional information the taxpayer stated that it would submit.
8. The TLS will issue a post conference letter reminding the organization that it must submit information within twenty-one days from the date of the conference. If requested, the TLS can approve an additional thirty days to submit additional information, which must be confirmed in writing. Additional time beyond the thirty days requested by an organization to submit post-conference information must be made in writing and approved by the TLS' Group Manager.
9. A Development Conference is not considered to be the organization's conference of right. The organization should be advised of this fact. Beyond this fact, the procedures for a Development Conference are the same as IRM 7.29.3.5.1.

7.29.3.6 (07-14-2008)
Post-Conference Submission

1. If the Conferee concludes, after post-conference information is received and reviewed, that a change in the proposed position is warranted, the Conferee will prepare a memorandum explaining the IRS position and return the case to the TLS for preparation of a favorable letter ruling. If the TLS does not agree with this change, the procedure to be followed is the same as discussed in IRM 7.29.3.2.2.1.
2. In the case of a private letter ruling that does not relate to an exemption application or to a matter to which IRC 7428applies, if there is no change to the proposed adverse position after the conference and review of the post-conference submission, the Conferee should advise the taxpayer by telephone of the adverse position prior to preparation of the final adverse letter.
3. In the case of a letter ruling that does relate to an exemption application or to a matter to which IRC 7428 applies, if the Conferee concludes that a change in position is not warranted, then the case will be returned to the TLS for preparation of a final adverse ruling. The Conferee should not advise the taxpayer by telephone or otherwise that a final adverse ruling will be issued. If the adverse ruling is under IRC 501(c)(3) , it is subject to IRC 7428. See *IRM 7.29.3.7(4)*.

7.29.3.7 (07-14-2008)
Closing Procedures for Adverse Rulings

1. In the case of a ruling that does not relate to an exemption application or a matter to which IRC 7428 applies, if the organization does not modify or withdraw its request for a private letter ruling, after exhausting all the procedures in IRM 7.29.3.6 (2), the TLS will prepare a final adverse letter. The letter should state the relevant facts, pertinent legal authorities, and fully explain the rationale for the decision. The TLS should prepare the letter for purposes of IRC 6110 as described in IRM 7.28.4 (to be issued). The TLS will prepare the letter in draft form and submit the draft to the Group Reviewer. See IRM 7.29.3.2.2(3).
2. In the case of a ruling that relates to an exemption application or a matter to which IRC 7428 applies, after exhausting all the procedures in IRM 7.29.3.6 (3), the TLS will prepare a final adverse letter. The letter should state the relevant facts, pertinent legal authorities, and fully explain the rationale for the decision. The TLS should prepare the letter for purposes of IRC 6110 as described in IRM 7.28.4 (to be issued). The TLS will prepare the letter in draft form and submit the draft to the Group Reviewer.
3. When the Group Reviewer returns the draft letter, with recommendations, if any, the TLS will prepare the final adverse letter. The TLS will also prepare the IRC 6110 copies as described in IRM 7.28.4 (to be issued). See IRM 7.29.3.2.2(3).
4. If the TLS disagrees with the Group Reviewer's recommendations, follow the same procedures in IRM 7.29.3.2.2.1 (4), (5), and (6).
5. In the case of a final adverse letter relating to an exemption application under IRC 501(c)(3), it is subject to section 7428 of the Code and EO must receive concurrence on the final adverse from the office of Chief Counsel. The TLS will prepare the final adverse letter and a Transmittal Memorandum, and submit the memo, the letter, and the file to the Group Reviewer. See IRM 7.29.3.2.2(3).

7.29.3.8 (07-14-2008)
Technical Advice and Technical Assistance Cases

1. Technical Advice involves a formal request from a field component of Exempt Organizations or from an Appeals Office for guidance regarding the application or interpretation of the internal revenue laws, related statutes, and regulations to a specific set of facts regarding a particular organization. The advice is furnished to help Internal Revenue Service personnel close cases and maintain consistent holdings.
2. With respect to Technical Advice, the TLS makes an analysis of the case based on the facts presented. If the TLS develops other information that will be used in the Technical Advice, such as from the organization, it must be shared for comment with the office that requested the Technical Advice. Similarly, if the TLS develops other information from sources other than the office that requested the Technical Advice or the taxpayer that will be used in the Technical Advice, it must be shared for comment with both the office that requested the Technical Advice and the taxpayer.

   Note:

   If significant factual information is needed to address the issues presented by the Technical Advice, or if the taxpayer was not afforded its procedural rights as provided by Rev. Proc. 2008-5(or its annual update), the TLS and Group Reviewer should consult with the TLS' Group Manager to consider whether to return the Technical Advice request by a memorandum that points out these matters. Generally, the Group Manager will contact the requesting office to explain the concerns before returning the Technical Advice request without having addressed the issues.

Note:

If resolution of the issues requested by Technical Advice can be better resolved by the requesting office than through the issuance of Technical Advice, the TLS' Group Manager will contact the requesting office to explain the concerns with issuing Technical Advice so that a decision can be made by both offices concerning whether to return the Technical Advice request to the requesting office without having issued Technical Advice.

3. If the TLS determines that Technical Advice will be favorable to the taxpayer's position, the TLS will prepare Technical Advice in draft and submit it to the Group Reviewer with the case file. Relevant information that does not appear in the draft Technical Advice should be provided by the TLS in a File Memorandum.
4. The reply to a request for Technical Advice is prepared in two parts -- a Transmittal Memorandum and a Technical Advice Memorandum. See Exhibit 7.29.3-2 for a format of a Transmittal Memorandum, and Exhibit 7.29.3-3 for a format of a Technical Advice Memorandum.
   A. The Technical Advice Memorandum provides the facts in the case, the question(s) asked, the applicable law, an analysis of the law to the facts, and the conclusion of the Service. A copy of the Technical Advice is usually given to the organization by the office that requested the advice.
   B. The Transmittal Memorandum is a cover sheet designed to transmit the Technical Advice Memorandum back to the office that requested the advice. It may also contain information about the organization that is not disclosed to the organization.
5. If the Group Reviewer agrees with the proposed position of the TLS, the case file and the draft Technical Advice, with clarifications if necessary, will be returned to the TLS for the preparation of the final ruling. The completed Technical Advice is submitted to the Group Reviewer for processing. See IRM 7.29.3.2.2(3).
6. If the Group Reviewer does not agree with the proposed position of the TLS, the Group Reviewer will discuss the matter informally with the TLS. The procedures in IRM 7.29.3.2.2.1 should be followed to resolve the matter. See also section 16 of Rev. Proc. 2008-5(or its annual update).
7. If the Group Reviewer and the TLS agree on a position that is adverse to the organization, the TLS will prepare a Memorandum for Conference. This will be the organization's Conference of Right and the procedures in IRM 7.29.3.5.1 and 7.29.3.6 should be followed.
8. If the case involves a question of retroactive relief of the effect of a ruling (i.e., such as a revocation of an organization's exempt status effective in the past), a separate memorandum must be prepared. See Exhibit 7.29.3-4 for a format of a memorandum requesting the application of relief under IRC 7805(b). IRC 7805(b) provides that the Commissioner or the Commissioner's delegate has the sole discretion to prescribe the effect, if any, to which a ruling will be applied without retroactive relief. See section 19 of Rev. Proc. 2008-5(or its annual update). See IRM 7.29.3.2.2(3).
9. When the case file is submitted to the Group Reviewer, the TLS should update the status of the case on the appropriate reporting systems.
10. Technical assistance is provided in response to requests from Chief Counsel for assistance with a private letter ruling that comes within the jurisdiction of Exempt Organizations. Technical assistance is also provided in response to requests for assistance from EO Examinations or EO Determinations with respect to clarification and guidance on technical or procedural issues that do not involve a specific organization. If a specific organization is the subject of a request for a technical assistance request from EO Examination or EO Determinations, technical advice procedures set forth in Rev. Proc. 2008-5 (or its annual update) should be utilized. See IRM 7.1.2.3and IRM 4.75.33.3.3, which discuss requests for technical assistance submitted by EO field offices. See IRM 7.29.3.2.2(3).

7.29.3.8.1 (07-14-2008)
Time Frames for Processing Technical Advice Cases

1. Reserved.

7.29.3.9 (07-14-2008)
Issuing Rulings Pursuant to Court Decisions

1. If a court overturns an IRS ruling (i.e., exemption determination or determination to which IRC 7428applies) that was unfavorable to an organization, the organization will be issued a favorable ruling under the guidelines set out in Rev. Proc. 80-28. In preparing the letter, the TLS should follow IRM 7.29.3.3, subject to the following modifications.
2. Upon completion of the suit, Chief Counsel will obtain the documents necessary to complete the file. These documents and a copy of the judgment will be submitted to EO Technical with a request that a favorable letter be issued.
3. The TLS assigned to the case will prepare a standard letter ruling consistent with the type of ruling and Code section under which the organization is exempt. The first paragraph, however, will cite the court decision which recognized exemption, using the correct pattern paragraph. If the issue litigated was only with respect to the organization's foundation classification, the first paragraph should contain the pattern paragraph relating specifically to foundation status.
4. The TLS will submit the ruling letter in accordance with the case closing Procedures in IRM 7.29.3.7.

7.29.3.10 (07-14-2008)
Correspondence

1. Correspondence includes both Information Letters described in Section 3.04 of Rev. Proc. 2008-4(or its annual update) that consists of written responses to requests for information about exempt organization matters submitted by taxpayers, and congressional correspondence that consists of referrals from the Treasury Executive, Secretariat, and Legislative Affairs, and Routine Congressional Correspondence.
2. Information Letters call attention to a well-established interpretation or principle of tax law without applying it to a specific set of facts. Information letters are generally prepared by a TLS, reviewed by a Group Reviewer, and prepared for the signature of the TLS' Group Manager. See IRM 1.10.1– IRS Correspondence Manual for information about preparing and handling correspondence.

   Note:

   Correspondence received through E-mail should be controlled on the appropriate system and answered in the same manner as any correspondence.

3. Congressional Correspondence is generally coordinated with the office of Director, Legislative Affairs. Congressional Correspondence is generally prepared by a TLS, reviewed by a Group Reviewer and the Manager, EO Technical Guidance and Quality Assurance, and prepared for the signature of the Director, EO Rulings and Agreements. See IRM 11.5.3– Guide to Congressional Correspondence.

   Note:

   I-trak is a correspondence web based tracking system. If correspondence is controlled on *I-trak*, the TLS must ensure that the correspondence is closed on *I-trak*.

Exhibit 7.29.3-1 (07-14-2008)

Format for Private Letter Ruling

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This image is too large to be displayed in the current screen. Please click the link to view the image.

Exhibit 7.29.3-2 (07-14-2008)
Format for Tranamittal Memorandum

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Exhibit 7.29.3-3 (07-14-2008)
Format for Technical Advice Memorandum

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Exhibit 7.29.3-4 (07-14-2008)
Format for IRC 7805(b) Application for Relief Memorandum

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More Internal Revenue Manual

SFC 001257

MANUAL TRANSMITTAL | Department of the Treasury | Internal Revenue Service | **11.3.13** | **OCTOBER 1, 2007**

PURPOSE

(1) This transmits revised text for IRM 11.3.13, Communications and Liaison, Disclosure of Official Information, Freedom of Information Act (FOIA).

NATURE OF CHANGES

(1) Editorial changes were made throughout to update IRM/statute/organizational references, clarify guidance, and to make the text easier to follow and use electronically.

(2) IRM 11.3. 13.3.3 (2) (d) regarding Joint Committee records was deleted.

(3) IRM 11.3.13.5.3 was added to incorporate revised instructions for processing requests for Joint Committee records. The remaining sections are renumbered to accommodate this addition. References to renumbered sections are corrected throughout.

(4) IRM 11.3.13.6.3(16) was revised to include the requirement that case files must include a copy of all signed and dated response letters.

(5) IRM 11.3.13.8(8) was revised to require signed response letters be retained in the case file.

(6) IRM 11.3.13.8.3 to require all extension letters be sent as close to, but no later than, the expiration of the 20 business day period and to require that a signed copy of the extension letter be retained in the case file.

(7) IRM 11.3.13.9.10 was revised to incorporate changes to procedures to follow when processing requests for information from the personnel records of employees in the series that OPM determined to be sensitive.

(8) IRM 11.3.13.9.10(5) was added to incorporate interim guidance regarding requests concerning IRS employees which do not identify the employee by name but which provide IDRS employee identification numbers.

(9) IRM 11.3.13.9.12.1 was updated to incorporate new procedures for releasing Public Information Listing (PIL) information on employees in the series that OPM determined to be sensitive.

(10) A note was added to IRM 11.3.13.9.26 to clarify that NTEU does not generally qualify for media requesters status.

(11) IRM 11.3.13.9.30(3) was been changed to correct the address.

(12) A note was added to IRM 11.3.13.9.33 to clarify that Forms 12175 can be maintained in two Privacy Act systems of records.

(13) A note was added to IRM 11.3.13.9.34 to establish that a FOIA request for "computer tapes" must also be read to include electronic transmission.

EFFECT ON OTHER DOCUMENTS

Reissued Interim Guidance Memorandum SBSE-11-0707-035, Requests for Information Relating to Specific IRS Employees Identified by IDRS Employee Numbers has been incorporated into this IRM. Reissued Interim Guidance Memorandum, SBSE-11-0807-038, FOIA Requests Involving Joint Committee Records has also been incorporated into this IRM.

AUDIENCE

All Operating Divisions and Functions

Rob Wilkerson
Director, Communications, Liaison and Disclosure

11.3.13
Freedom of Information Act

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11.3.13.1
(10-26-2007)
Background

(1) The Freedom of Information Act (FOIA) 5 USC 552, as amended by the 1974 Amendments to the Freedom of Information Act (PL 93-502), the Freedom of Information Reform Act of 1986 (PL 99-570), and the Electronic Freedom of Information Act Amendments of 1996 (PL 104-231), provides for public access to records and information maintained by Federal agencies. The IRS Restructuring and Reform Act of 1998 (PL 105-206) also affects the FOIA request process.

(2) Prior to the enactment of FOIA, first effective July 4, 1967, there were no effective guidelines to help a person obtain information about how the government operated, and no judicial remedies for those denied access to governmental records. With the passage of FOIA, the burden shifted from the requester having to justify access to governmental records, to the government having to justify why information would not be released.

(3) The premise of the FOIA is that the public has a right to know what goes on in government without having to demonstrate a need or reason, and a right to file an administrative appeal or a suit in U.S. District Court if denied access to records.

(4) This section deals primarily with processing requests pursuant to Section (a)(3) of the Act for reasonably described records maintained by the IRS which are not required to be published or otherwise made available under Sections (a)(1) or (a)(2) of the Act.

Note: See IRM 11.3.7, Freedom of Information Reading Room Operations, for the interaction of these provisions and maintenance of IRS' Freedom of Information Reading Room.

(5) Treasury Directive 25-05, dated March 1, 2000, establishes policy and procedures and assigns responsibilities for carrying out the requirements of the Act within the Department of the Treasury.

(6) In October, 2001, Attorney General John Ashcroft issued a new FOIA policy directive that the Department of Justice will defend an agency's decision on FOIA exemptions unless they lack a sound legal basis or present an unwarranted risk of adverse impact on the ability of other agencies to protect other important records. The Attorney General's new FOIA policy memorandum supersedes the FOIA memorandum issued by Attorney General Janet Reno on October 4, 1993. Attorney General Ashcroft's policy statement pertains to the DOJ's legal defense policy and does not contradict President Clinton's FOIA policy statement of October 4, 1993, in support of government openness and accountability associated with the agency's initial determinations. In this policy directive, the Attorney General advised agencies to make discretionary disclosures of information protected under the FOIA only after full and deliberate consideration of the institutional, commercial, and personal privacy interests that could be implicated by disclosure of the information.

(7) Effective April 23, 2004, the IRS issued Policy Statement 11-13, Freedom of Information Act Requests. (Formerly P-1-192). This Policy Statement affirms the commitment of the IRS to administering the FOIA in a manner consistent with "the fundamental values held by our society, including public accountability, safeguarding national security, enhancing the effectiveness of law enforcement agencies and the decision-making processes, protecting sensitive business information, and protecting personal privacy." The policy statement goes on to note that the "administrative cost and impact on operations involved

Note: See IRM 11.3.8, Disclosure of Written Determinations, and IRM 11.3.13.9.1, for discussions regarding requests for written determinations.

h. The Public Information Listing. (See IRM 11.3.13.9.12(1)) OPM has designated certain personnel information as being routinely available to the public.

(3) If Disclosure personnel elect to process the request and no fees are involved, the response to the requester shall acknowledge that the records, while requested under the FOIA or Privacy Act, are routinely available under established procedures and are being provided under those procedures. The appropriate citation, 26 CFR 601.702(d), along with any procedures and the access statute under which the records have been disclosed, must be provided.

(4) Letter forwarding requests are also processed under routine established agency procedures (Policy Statement P-1-187) and are excluded from FOIA processing. See IRM 11.3.11.11.

11.3.13.6
(04-05-2002)
Search Process

(1) Upon determining that the request is valid in terms of meeting the requirements of the Act, Disclosure personnel must decide the scope of the request and to what extent a search for responsive records will be conducted.

11.3.13.6.1
(01-01-2006)
Documentation of Search Efforts

(1) When no responsive records are located, requesters may appeal the scope and adequacy of the search for responsive records. The logic behind search efforts shall be documented clearly in the case file either by history note, check sheet, or another readily understood method.

(2) In the majority of cases, the incoming request, transcripts, search memos, and the written response sufficiently document the file as to the search effort.

Note: See IRM 11.3.13.6.2 below for a description of other data that may be necessary to properly document the file.

11.3.13.6.2
(01-01-2006)
Search Efforts

(1) Disclosure personnel shall do as much as they reasonably can to ensure that they locate the documents the requester is seeking.

(2) The FOIA requires requesters to "reasonably" describe what is being sought. Disclosure personnel must be careful not to read a request so narrowly that the requester is denied information that the agency knows exists. Some requesters may have little or no knowledge of the types of records maintained by the Service where others have greater knowledge of what to request. See IRM 11.3.13.6.3(12) which addresses the interpretation of "intent" in terms of what the requester truly seeks.

(3) The amendments under the Electronic Freedom of Information Act (EFOIA) amend the definition of the term "record" to specifically include information in an electronic format. Therefore, the Service is required to make reasonable efforts to conduct searches for records in electronic formats and to provide records in any format requested if readily reproducible in that format.

(4) With respect to electronic format, records that are readily reproducible generally are those that can be printed, downloaded, or transferred intact to a floppy disk, compact disk (CD), magnetic tape, or other electronic media using equipment currently in use by the office(s) processing the request.

(5) Disclosure personnel need to understand the types of records that may exist in the various functions in order to ensure an adequate search has been completed. Disclosure personnel may rely on their organizational knowledge, computer research, search memoranda, and any other resource available to determine how best to locate records responsive to the request.

(6) When a request is submitted for records identified by DLN, to the extent the request also provides the tax form and tax period for those records, Disclosure personnel shall attempt to locate the responsive records. The tax form and tax period are needed by Disclosure personnel to perform adequate research to ensure the records are related to the requester prior to ordering the documents. The requester does not need to provide the IDRS transaction code associated with the DLN in order to respond to the request.

Note: DLNs are especially vulnerable to typographical and transposition errors. Therefore, it is especially important to confirm the documents retrieved when ordering a DLN belong to the requester prior to release.

(7) If it can be readily ascertained (without additional research) that the requested record is a computer-generated record for which no paper or electronic copy is maintained, the requester shall be so advised. See IRM 11.3.13.9.30.

(8) Some requests seek records from a certain time period to the "present." The "present" must be interpreted to be the date the request is received by the responsible office. Records created after the date of the search are generally considered outside the scope of the request. See 26 CFR 601.702(c)(8).

Note: For a discussion of when Disclosure personnel may elect to include data outside the scope of the request See IRM 11.3.13.6.3(13).

(9) Disclosure Managers shall endeavor to meet both the letter and spirit of the statutes governing the FOIA process by applying a liberal interpretation of the scope and intent of the requester. It may be necessary to communicate with the requester to clarify what is requested as well as with those employees conducting the search. It is inappropriate to hold frequent requesters or professionals to a higher standard of exactitude because "they should have known better" or "they know the law, so we shouldn't read anything into the request" while giving the "benefit of the doubt" to first time or infrequent requesters. The aim of the FOIA process is to provide consistent, top quality service to all requesters.

11.3.13.6.3
(10-26-2007)
Adequacy of Search

(1) The Disclosure Manager is responsible for ensuring the adequacy of search efforts. See IRM 11.3.13.3.1. and IRM 11.3.13.3.2 above outline the roles of the Disclosure Manager and the Functional Coordinator in completing the search.

(2) The following information must be either apparent or documented in the case history notes:

a. Which offices were contacted and why
b. Person spoken to in each office and who conducted the search

c. Files searched
d. Search terms used
e. Volume and location of records found and
f. Time spent in the search, copy, and review process

(3) In addition to the foregoing explanation of how the search was conducted, the Disclosure Manager should know, or have access to, how the records are indexed within all the operating divisions or functions.

(4) The request itself is the best source for ideas regarding where any responsive records may exist. Disclosure personnel shall carefully review the request and involve Functional Coordinators and other contacts in the various functions, if necessary, to determine the best course of action.

(5) In many instances, the request identifies the functional area or the employee that may have the responsive records. When the request involves tax records, it generally lists the tax periods covered. See IRM 11.3.13.5.11 pertaining to unclear requests when the tax periods are not provided.

(6) IDRS is the first step in the search for tax records, but may not be sufficient since certain types of investigations in the compliance divisions are not reflected on the IDRS printout.

Example: Records relating to money laundering would not be identified from an IDRS search. Criminal Investigation Functional Coordinators need to search the Criminal Investigation Management Inventory System (CIMIS) in addition to IDRS for records under its jurisdiction.

Note: Use of a search memorandum is recommended unless the request is very specific and the IDRS search reflects exactly what is requested. An example of such a specific request would be a request for a transcript for a specific tax return account.

(7) In the case of requests for other than tax records where the records requested indicate ongoing compliance activity, Disclosure personnel must consider doing an initial IDRS search to determine whether any open compliance case is in process. Occasionally, the requester's purpose is to obtain a statement in a FOIA response letter that may aid the requester in litigation or enforcement activities. While the purpose of the request is irrelevant for FOIA processing purposes. See IRM 11.3.13.5.10(10) about notifying the affected functions about the request.

(8) See Exhibit 11.3.13-1. establishes guidelines for adequate research on IDRS. It should be used as a tool to establish the minimum required research on cases involving tax records. The exhibit is not all inclusive, however, and searchers must tailor the search on a case by case basis.

(9) Disclosure Managers must take steps to maintain a general awareness of other automated systems which could assist in the location of information. Such steps may include:

a. Arranging to be kept informed by local Modernization & Information Technology Services management of new systems being developed
b. Mentioning during disclosure awareness presentations that Disclosure has an interest in knowing how the new automated tools are being used by the functions; and/or

c. Collecting a library of the news about the latest technological advances in the IRS so the Disclosure staff may research it when necessary

(10) When search efforts require going beyond the initial IDRS research, Disclosure personnel will make a request to appropriate offices for a records search. It should be in writing and provide guidance for conducting the search. Disclosure personnel should use a standard search request memo such as the sample shown in See Exhibit 11.3.13-2. The use of a standard search memo is a good tool to properly document the search effort. The same memo can be directed to various offices and shall include:

a. A copy of the request that has been highlighted or otherwise marked to direct attention to the portion of the request that pertains to that function
b. A request for suggestions of other areas that may have responsive records
c. A reminder that the search must include electronic records
d. A reminder that there is a requirement to provide electronic data in the format requested
e. A response questionnaire assisting the function to document its actions and time spent on search, copy, and review (this also assists the Disclosure office in computing applicable fees and inputting necessary data to the inventory management system)

Note: See Exhibit 11.3.13-3 for a sample response memo.

f. A request for a recommendation for release of located records
g. A response due date and
h. A point of contact for a clarification or a request for more time to respond

Note: The search memo may also, on a case by case basis, offer additional information that would assist the function in interpreting what is being sought.

(11) Search memos are a useful tool for control purposes and to ensure timeliness of responses. Search efforts shall be documented on E-DIMS, which also tracks search memo responses from the functions. Documented routine follow ups on overdue responses to search memos will prevent long periods of inactivity on FOIA cases.

(12) When determining the scope of records that may be responsive to a request, it may be necessary to evaluate a requester's knowledge of IRS practices. Evaluating this level of knowledge will not be an exact science, and will generally be left to local procedures. A professional tax preparer who deals with the IRS on a continuing basis may request a specific record or a specific file by the proper terminology. In such a request, it is not necessary to increase the responsive data by including related data in the spirit of good customer service. On the other hand, a request from a taxpayer reflecting a limited knowledge of IRS procedures may require a broader interpretation even if the taxpayer uses a specific term. Occasionally, trends in requests which have been reported to Headquarters will trigger a national directive intended to achieve a level of consistency. The purpose of any directive issued will be to provide service that is more consistent to all requesters, not to penalize a particular type/class of requester. Examples include:

a. An individual reflecting unfamiliarity with IRS procedures requests a transcript of his/her account on the "master file", but he/she lists a tax period which has gone to retention. In such an instance, the microfilm data shall

be considered responsive to the request, even though the records can be found on the retention register, instead of the "master file".

b. A CPA who is a frequent requester and is familiar with IRS procedures requests a complete transcript from system 24.030 CADE (Individual Master File) on behalf of his client. If the research shows that there is also retention data, then the response need not include the data from the Individual Microfilm Retention Register (22.032). If that same CPA, however, requests the IMF transcripts for a span of years that includes a year that has gone to retention, then he, too, must be given the microfilm data for the year removed to retention.

c. A taxpayer representative familiar with IRS practices requests something specific like a Form X. He does not necessarily need to be provided the related Form Y or Z. See IRM 11.3.13.6.3(15) for discussion of the caution necessary in responding "no records" to certain requests which may be engineered for seeking just that kind of response.

(13) Records created after the receipt date of the FOIA request are outside the scope of the request and functions should be made aware of this fact. See 26 CFR 601.702(c)(1)(ii). In rare circumstances, a lengthy delay (e.g. 90 days) may be unavoidable before search efforts are initiated. If this occurs, the case history must be documented to explain the delay and the search period must be extended to the date of search. Also, when appropriate in terms of good customer service and/or in the spirit of openness in government, Disclosure personnel may make a determination to include records created after the receipt date of the request. This determination is to be made on a case-by-case basis.

(14) Typically, reading files need not be searched as they contain duplicates of agency records located in case or subject matter files. However, where official records are known to exist but cannot be located, reading files shall be searched for a substitute for the missing official agency record.

Note: This instruction is not intended to require search of reading files if the official record should have been disposed of under routine destruction schedules (normal retention criteria). Destruction schedules may be verified with the local Area Records Manager (ARM). A directory of the local ARMs is listed on the REFM - Records Management Website located at the following website: *http://awss.web.irs.gov/facilities/RecordsMgmt/ARMListUpdate.htm*

(15) When agency knowledge indicates that records responsive to the request would not exist, there is no need to perform futile search efforts. However, problems may arise when requesters are advised that no records exist in response to their requests. Examples include:

a. Advising the requester that there are no records responsive to a request for "notice and demand" letters affords the requester the opportunity to challenge the validity of a lien or levy in the requester's substantive tax affairs. The requester must be advised that the Campus (or other office) does not routinely maintain hard copies of these notices, but an enclosed highlighted transcript of account reflects the issuance of these notices to the requester. Where these records are available (i.e., located in a collection file), they shall be made available to the requester, if within the scope of the request.

b. Another area in which "no record exists" responses are being used by requesters in their substantive tax affairs deals with requests for the delegation order to a specifically named IRS employee that "authorizes

SFC 001269

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

December 19, 2013

The Honorable Orrin Hatch
Ranking Member
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Senator Hatch:

In response to your staff's request on November 22, 2013, we have collected responses to the following five questions from IRS personnel you have or were scheduled to interview:

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation.

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description.

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501c3 or 501c4 applications? If yes, please provide a written explanation.

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples.

5. (For political appointees) Describe any instances where you influenced or sought to influence the processing of section 501c3 and 501c4 applications by the IRS between Jan. 1, 2010 and October 1, 2013.

The enclosed documents include responses from these individuals:

Steven Bowling	Joseph Grant	Judith Kindell	Ronald Shoemaker
Robert Choi	Steven Grodnitzky	Justine Lowe	Douglas Shulman
Janine Cook	Hilary Goehausen	Nan Marks	Don Spellmann
Jonathan Davis	Joseph Herr	Steven Miller	Cindy Thomas
Nanette Downing	Sarah Hall Ingram	Holly Paz	William Wilkins
Nikole Flax	Victoria Judson	Michael Seto	

The following individuals' counsel have indicated to us that their clients' responses, if any, will be sent to you directly:

Ron Bell	Carter Hull	John Shafer
Sharon Camarillo	John Koester	Lois Lerner
Elizabeth Hofacre	Gary Muthert	

I hope this information is helpful. If you have any questions, please contact me or have your staff contact me at (202) 927-9167.

Sincerely,

Leonard Oursler
Area Director

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Steven F. Bowling

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No X

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No X

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No X

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes ___ No ___

Comments:

4. I do not understand the difference between liberal organizations, Tea Party groups, or any other political groups. To my knowledge all applicants were and continue to be treated equally.

Steven F. Bowling
Respondent

12/9/2013
Date

SFC 001272

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Robert Choi

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No X

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No X

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No X

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes X No ___

Comments:

I have no knowledge that particular political affiliation – whether liberal or conservative – affected IRS's determination regarding any organization's application for tax-exempt status during this time.

Robert Choi
Respondent

12/3/2013
Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: _____Janine Cook_____

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No _X__

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No _x__

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No _x__

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes _X__ No ___ (see comment below)

Comments:

With regard to #4, in my role in counsel, I had very limited involvement in or awareness of specific cases during this period and have no knowledge of a differing level of scrutiny for liberal organizations than for Tea Party groups.

Janine Cook
Respondent

12/3/13
Date

SFC 001274

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: _____Jonathan Davis_____

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No _X_

   I did not process or oversee processing of tax-exempt applications.

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No _X_

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No _X_

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes ___ No ___

   I have no factual basis to answer this question.

Comments:

Respondent

12/15/13
Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Nanette Downing

Comment:

I am the Director of Examinations for Exempt Organizations. As such, I do not have any role in determinations. I do not have personal knowledge of how applications for 501c3 or 501c4 status are handled currently, or were handled during the time frame on this questionnaire.

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No XX

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No XX

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No XX

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below.

   Answer: I have no personal knowledge of how applications for tax-exempt status were processed during this time period.

Nanette M. Downing
Respondent

12-13-13
Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Nikole Flax

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No X

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No X

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No X

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes ___ No ___ **See response below.**

Response to #4: I am responding with respect to what I was told as I have no first-hand knowledge of how any particular case was handled. My understanding is that the selection criteria used did not determine the level of scrutiny that an organization received, and, while there were more conservative organizations in the centralized advocacy inventory, that inventory included organizations of all political views. I was informed that the development letter questions that were identified were not limited to organizations with "Tea Party", "Patriot", or "9/12" in their name. For example, I was informed by Exempt Organizations that of the 29 cases for which donor names were requested, 15 did not have "Tea Party", "Patriot", or "9/12" in their name. I was also informed that the terms "acorn" and "occupy" were included on the BOLO.

Nikole Flax
Respondent

12/4/13
Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: _____Hilary Goehausen_____

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No _X__

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___No _X__

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No _X__

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes _ No __

In response to Question 4 above, I have no knowledge of the level of scrutiny applied by others during their review of applications for tax-exempt status. I applied the same level of scrutiny to all applications I reviewed for tax-exempt status.

Comments:

Respondent

12/12/13

Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Joseph Grant

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No X

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No X

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No X

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes ___ No ___ I don't know X

Comments:

With respect to question 4 above, I believe that the applicable federal laws, regulations and IRS rules were the same for all applicants for 501(c)(3) and 501(c)(4) status. As I indicated in my answers to questions 1, 2 and 3 above, I am not aware of any instance of anyone being influenced by or acting on political bias in administering these laws and regulations. To my knowledge, it was not IRS policy to attempt to classify or track organizations applying for 501(c)(3) or 501(c)(4) status based on whether they were "liberal organizations" or "Tea Party groups." Lacking this data, I have no basis to conclude whether or not "liberal organizations" or "Tea Party groups" were given a disparate level of scrutiny when their applications were being reviewed during the period from January 1, 2010 to March 30, 2012. However, at some times during this period the criteria used by a

work group within the IRS, Tax Exempt and Government Entities, Exempt Organizations, Rulings and Agreements division to select organizations for a review to determine whether they were engaged in statutorily impermissible levels of direct political activity included terms such as "Tea Party." The use of those terms was inappropriate and when senior officials at the IRS learned that this criterion was being employed, we moved promptly to change the criteria and to ensure that applications were processed based on appropriate criteria and in a timely manner. During the period that inappropriate criteria were being used to select organizations for review, it is possible that the use of the inappropriate criteria had a disparate impact on "Tea Party groups" versus "liberal organizations." This possibility was one of the reasons that the criteria were deemed inappropriate by senior IRS officials and promptly changed.

Joseph H. Grant
Respondent

12/6/2013
Date

SFC 001280

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Steven B. Grodnitzky

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No _X__

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No _X_

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No _X__

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes _X__ No ___

Comments:

With respect to "liberal" or "progressive" organizations, Mr. Grodnitzky is aware that a group of exemption requests filed by state affiliates of the group EMERGE, which assisted Democratic women in seeking public office, were worked with EO Determinations. These cases were included in an SCR, and were subject to several layers of internal review before the exemption applications were denied by the IRS. Likewise, at least one entity affiliated with the ACORN organization was the subject of an SCR.

Steven Grodnitzky
Respondent

12/6/2013
Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Joseph Herr

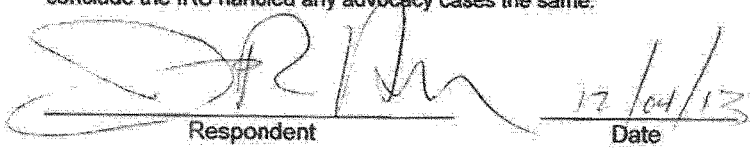
1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No X

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No X

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No X

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes X No ___

Comments: As I recall, during the time period in question, I was assigned exemption applications involved in advocacy activities that spanned the whole political spectrum. These cases were assigned to me in status 52, meaning they required full/thorough case development. The fact that they were assigned to me in status 52 is significant because that status is only assigned after a case has been reviewed by someone else. Newly received applications are initially reviewed by a screener/classifier who either approves a case as is or forwards it for further development. One option for the screener/classifier is to send the case for full development as an advocacy case. I did not screen/classify applications during that time period. Therefore, based on my personal experience, I can conclude the IRS handled any advocacy cases the same.



Respondent

12/04/13

Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Elizabeth Hofacre

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No X

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No X

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No X

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes ___ No ___ See below

Comments:
Regarding # 4, I do not know. See previous testimony.

Elizabeth Hofacre
Respondent

12-4-2013
Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Sarah Hall Ingram

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No _X__

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No _*_

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No _X__

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes ___ No ___

** I lack any knowledge to form a belief.

Comments:

(2) * While I do not know of any instances where the processing of tax exempt applications was driven by political bias, in the spring of 2012 I did learn that inappropriate inventory handling methods had been used in the EO Determinations Unit.

Sarah Hall Ingram
Respondent

12/16/2013
Date

SFC 001284

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Victoria A. Judson

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No _X_

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___No _X_

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No _X_

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes ___ No ___

Comments: With respect to question 4, to the best of my knowledge and belief applicants for 501(c)(3) or (c)(4) status that were selected for further review were subject to the same level of scrutiny. However, I do not have personal knowledge of how those cases were selected for further review or what was done by many employees within the IRS. When I review a particular tax matter, I base my analysis on the legal issues involved rather than considering which organization is making the application. To the best of my recollection and belief, I personally reviewed only one 501(c)(3) or (c)(4) case during the time period covered by question 4. That case involved an entity supporting the election of a Democratic candidate. I recall approving the recommendation of denial of exemption in that case.

Victoria A. Judson
Respondent

12/17/2013
Date

SFC 001285

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Judith Kindell

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No _X_

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No _X_

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No _X_

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes _X_ No ___

Comments:
In Spring 2011, when I became aware that there were a number of applications from organizations associated with the Tea Party, I was aware that we also had a number of applications from Emerge organizations. These cases were centralized for consistent processing using the same analysis and coordinated with the TE/GE Chief Counsel's office. When I eventually saw the list of organizations that had been centralized as advocacy cases, there were both liberal and conservative groups.

Judith Kindell
Respondent

12/4/13
Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: ___Justin Lowe_____

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No _X__

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes __ No _X_

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No _X__

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes _X_ No ___

Comments:

Regarding question 4: I can only offer an opinion on the cases I was involved in. In those cases the standards for granting tax exemption were the same, regardless of the organization's political affiliation or lack thereof.

Respondent

12/2/13
Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Nan Marks

1. **Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No X**

I was not responsible for processing or overseeing EO applications. I was asked by the Acting Commissioner's office in the spring of 2012 to look at a specific aspect of how that was being done with respect to a certain set of cases and report back if I saw problems.

2. **Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No X**

3. **Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No X**

4. **From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes ___ No ___**

I do not believe I have enough background or knowledge to give a yes or no answer to this question. I was not responsible for processing and overseeing EO exemption applications during the aforementioned period. From the review I carried out, in the Spring of 2012 at the request of the Acting Commissioner, of the advocacy case processing and inventory during that period 501(c)(4), 501(c)(3), and I believe 501(c)(5) and 501(c)(6) organizations were identified for additional review on the issue of advocacy and whether the amount of advocacy precluded exemption. The criteria used to identify these cases and later incorporated in the Be on the Lookout (BOLO) list for identifying these cases

changed over the period but at various times the criteria were, to my mind, inappropriately focused on names or positions that seemed more likely to identify conservative organizations. We were told that there was an understanding that other cases with the same advocacy issues should also be pulled for review and when we looked at the group of cases pulled there were both conservative and some liberal organizations and a number of organizations that I was unfamiliar with from a conservative/liberal perspective. I do not know which cases were picked under which criteria. Once selected the handling of the organization did not seem to vary based on these criteria based on our sampling of the cases. I do not know if what was pulled was representative of who applied. Also while I have heard mention of other BOLO categories I am unfamiliar with them and with any case handling related to them.

/s/ Nancy J. Marks
Respondent

12/5/13
Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Steven T. Miller

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No X

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No X

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No X

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes ___ No ___

Comments:

I do not feel that I have sufficient information to answer Question 4.

Respondent

12/6/13
Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Holly Paz

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No X

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No X

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No X

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes ___ No ___

Comments:

I am not in a position to answer question #4. My current knowledge that would help form a reasonable belief is incomplete and limited to the cases elevated through the management chain or reviewed as part of the internal and external investigations into the possible use of inappropriate criteria. I do not have sufficient knowledge and information to be able to form a reasonable belief as to the "level of scrutiny" that the IRS provided as between "Tea Party groups" and "liberal organizations." Further, the term "liberal organizations" is imprecise and could mean different things to different readers.

Respondent

12/8/2013
Date

SFC 001291

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: RONALD D. BELL

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No X

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No X

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No X

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes ___ No ___

Comments: I DON'T KNOW - PLEASE SEE PREVIOUS TESTIMONIES.

Ronald D. Bell
Respondent

12/9/13
Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: MICHAEL C. SETO

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No ✓

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No ✓

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No ✓

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes ✓ No ___

Comments:
To the best of his knowledge, Mr. Seto believed that the same level of scrutiny was applied to all groups regardless of political affiliation. He cannot recall any specific examples.

Respondent

12/3/13
Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Ronald J. Shoemaker

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No X

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No X

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No X

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes X No ___

Comments:

See attached comments

Ronald J. Shoemaker
Respondent

12/3/2013
Date

Contains IRC § 6103 Information
with authorization from Office of Chief Counsel, Internal Revenue Service

Ronald Shoemaker

Supplementary Response to Senate Finance Committee Question #4

December 4, 2013

My answer to this question is limited to my first-hand knowledge regarding the "level of scrutiny" that applicants for tax-exempt status received with respect to cases assigned to my office – a rulings group in Exempt Organizations/Technical at IRS Headquarters in Washington, where I served as a manager during the relevant time period. I do not possess first-hand knowledge to opine on whether IRS as an institution, or other IRS components, subjected "liberal organizations" that applied for exempt status to the same level of scrutiny as "Tea Party Groups."

I also note that all types of cases reviewed by my rulings group – whether they were "political" or "non-political" cases – received the same, high level of scrutiny. For example, it was a common practice to devote significant time to researching and analyzing the tax issues presented by applications under review in my office, and to send "development letters" to the applicant requesting additional information to assess eligibility for exempt status. I therefore believe that applications for exempt status from "liberal organizations" received the same high level of scrutiny as applications from "Tea Party" groups.

I do not recall all of the "political" cases that were reviewed by my office during the relevant time period. I do, however, recall an application for § 501(c)(4) status from an organization by the name of "Emerge Oregon," which I recall was affiliated with the Democratic Party. To the best of my recollection, that application received our standard, high level of scrutiny. In that particular case, the applicant did not receive exempt status. I also recall an application from the "League of American Voters," a politically conservative organization that eventually received a favorable ruling on a request for exempt status under § 501(c)(4), but only after a long period of time when the application no longer was pending in my office.

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Douglas Shulman

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No _X__ As Commissioner I had no role in processing tax-exempt applications or directly overseeing tax-exempt application processes.

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No X__

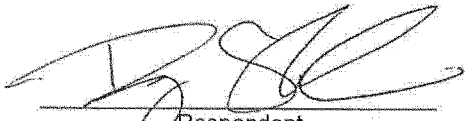
3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No _X__

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes ___ No ___

   I do not have information sufficient to draw a well founded conclusion either way.

5. Describe any instances where you influenced or sought to influence the processing of section 501c3 and 501c4 applications by the IRS between Jan. 1, 2010 and October 1, 2013.

Comments:



Respondent

12/6/13

Date

SFC 001296

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: DON SPECCMANN

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No ✓

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No ✓

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No ✓

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes ___ No ___

Comments:
#4. I do not have personal knowledge of what level of scrutiny the IRS applied to any of these groups during that period and thus have no basis on which to form a belief.

Respondent

12/17/2013
Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: Cindy M. Thomas

1. Did any political bias influence your work processing or overseeing tax exempt applications for section 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below.
   Yes ___ No _X_

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for section 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No _X_

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of section 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No _X_

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. Yes _X_ No ___

Comments:

Beginning in February 2010, emails were sent indicating that it appeared applications were going to be submitted by ACORN and ACORN-related organizations. Applications didn't materialize until sometime in May 2010 at which time Cincinnati was directed by the Director, EO Rulings and Agreements (Rob Choi) through the Acting EO Technical Manager (Steve Grodnitzky) to hold onto the application(s) and not do anything with them. In July 2010, Rob Choi advised me that Cincinnati should proceed with developing these cases and I relayed this information to impacted first-line manager (Jon Waddell) and impacted area manager (Sharon Camarillo). In October 2010, per a request from Jon Waddell through Sharon Camarillo, I elevated a request for technical assistance for these cases and was instructed by the EO Technical Manager (Holly Paz) to have employees coordinate with EO Tax Law Specialist (TLS) Carter (aka Chip) Hull. Chip was the EO TLS coordinating the "tea party" cases. In February 2012, draft denial letters were prepared and sent to the EO Determinations Quality Assurance (EODQA) office. It is my understanding that the EODQA manager (Donna Abner) had

the letters and/or case files photocopied and sent to EO Technical for review. As of May 2013, the cases remained open in the EODQA office.

Also in January 2012, it was brought to my attention that Occupy organization(s) were intending to submit application(s) for tax-exempt status. Because no applications had been received at that time, the Watch List tab on the Be On the Look Out (BOLO) Excel spreadsheet was updated to instruct specialists to watch for these applications and, if received, to forward the applications to the same group coordinating the other political advocacy cases. It is my understanding that an Occupy application was received and a development letter sent. However, I don't recall what transpired after that.

Cindy M. Thomas
Respondent

12/2/2013
Date

QUESTIONNAIRE FOR SENATE FINANCE COMMITTEE STAFF

Respondent: William J. Wilkins

1. Did any political bias influence your work processing or overseeing tax exempt applications for 501c3 or 501c4 status from January 1, 2010 to October 1, 2013? If yes, please provide a written explanation in the space below. Yes ___ No _X_ *

2. Are you aware of any instances of colleagues at the IRS acting in politically biased manner when processing or overseeing tax exempt applications for 501c3 or 501c4 status from Jan. 1, 2010 to October 1, 2013? If yes, please provide a written description in the space below. Yes ___ No _X_

3. Are you aware of any instances of political appointees at the IRS, the Treasury Department or the White House or any other agency or department in the executive branch of the federal government acting to influence the processing of 501 c3 or 501c4 applications? If yes, please provide a written explanation in the space below. Yes ___ No _X_

4. From January 1, 2010 to March 30, 2012, do you believe that the IRS subjected liberal organizations that applied for tax-exempt status to the same level of scrutiny as Tea Party groups? If yes, please provide a written explanation and provide examples in the space below. ** Yes ___ No ___

5. Describe any instances where you influenced or sought to influence the processing of 501c3 and 501c4 applications by the IRS between Jan. 1, 2010 and October 1, 2013.

Comments:

* Question 1: I do not and did not process or oversee the processing for 501c3 or 501c4 status. Political bias did not influence my work from January 1, 2010 to October 1, 2013.

** Question 4: I am not and was not involved in the processing of applications for tax exempt status. Accordingly, I do not have first-hand knowledge sufficient to form a belief.

Respondent

12-18-2013

Date

SFC 001300

Compliance Checks

Examination, Audit or Compliance Check?

Tax Exempt and Government Entities Division

- **What is an examination? What is an audit?**

  An examination is a review of an organization's books and records. In addition, an examination may involve the questioning of third parties to determine the organization's tax liabilities. Another term for an examination is an audit.

- **What is a compliance check?**

  A compliance check is a review conducted by the IRS to determine the following:

  - Whether an organization is adhering to recordkeeping and information reporting requirements.
  - Whether an organization's activities are consistent with their stated tax-exempt purpose.

  It is a review of information and forms that we require organizations to file or maintain – for example, Forms 990, 990-T, 940, 941, W-2, 1099, or W-4. The check is a tool to help educate organizations about their reporting requirements and to increase voluntary compliance.

  The 990 series of forms are used by tax-exempt organizations, including charities, private foundations and other nonprofit organizations, to provide information required by section 6033 of the Internal Revenue Code, which includes information about their programs and activities. Information on these returns is generally disclosable to the public as provided by law.

  It should be noted that a compliance check is not an examination; it does not directly relate to determining a tax liability for any particular period.

- **What occurs during a compliance check?**

  At the beginning of a compliance check, we will inform the officer or director that the review is a compliance check and not an examination. We will not ask to examine any books and records or ask questions regarding tax liabilities. We may ask the organization whether they understand or have questions about filing obligations for required forms. We may also ask questions about an organization's activities. If, during a compliance check, we decide an examination is appropriate, we will notify the organization that we are commencing an examination before asking questions related to tax liability.

- **Is there a penalty for refusing to submit to a compliance check?**

  No. The officer or director may refuse to participate in a compliance check without penalty. However, we have the option of opening a formal examination, whether or not the organization agrees to participate in a compliance check.

- **How often can the IRS do compliance checks?**

  Because a compliance check only reviews whether an organization is adhering to record keeping and information reporting requirements and/or whether an organization's activities are consistent with its stated tax-exempt purpose and is not an examination, it is possible to have more than one compliance check for a tax year if facts and circumstances warrant.

IRS Department of the Treasury Publication **4386** (Rev 4-2006)
Internal Revenue Service Catalog Number 38771G
www.irs.gov

IRS

SFC 001301

Charity and Nonprofit Audits: Closing/Conclusion

The organization, its representative and the revenue agent or other IRS personnel will discuss audit findings in a closing conference (in person or by telephone). The following may occur at audit closing:

Revenue agent proposal	Conference topics
Accept returns as filed (*no change*)	Discuss agent findings and recommendations
Accept returns and recommend changes to improve compliance (*no change with advisory*)	Discuss agent findings and recommendations
Adjust tax-exempt status or tax liability	Deliver report of examination and explain changes
Allow or disallow a claim for refund or a request for abatement	Deliver report of examination and explain disallowances

The closing conference and letter will explain your appeal rights.

A final closing letter will be issued after the closing conference and all administrative and review processes have been completed.

At the conclusion of a compliance check the organization is sent a closing letter; there is not a closing conference or call. A compliance check questionnaire may involve only the initial contact if all requested information is provided (so no follow-up contact is made and no closing letter is sent).

Return to Charity and Nonprofit Audits main page.

Page Last Reviewed or Updated: 21-Aug-2014

Charity and Nonprofit Audits: Exempt Organizations Examinations

Exempt Organizations (EO) is a business unit within Tax Exempt and Government Entities at the IRS. Under the umbrella of Exempt Organizations and headquartered in Dallas, Texas, EO Examinations monitors whether charities and other non-profit organizations are operating in accordance with federal tax law. EO Examinations offices are located in all IRS regions.

To maintain tax exemption, charities and other non-profit organizations agree to play by a set of rules. They operate in a manner consistent with the reasons tax exemption is granted. They report their finances and activities to the IRS each year (e.g., a 990 series return or notice) if required to do so. They promise not to use their money or assets for the private benefit of those in charge of the organization. Section 501(c)(3) organizations avoid participating or intervening in the political campaigns of candidates for public office.

The bottom line is that the tax exemption system runs on trust. As the saying goes, *Trust, but verify.* It is the role of EO Examinations to verify.

Additional information:

- Exempt Organizations Examinations Areas(map)
- Organizational chart - Exempt Organizations Examinations

Return to Charity and Nonprofit Audits main page.

Page Last Reviewed or Updated: 06-Nov-2013

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

Daniel Werfel, IRS

June 24, 2013

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Appendices

Appendix A: The "Douglas Factors"

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

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

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

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

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

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

Introduction

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

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

The IRS Mission Statement states:

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

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

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

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

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

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

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

This Report has three sections:

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

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

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

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

Findings:

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

Actions:

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

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

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

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

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

1. Accountability

Section Summary

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

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

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

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

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

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

Actions Taken to Date

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

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

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

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

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

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

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

- IRS management failures:

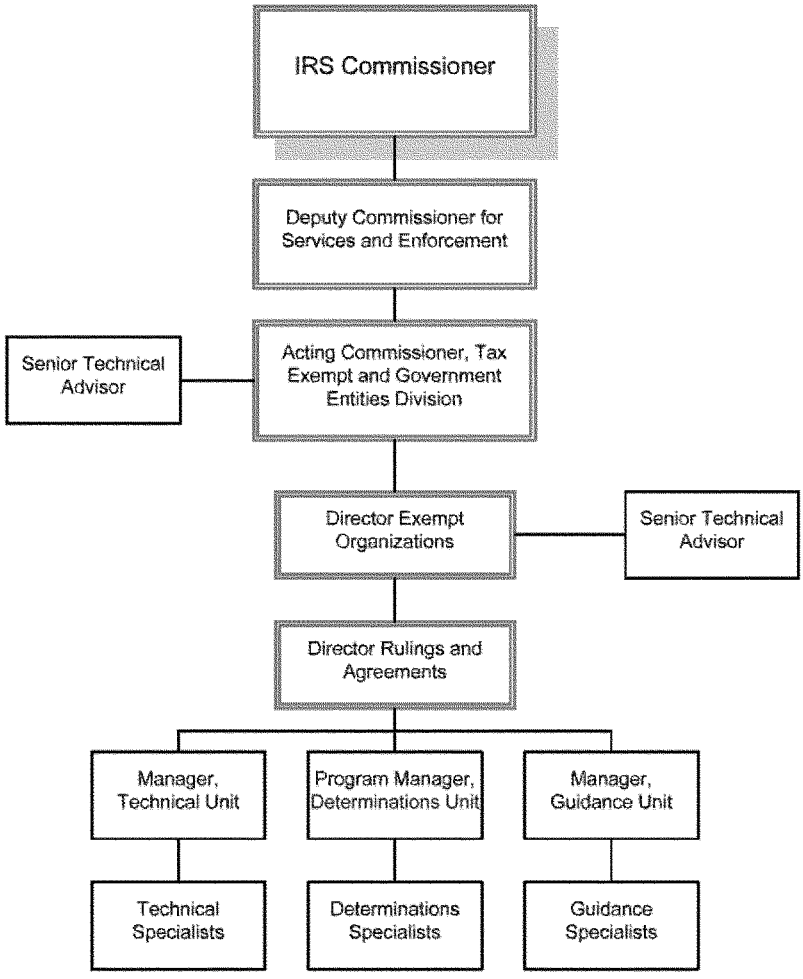
  - EO Management failed to identify the inappropriate activities in a timely fashion (it took 16 months from the time this activity began before the first briefing was provided to the EO Director on the topic, according to the timeline in the TIGTA report).
  - EO management failed to properly and expediently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

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

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

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

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



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

Additional Actions Still to be Determined

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

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

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

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

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

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

Section Summary

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

Specifically, the IRS has:

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

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

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

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

Management Changes

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

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

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

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

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

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

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

Status of the TIGTA Recommendations

TIGTA Finding No. 1

The Determinations Unit Used Inappropriate Criteria to Identify Potential Political Cases

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

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

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

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

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

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

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

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

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

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

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

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

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

TIGTA Finding No. 2

Potential Political Cases Experienced Significant Processing Delays

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

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

b. **Actions Taken to Date**:

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

1. Define the process and implement with a short-term technology solution
    a. Close and transparent coordination between the Determinations Unit and the Technical and Guidance Units is critical to effectively managing the applications that are in the process of being reviewed.
    b. These organizations formalized the process of coordination on June 21, 2013, under the direction of the Acting Commissioner, TE/GE and the Acting Director, EO.
    c. The new process is documented in written procedures, and was enabled using a spreadsheet-based tracking tool that monitors more than 20 different data elements associated with a particular case, including a number of dates associated with key steps in the processing of the case.
    d. The spreadsheet model, which went into operation on June 21, 2013 and satisfies the TIGTA recommendation, was utilized because it could be deployed quickly and provides a basic structure for effective collaboration.
2. Evolve to a more robust technology solution that can ultimately supplant the spreadsheet model (see below for pending actions)

c. **Pending Actions**:

i. Evolve to a more robust technology solution

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

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

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

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

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

c. **Pending Actions**:
   i. In addition to the primary revenue rulings, the specialists, who reside in the EO Technical division, will receive further guidance in these areas from IRS Chief Counsel.
   ii. The IRS will determine how to process all other 501(c)(4) applications involving potentially significant political campaign intervention activity after reviewing the experience of the use of expedited procedures for the priority backlog (as described in the response to Recommendation 7) that is the initial focus for these efforts.
   iii. Any subsequently-created guidance or other materials affecting the determinations process, including the guidance discussed in the response to Recommendation 8, will be posted to the Internet.
d. **Estimated Completion Date**: June 27, 2013 for the process for the priority backlog; January 31, 2014 for processing of other 501(c)(4) applications

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

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

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

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

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

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

b. Front-line EO Determinations Unit staff members have received instructions to escalate applications to the EO Technical Unit where there is evidence of a non-insubstantial degree of potential political campaign intervention in the applications.
c. The EO Technical Unit has received additional instructions on how to evaluate these cases.
d. The EO Technical Unit now has the ability to engage additional attorneys assigned by IRS Chief Counsel to assist in these complicated determinations. The additional attorneys began to provide this support on June 11, 2013.
e. We have created a three-member "Advocacy Application Review Committee," consisting of executive counsel and the new executive leadership in TE/GE that will review the file, apply the law to the facts presented, and evaluate whether the applicant has satisfied the requirements for exemption under Section 501(c)(4). This Review Committee will render the final determination for any cases for which additional review has been requested and for any case for which a denial has been proposed.
f. The Review Committee will also be responsible for frequent updates (at least weekly) to the Office of the Deputy Commissioner, Services and Enforcement, on the status of resolving all cases in the priority backlog, providing expanded oversight to ensure the milestones put forth in this Report remain on track to be met.

2. Thus far, we have made determinations on 34 cases in the original backlog (26%). Those determinations include 17 approvals, 4 applications withdrawn by the applicants, and 13 cases closed for "failure to establish" (i.e., failure to provide necessary information). None of the cases in this backlog have been disapproved to date.
3. Importantly, due to the fact that some of these determinations represent difficult and complex judgments, some may still take longer to resolve than others.

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

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

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

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

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

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

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

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

TIGTA Finding No. 3

The Determinations Unit Requested Unnecessary Information for Many Potential Political Cases

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

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

Additional Consideration

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

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

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

3. Broad Review of IRS Operations and Challenges

Section Summary

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

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

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

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

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

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

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

Taxpayer Concerns – Issue Areas and Solutions

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

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

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

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

Improved Processes for Assessment of IRS Compliance / Enforcement Efforts

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

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

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

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

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

Enhanced Mechanisms for Taxpayer Recourse

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

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

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

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

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

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

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

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

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

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

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

[7] Internal Revenue Code § 7811

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

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

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

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

Opportunities and Challenges in Driving Greater Effectiveness in IRS Operations

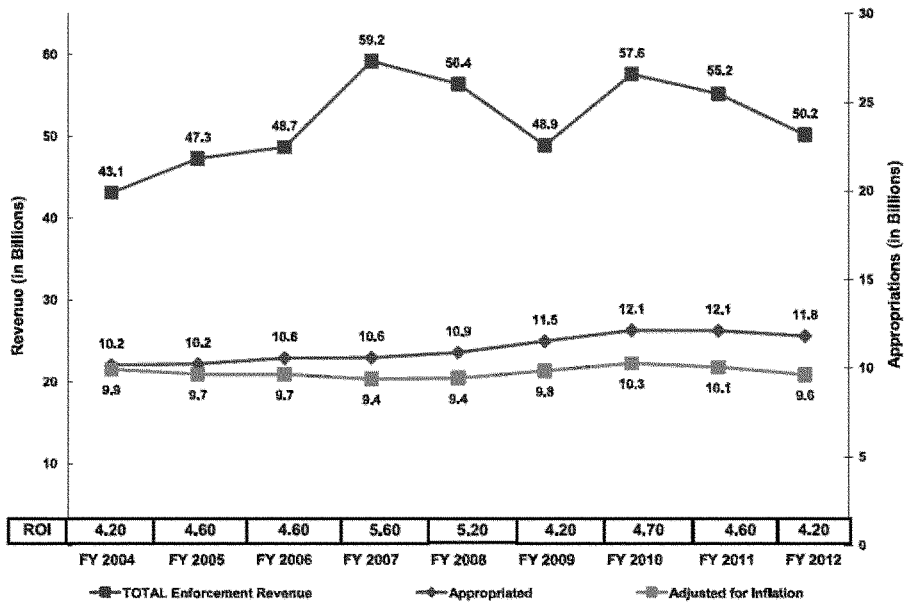
The IRS has an essential responsibility on behalf of the United States Government and the public. The IRS collects 92% of the Government's receipts, representing $2.524 trillion in gross tax receipts before tax refunds in FY 2012. At the same time, the IRS is challenged by many of the same concerns affecting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

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

Positive Results and Trends

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

Figure 2: IRS: Positive Return on Investment



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

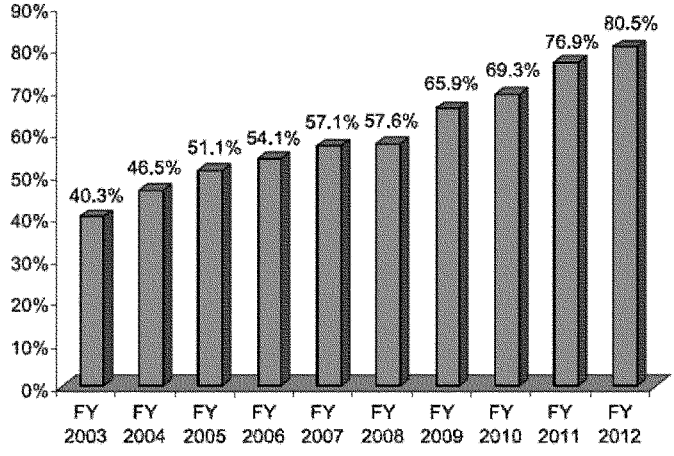
- The IRS enhanced international compliance efforts by implementing new legislation and programs such as the Offshore Voluntary Disclosure Program (OVDP). In January 2012, the IRS reopened the OVDP indefinitely with tightened eligibility requirements in response to strong interest from taxpayers and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

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

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

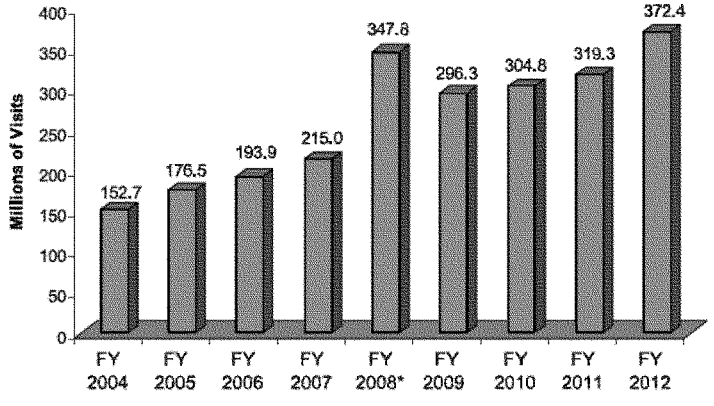
In addition to these positive results in recent years, we have seen a number of positive performance trends. For example, the percentage of individual taxpayers submitting their returns electronically has doubled in the last decade (see Figure 3), with more than 80% of taxpayers now using the e-File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

Figure 3: Percentage of Individual Taxpayers Filing Electronically



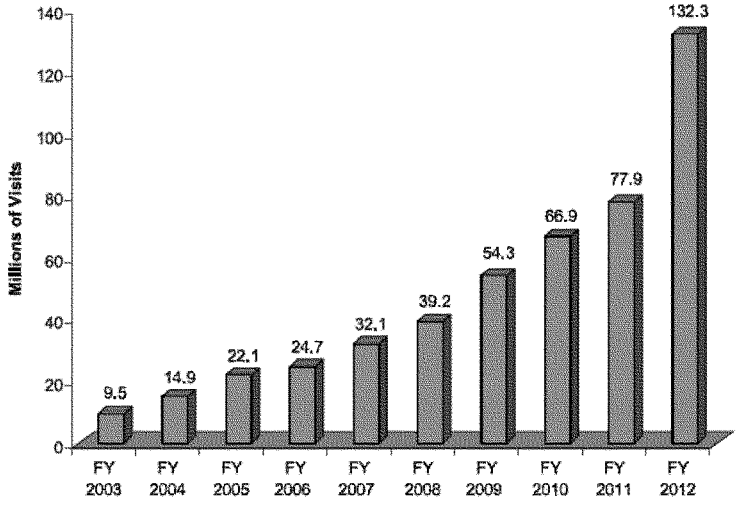
The number of visits to IRS.gov has more than doubled in the last decade (see Figure 4).

Figure 4: Number of Visits to IRS.gov



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

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



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

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

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

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

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

Budgetary Concerns

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

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

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

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

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

Personnel

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

Travel and training

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

Space optimization

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

Printing and postage

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

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

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

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

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

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

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

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

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

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

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

Human Capital Challenges

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

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

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

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

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

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

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

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

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

Mission Complexity

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

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

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

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

Better Early Warning Systems Needed

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

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

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

Establishing a Robust Enterprise Risk Management Program

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

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

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

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

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

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

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

Strengthening the IRS-wide Performance Management System

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

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

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

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

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

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

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

Enhancing Communication Flow to All Layers of Management

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

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

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

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

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

Transparency with Critical Oversight Organizations

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

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

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

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

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

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

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

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

Concluding Thoughts

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

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

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

Appendix A: The "Douglas Factors"

Appendix A

The "Douglas Factors"

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

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

(3) The employee's past disciplinary record;

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

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

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

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

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

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

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

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

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

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

SFC 001359

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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

May 17, 2012

MEMORANDUM FOR MANAGER, EO DETERMINATIONS

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

SUBJECT: Be On the Look Out (BOLO) Spreadsheet

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

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

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

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

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

The Emerging Issues coordinator will maintain the combined spreadsheet including:

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

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

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

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

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

(e) Updating the spreadsheet as necessary.

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

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

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

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

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

SFC 001362

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

June 20, 2013

Control No: TEGE-07-0613-06

MEMORANDUM FOR MANAGER, EO DETERMINATIONS

FROM: Karen Schiller
Acting Director, EO Rulings and Agreements

SUBJECT: Interim Guidance on the Suspension of BOLO List Usage

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

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

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

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

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

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

SFC 001364

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

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

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

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

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

DRAFTING INFORMATION

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

Section 527.—Political Organizations

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

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

Rev. Rul. 2004–6

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

ISSUE

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

LAW

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ANALYSIS OF FACTUAL SITUATIONS

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

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

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

a) The communication identifies a candidate for public office;

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

c) The communication targets voters in a particular election;

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

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

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

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

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

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

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

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

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

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

Each of the situations assumes that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HOLDINGS

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

DRAFTING INFORMATION

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

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

HOLDING

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

DRAFTING INFORMATION

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

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

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

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

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

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

Rev. Rul. 2007–41

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

ISSUE

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

LAW

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

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

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

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

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

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

ANALYSIS OF FACTUAL SITUATIONS

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

Voter Education, Voter Registration and Get Out the Vote Drives

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

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

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

Individual Activity by Organization Leaders

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

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

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

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

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

Candidate Appearances

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

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

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

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

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

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

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

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

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

Candidate Appearances Where Speaking or Participating as a Non-Candidate

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

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

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

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

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

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

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

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

Issue Advocacy vs. Political Campaign Intervention

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

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

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

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

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

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

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

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

Business Activity

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

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

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

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

Web Sites

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

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

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

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

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

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

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

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

HOLDINGS

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

DRAFTING INFORMATION

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

Section 707.—Transactions Between Partner and Partnership

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

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

Rev. Rul. 2007–40

ISSUE

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

FACTS

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

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

SFC 001376

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

Date:

Employer ID number:

Person to contact:

Contact telephone number:

Contact fax number:

Employee ID number:

Dear [Applicant]:

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

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

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

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

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

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

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

Thank you for your cooperation.

Sincerely,

[Name]
[Title]

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

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

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

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

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

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

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

Representations and Specific Instructions

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

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

Specific instructions

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

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

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

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

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

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

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

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

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

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

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

Title and printed name

Organization name and Employer Identification Number

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

SFC 001384

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

Your Rights as a Taxpayer

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

Declaration of Taxpayer Rights

I. Protection of Your Rights

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

II. Privacy and Confidentiality

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

III. Professional and Courteous Service

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

IV. Representation

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

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

V. Payment of Only the Correct Amount of Tax

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

VI. Help With Unresolved Tax Problems

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

VII. Appeals and Judicial Review

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

VIII. Relief From Certain Penalties and Interest

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

THE IRS MISSION

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

Examinations, Appeals, Collections, and Refunds

Examinations (Audits)

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

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

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

By Mail

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

By Interview

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

Repeat Examinations

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

Appeals

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

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

Collections

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

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

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

Innocent Spouse Relief

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

Potential Third Party Contacts

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

Refunds

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

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

Tax Information

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

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

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Exempt Organizations Recommended Actions Ending May 23, 2014 (updated # 7 only)					
No.	**Recommendation**	**Lead**	**ECD**	**Status***	**Actions Taken**
1	Ensure that the memorandum requiring the Director, Rulings and Agreements, to approve all original entries and changes to criteria included on the BOLO listing prior to implementation be formalized in the appropriate Internal Revenue Manual.	Director, Exempt Organizations	6/28/2013 9/30/2013	Completed	Because the use of the BOLO lists was suspended (reported in June), the memorandum is no longer operational therefore we are closing this recommendation. However, separately, we are revising the IRM that provides guidance on processing exempt applica ion and have incorporated into the draft comments received from the Taxpayer Advocate and providing training to staff on how to apply approriate screening criteria.
2	Develop procedures to better document the reason(s) applications are chosen for review by the team of specialists (*e.g.*, evidence of specific political campaign intervention in the application file or specific reasons the EO function may have for choosing to review the application further based on past experience).		9/30/2013	Completed	Procedures were issued to all specialists on September 30, 2013, providing written instruction on classifying applications when issuing an approval based on the original submission is not an option. This recommendation is closed. The following procedures will be incorporated into the Internal Revenue Manual: • Interim guidance issued on September 30, 2013 on procedures for EO Determinations Unit regarding initial classification of applications. • Interim guidance issued on September 30, 2013 on new Emerging Issue Committee as the central point of contact for all emerging issues.
3	Develop training or workshops to be held before each election cycle including, but not limited to, the proper ways to identify applications that require review of political campaign intervention ac ivities.	Director, Exempt Organizations	1/31/2014	Completed	Training materials are completed. Formal training courses number have been assigned as Identification of Possible Political Campaign Intervention Activity. Training will be held before each federal election cycle. This recommendation is closed.
4	Develop a process for the Determinations Unit to formally request assistance from the Technical Unit and the Guidance Unit. The process should include actions to initiate, track, and monitor requests for assistance to ensure that requests are responded to timely.	Director, Exempt Organizations	6/28/2013 1/31/2014	Completed	**Updated OCTOBER 2013** The long-term plan as noted in the June report was to engage Business Systems Planning to research subsequent electronic solutions to be completed by January 31, 2014. The new process is documented in written procedures, which enables the use of a spreadsheet-based tracking tool. We are closing his recommendation as the required actions have been completed. However, IRS will expand its efforts through development of a long-term plan.
5	Develop guidance for specialists on how to process requests for tax-exempt status involving potentially significant political campaign intervention. This guidance should also be posted to the internet to provide transparency to organiza ions on the applica ion process.	Director, Exempt Organizations	6/27/2013 1/31/2014	Completed	In June 2013, the IRS issued an interim guidance memorandum to offer optional, expedited processing to certain sec ion 501(c)(4) organizations whose applications had been pending for more than 120 days as of May 28, 2013. On December 23, 2013, further interim guidance was issued expanding this optional expedited processing to all section 501(c)(4) applicants whose applications indicate that he organiza ion may be involved in political campaign intervention or in providing private benefit to a political party and that otherwise do not present any issue with regard to exempt status. Both memoranda are posted on the internet (linked above). This recommendation is closed.
6	Develop training or workshops to be held before each election cycle including, but not limited to: a) what constitutes political campaign intervention versus general advocacy (including case examples) and b) the ability to refer for follow-up those organizations that may conduct activities in a future year which may cause them to lose their tax-exempt status.	Director, Exempt Organizations	1/31/2014	Completed	Training materials are completed. Formal training courses number have been assigned for 6a: as Political Campaign Intervention and Other Advocacy and 6b: as Referral of Cases to EO Exam Classification. Training will be held before each federal election cycle. This recommendation is closed.
7	Provide oversight to ensure that potential political cases, some of which have been in process for three years, are approved or denied expeditiously.	Director, Exempt Organizations	1/31/2014	Completed	New review process and an expedited option for priority backlog cases was implemented on June 8th, 2013. Representation letters were sent to applicants the week of June 24, 2013 with the opportunity to self-certify. This recommendation was kept open to report the current status of those original backlogged cases. We will continue to report monthly until they are closed, but are changing the status to closed. **• As of May 15, 2014, 131 cases in the original backlog (90 percent) have been closed. This includes 100 cases that received favorable determination letters, including 43 applicants participating in the optional expedited process.**
8	Recommend to IRS Chief Counsel and the Department of the Treasury that guidance on how to measure the "primary activity" of I.R.C. § 501(c)(4) social welfare organizations be included for consideration in the Department of the Treasury Priority Guidance Plan.	Commissioner, Tax Exempt and Government Entities	5/3/2013	Completed	Updated AUGUST 2013 • Department of the Treasury released the 2013-2014 Priority Guidance Plan on August 9, 2013 and includes guidance under §501(c)(4) relating to measurement of an organization's primary activity and whether it is operated primarily for the promo ion of social welfare, and guidance relating to political campaign intervention.
9	The Director, EO, should develop training or workshops to be held before each election cycle including, but not limited to, how to word questions in additional information request letters and what additional information should be requested.	Director, Exempt Organizations	1/31/2014	Completed	Training materials are completed. Formal training courses number have been assigned as Political Campaign Intervention and Other Advocacy – Requesting Information. Training will be held before each federal election cycle. This recommendation is closed.

IRS

IRS Update on the Proposed New Regulation on 501(c)(4) Organizations

May 22, 2014

Last November, Treasury and the IRS proposed a new regulation governing political activity of section 501(c)(4) organizations. The proposal generated over 150,000 written comments — the most comments ever received by Treasury and IRS on a proposed tax regulation. Consistent with our standard rulemaking process, we intend to review those comments carefully, take into account public feedback, and consider any necessary changes. Consistent with what Commissioner Koskinen has previously stated, it is likely that we will make some changes to the proposed regulation in light of the comments we have received. Given the diversity of views expressed and the volume of substantive input, we have concluded that it would be more efficient and useful to hold a public hearing after we publish the revised proposed regulation. Treasury and the IRS remain committed to providing updated standards for tax-exemption that are fair, clear, and easier to administer.

Page Last Reviewed or Updated: 22-May-2014

IRS

SFC 001388

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Report Outlines Changes for IRS To Ensure Accountability, Chart a Path Forward; Immediate Actions, Next Steps Outlined

Updated 7/15/2013 to reflect that the IRS will issue monthly updates.

IR-2013-62, June 24, 2013

WASHINGTON — Internal Revenue Service Principal Deputy Commissioner Danny Werfel today issued a report outlining new actions and next steps to fix problems uncovered with the IRS' review of tax-exempt applications and improve the wider processes and operations in place at the IRS.

The three-part report covers a wide range of areas Werfel and his leadership team examined during the past month. The report cites actions to hold management accountable and identifies immediate steps to help put the process for approving tax-exempt applications back on track. Werfel also outlines actions needed to protect and improve wider IRS operations, ranging from compliance areas to taxpayer service.

"It is critical that the IRS takes steps to ensure accountability, address the problems uncovered in recent weeks and improve the operations of the IRS to continue to carry out our critical mission on behalf of the public," Werfel said. "We have made a number of changes already, more are in the works and even more will develop as we move forward."

Importantly, the initial IRS review shows no signs of intentional wrongdoing by IRS personnel or involvement by parties outside the IRS in the activities described in the recent TIGTA report. However, the report notes that investigations are ongoing, and that the IRS is committed to a full fact-finding effort to provide the public answers to these and other important questions.

"The IRS is committed to correcting its mistakes, holding people accountable, and establishing control elements that will help us mitigate the risks we face," Werfel said. "This report is a critical first step in the process of restoring trust in this critical institution. We have more work in front of us, but we believe we are on the right track to move forward."

Werfel's report, titled "Charting a Path Forward at the IRS: Initial Assessment and Plan of Action," covers three primary areas:

Accountability. This covers the steps being taken to ensure accountability for the mismanagement described in last month's Treasury Inspector General for Tax Administration (TIGTA) report:

- The report finds that significant management and judgment failures occurred, as outlined in the TIGTA report. These contributed to the inappropriate treatment of taxpayers applying for tax-exempt status.
- To address this, new leadership has been installed across all five executive management levels involved in the chain of command connected to these matters. In addition, the IRS has empaneled an Accountability Review Board to provide recommendations within 60 days (and later as needed) on any additional personnel actions that should be taken.

Fixing the Problems with the Review of Applications for Tax-Exempt Status. This part covers several process improvements underway to ensure that taxpayers are treated appropriately and effectively in the review of applications for tax-exempt status:

- The report outlines a new voluntary process to help certain applicants gain fast-track approval to operate as a 501(c)(4) tax-exempt entity if they are being reviewed for advocacy questions and have been in our application backlog for more than 120 days. This self-certification process allows them a streamlined path to tax-exempt status if they certify they will operate within specified limits and thresholds of political and social welfare activities. In addition, the IRS has added new technical and program staff to assist with reviewing 501(c)(4) applications.

- The IRS also suspended the use of any "be-on-the-lookout," or BOLO lists in the application process for tax-exempt status. SFC 001389

Review of IRS Operations and Risks. The report identifies a series of actions to ensure taxpayers that selection criteria across the IRS are appropriate and that taxpayers are aware of how they can seek assistance if they have concerns about the IRS. The report further outlines steps underway to ensure that critical program or operational risks within the IRS are identified early, raised to the right decision-makers and shared timely with key stakeholders:

- The report calls for establishing an Enterprise Risk Management Program to provide a common framework for capturing, reporting and addressing risk areas across the IRS. This will improve timeliness in bringing information to the attention of the IRS Commissioner and other IRS leaders as well as key stakeholders to help prevent future instances of inappropriate treatment or mismanagement.
- Although there is no current evidence that selection criteria in other IRS organizations is inappropriate, the nature of the problems identified in the tax-exempt application process warrants a review of certain process controls within the IRS. The IRS will initiate a comprehensive, agency-wide review of compliance selection criteria. Results will be shared with the Department of the Treasury, the IRS Oversight Board, and the Chairpersons of the House Ways and Means Committee and the Senate Finance Committee.
- The IRS will initiate additional internal and external education and outreach about the role of the National Taxpayer Advocate in assisting taxpayers in resolving problems they encounter with the IRS.

In addition to posting the report on IRS.gov, the IRS will provide monthly updates to the progress made on the TIGTA report's recommendations and provide other developments related to this effort.

Related Items:

- Recommended Actions — Status of recommended actions from the Treasury Inspector General for Tax Administration (TIGTA) on IRS's Exempt Organizations (EO) Division (updated as appropriate) and other information
- FS-2013-7, Highlights from the IRS Report
- FS-2013-8, IRS Offers New Streamlined Option to Certain 501(c)(4) Groups Caught in Application Backlog

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IRS Fact Sheet

Media Relations Office | Washington, D.C. | Tel. 202.622.4000
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SECTION 527 POLITICAL ORGANIZATIONS REVISED TAX FILING REQUIREMENTS

Legislation adopted in 2002 altered filing requirements for certain political organizations that seek tax-exempt status under section 527 of the Internal Revenue Code. The new law generally reduces filing requirements for certain state/local political organizations that already disclose certain information to state agencies. In addition, the law relieves some political organizations from filing an annual income tax return or an annual information return. Except where noted, the revised filing requirements are retroactive to July 1, 2000. This fact sheet discusses the current filing requirements as revised by the new legislation. FS-2002-11, published May 2002, is superseded.

The new law:

- Exempts state and local candidate and party committees from filing Form 8871 and Form 990 (or 990-EZ);
- Exempts qualified state and local political organizations (QSLPOs) (as defined below) from filing Form 8872;
- Exempts political committees filing with the FEC from filing Form 990 (or 990-EZ);
- Exempts political organizations that are a caucus or association of state or local officials from filing Form 990 (or 990-EZ);
- Requires additional information on Form 8871 and Form 8872;
- Requires the filing of an amended Form 8871 after material changes to maintain tax-exempt status;
- Increases reporting thresholds for certain Form 990 filers;
- Eliminates the requirement to file Form 1120-POL except where an organization has taxable income after taking the $100 specific deduction (returning to pre-July 2000 requirements);
- Reinstates the pre-July 2000 confidentiality requirement for any Form 1120-POL filed after November 2, 2002; and
- Changes the electronic filing requirements by
    - Requiring that Form 8871 be filed electronically (as opposed to both in writing and electronically); and
    - Requiring that any Form 8872 due after June 30, 2003, be filed electronically if the filing organization has or expects to have contributions or expenditures of more than $50,000 during the calendar year.

-more-

Definition of Political Organization

Political organizations are organized and operated primarily to accept contributions and make expenditures for the purpose of influencing the "selection, nomination, election, or appointment of any individual to Federal, State, or local public office or office in a political organization, or the election of Presidential electors." Political organizations include political party committees, Federal, State and local candidate committees and other political committees such as political action committees (PACs).

The law also creates a new sub-category of political organization -- qualified state or local political organization (QSLPO). A state or local organization may be a QSLPO, if it meets the following criteria:

- All of its political activities relate solely to state or local public office (or office in a state or local political organization),
- It is subject to state law that requires it to report (and it does report) to a state agency information about contributions and expenditures that is similar to the information that the organization would otherwise be required to report to the IRS,
- The state agency and the organization make the reports publicly available, and
- No Federal candidate or office holder controls it or materially participates in its direction, solicits contributions for it, or directs any of its disbursements.

Filing Categories

Federal tax law divides political organizations into several different categories, and provides different filing requirements for each category. See the first chart below for the filing requirements for each category.

Federal organizations

- FEC political committee: A political organization (including federal candidate committees, political party committees and PACs) that is required to report as a political committee under the Federal Election Campaign Act.
- Other federal political organization: A political organization attempting to influence federal elections that is not required to report as a political committee under the Federal Election Campaign Act.

State and Local organizations

- Candidate committee: A campaign committee of a state or local candidate.
- Party committee: A state or local committee of a political party.
- Qualified state or local political organization (QSLPO): See above definition.
- Caucus or association: A group of state or local officials attempting to influence elections.
- Other political organization: Any other state or local political organization.

Filing Requirements

The filing requirements in the chart below apply to those political organizations that:

- Wish to be a tax-exempt political organization, and
- Receive or expect to receive $25,000 or more in gross receipts in any taxable year.

If You Are A	You May Be Required To File
FEC political committee, state or local candidate committee or state or local committee of a political party	➢ Form 1120-POL
Qualified state or local political organization (QSLPO)*	➢ Form 8871; ➢ Form 1120-POL; and ➢ Form 990
Caucus or association of state or local officials*	➢ Form 8871; ➢ Form 8872; and ➢ Form 1120-POL
Any other political organization, including other federal political organizations and other state or local political organizations	➢ Form 8871; ➢ Form 8872; ➢ Form 1120-POL; and ➢ Form 990 or Form 990-EZ

*An organization may be both a QSLPO and a caucus or association of state or local officials. If so, it is not required to file Form 8872 and Form 990.

NOTE: If you are:

- A political organization that is not tax-exempt, or
- A tax-exempt political organization that does not have gross receipts of at least $25,000

You must file Form 1120-POL if you have taxable income after taking the $100 specific deduction for any taxable year.

Description of Form Filing Requirements

1. Form 8871 – Notice of 527 Status

Unless excepted (see chart below), a political organization must file Form 8871, *Political Organization Notice of 527 Status*, with the IRS to be tax-exempt. Until it files the form, its income (including contributions) is subject to taxation. Form 8871 must be filed electronically, within 24 hours of the political organization's establishment. An amended Form 8871 must be filed within 30 days of any material change (including termination), or any income (including contributions) it receives after the material change will be subject to taxation.

2. Form 8872 - Report of Contributions and Expenditures

Tax-exempt political organizations, other than QSLPOs, that file Form 8871 must file Form 8872, *Political Organization Report of Contributions and Expenditures,* to disclose information concerning:

- expenditures that aggregate $500 or more per person, per calendar year; and
- contributions that aggregate $200 or more per person, per calendar year.

A tax-exempt political organization that does not disclose this information must pay an amount equal to the highest corporate tax rate (35 percent) multiplied by the amount of contributions and expenditures not disclosed.

The filing due dates are available on the IRS web site at www.irs.gov/polorgs.

A political organization is not required to file Form 8872 for any period of time that it is subject to tax on its income because it did not file or amend a Form 8871.

3. Form 1120-POL – U.S. Income Tax Return for Certain Political Organizations

Political organizations, whether or not tax-exempt, that have taxable income in excess of the $100 specific deduction in a taxable year must file Form 1120-POL, *U.S. Income Tax Return for Certain Political Organizations.*

Form 1120-POL is due by the 15th day of the 3rd month after the end of the organization's taxable year. Political organizations may request a six-month extension of the filing deadline by filing Form 7004, *Application for Automatic Extension of Time to File Corporate Income Tax Return.* This extension must be filed by the due date of Form 1120-POL. There is a penalty for failure to file Form 1120-POL.

4. Form 990 or 990-EZ – Return of Organization Exempt from Income Tax

Unless excepted (see chart below), a tax-exempt political organization must file an exempt organization annual information return if it has gross receipts of $25,000 or more for the taxable year ($100,000 for QSLPOs). A tax-exempt political organization with gross receipts of less than $100,000 and assets of less than $250,000 at the end of the year may file a Form 990-EZ, *Short Form Return of Organization Exempt from Income Tax*. Otherwise, it files a Form 990, *Return of Organization Exempt from Income Tax*.

Form 990 or Form 990-EZ is due on the 15th day of the 5th month after the end of the organization's taxable year. There is a penalty for failure to file this return. Organizations may request a three-month extension, without showing cause, by filing Form 8868, *Application for Extension of Time to File an Exempt Organization Return*, by the due date. A second three-month extension, with cause, may also be requested through Form 8868.

Form	When filed	Exceptions to filing requirement
8871	Within 24 hours of establishment or within 30 days of any material change, including termination	➢ Organization that does not seek tax-exempt status; ➢ Political committee required to report to the FEC; ➢ Campaign committee of state and local candidates; ➢ State or local committee of political parties; and ➢ Organization that reasonably expects annual gross receipts to always be less than $25,000.
8872	At organization's option, quarterly/semiannually or monthly, on same basis for entire calendar year (see form instructions for detailed information)	➢ Any organization excepted from Form 8871 filing requirement (see above); and ➢ Qualified state or local political organization (QSLPO).
1120-POL	Due the 15th day of the 3rd month after the close of the taxable year	➢ Political organization with no taxable income after taking the $100 specific deduction
990 or 990-EZ	Due the 15th day of the 5th month after the close of the taxable year	➢ Any organization excepted from Form 8871 filing requirement (see above); and ➢ Caucus or association of state or local officials

Disclosure Requirements

Tax-exempt section 527 organizations must make their forms (other than Form 1120-POL) publicly available for inspection and copying at their principal place of business. The IRS also posts Form 8871 and Form 8872 on its web site at www.irs.gov/polorgs.

For More Information

Questions about the filing requirements may be directed to the Tax Exempt and Government Entities Customer Account Services toll free number 1-877-829-5500. Assistance is available 8:00 a.m. to 6:30 p.m. ET, Monday through Friday.

XXX

Social Welfare Organizations

To be tax-exempt as a social welfare organization described in Internal Revenue Code (IRC) section 501(c)(4), an organization must not be organized for profit and must be operated exclusively to promote social welfare. The earnings of a section 501(c)(4) organization may not inure to the benefit of any private shareholder or individual. If the organization engages in an excess benefit transaction with a person having substantial influence over the organization, an excise tax may be imposed on the person and any managers agreeing to the transaction. See Introduction to IRC 4958 for more information about this excise tax. For a more detailed discussion of the exemption requirements for section 501(c)(4) organizations, see IRC 501(c)(4) Organizations. For more information about applying for exemption, see Application for Recognition of Exemption.

To be operated exclusively to promote social welfare, an organization must operate primarily to further the common good and general welfare of the people of the community (such as by bringing about civic betterment and social improvements). For example, an organization that restricts the use of its facilities to employees of selected corporations and their guests is primarily benefiting a private group rather than the community and, therefore, does not qualify as a section 501(c)(4) organization. Similarly, an organization formed to represent member-tenants of an apartment complex does not qualify, because its activities benefit the member-tenants and not all tenants in the community, while an organization formed to promote the legal rights of all tenants in a particular community may qualify under section 501(c)(4) as a social welfare organization. An organization is not operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations operated for profit link].

Seeking legislation germane to the organization's programs is a permissible means of attaining social welfare purposes. Thus, a section 501(c)(4) social welfare organization may further its exempt purposes through lobbying as its primary activity without jeopardizing its exempt status. An organization that has lost its section 501(c)(3) status due to substantial attempts to influence legislation may not thereafter qualify as a section 501(c)(4) organization. In addition, a section 501(c)(4) organization that engages in lobbying may be required to either provide notice to its members regarding the percentage of dues paid that are applicable to lobbying activities or pay a proxy tax. For more information, see Lobbying Issues .

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. However, a section 501(c)(4) social welfare organization may engage in some political activities, so long as that is not its primary activity. However, any expenditure it makes for political activities may be subject to tax under section 527(f). For further information regarding political and lobbying activities of 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.

Additional information

Life Cycle of a Social Welfare Organization

Page Last Reviewed or Updated: 06-Mar-2014

The Agency, its Mission and Statutory Authority

The Agency
The IRS is a bureau of the Department of the Treasury and one of the world's most efficient tax administrators. In fiscal year 2012, the IRS collected more than $2.5 trillion in revenue and processed more than 237 million tax returns.

- The IRS spent just 48 cents for each $100 it collected in FY 2012. (Source: Table 29, IRS 2012 Data Book.)

The IRS Mission
Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

This mission statement describes our role and the public's expectation about how we should perform that role.

- In the United States, the Congress passes tax laws and requires taxpayers to comply.
- The taxpayer's role is to understand and meet his or her tax obligations.
- The IRS role is to help the large majority of compliant taxpayers with the tax law, while ensuring that the minority who are unwilling to comply pay their fair share.

Statutory Authority
The IRS is organized to carry out the responsibilities of the secretary of the Treasury under section 7801 of the Internal Revenue Code. The secretary has full authority to administer and enforce the internal revenue laws and has the power to create an agency to enforce these laws. The IRS was created based on this legislative grant.

Section 7803 of the Internal Revenue Code provides for the appointment of a commissioner of Internal Revenue to administer and supervise the execution and application of the internal revenue laws.

Address, Main Office

Internal Revenue Service
1111 Constitution Ave., NW
Washington, DC 20224

Page Last Reviewed or Updated: 12-Feb-2014

The Restriction of Political Campaign Intervention by Section 501(c)(3) Tax-Exempt Organizations

Under the Internal Revenue Code, all section 501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. Contributions to political campaign funds or public statements of position (verbal or written) made on behalf of the organization in favor of or in opposition to any candidate for public office clearly violate the prohibition against political campaign activity. Violating this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise taxes.

Certain activities or expenditures may not be prohibited depending on the facts and circumstances. For example, certain voter education activities (including presenting public forums and publishing voter education guides) conducted in a non-partisan manner do not constitute prohibited political campaign activity. In addition, other activities intended to encourage people to participate in the electoral process, such as voter registration and get-out-the-vote drives, would not be prohibited political campaign activity if conducted in a non-partisan manner.

On the other hand, voter education or registration activities with evidence of bias that (a) would favor one candidate over another; (b) oppose a candidate in some manner; or (c) have the effect of favoring a candidate or group of candidates, will constitute prohibited participation or intervention.

Page Last Reviewed or Updated: 05-Mar-2014

SFC 001398

[redacted] [redacted] SEC

Copy

EXEMPT ORGANIZATIONS DIVISION

TECHNICAL CASE HISTORY

INSTRUCTIONS: Fasten form to inside left of folder.
Make Entries Required in Item 3 When Action Is Taken.
Enter - (a) Date, (b) Action, (c) Surname, and (d) Hours
NOTE: If an entry is made in (b) an entry must be made in (d)

1. NAME OF CASE
(As shown on Case Tracking System or the Inventory Control System)
Albuquerque Tea Party, Inc.

Control Number: 80-0513502

2. ASSIGNMENT RECORD (Enter Surname of Tax Law Specialist and Date)

Surname	Date
Thrasher	4/5/2010

3. LIST CHRONOLOGICALLY ALL PERTINENT SUBSTANTIVE AND PROCEDURAL ACTIONS TAKEN (Including special instructions, analysis of case file, developmental and research activities, development of all written documents (ruling, technical advice memorandum, file memorandum, etc.), telephone and other contacts, coordination and/or assistance within or outside EO, sensitive or interesting development reports, conferences, position meetings and/or technical issue meetings, and review action.)

DATE (a)	SPECIAL INSTRUCTIONS AND ACTION TAKEN (b)	NAME (c)	HOURS (d)
4/2/10	Mailed Acknowledgement letter to Taxpayer	L Thrasher	
4/5/2010	Assigned to Chip Hull	Shapiro	
4/5/10	Started reading file	CH	
4/6/10	Continued	CH	
4/12/10	Started preparation of development letter	CH	
4/21/10	Sent development letter	CH	
4/29/10	Org's contact, Colleen Fitch called. In order the Council, Assigned on EDT of 30 days. Granted 1 06-11-2010	CH	
6/11/10	Taxpayer's response	CH	
6/14/10	Started reading info	CH	
6/29/10	Called org. for Activities. Left message	CH	
7/6/10	Called org. for activities. Left message	CH	
7/8/10	Org. called with FAX of Activities. Advised of reasons supplying in before.	CH	
7/8/10	Rec'd FAX of activities.	CH	
11/10/11	Guided preparation of Memo for file	CH	
1/11/11	Forward for review	CH	
3/29/11	Memo to Counsel forward for editorial purposes.	CH	
4/6/11	Memo returned, discussed w/ Counsel and Manager should be sent to CC for their comments	CH	
5/4/11	Prepared memo for CC consideration	CH	
5/27/11	Provided copies of memo to Counsel & CC with file	CH	
8/10/11	Meeting w/ CC re: memo explanation added	CH	
11-7-11	Completed drafting development letter, Memo coordination		
	Draft sent to CC before meeting. Case granted Hearing Conference by to recommend.	CH	
11/14/11	Began review of file, development letter	CH	

Form 9504 (1-93) Catalog Number 16231V Department of the Treasury - Internal Revenue Service

P.001 [redacted] IRS TEGE DIO JUN-13-2013 08:42

IRS0000001323

SFC 001399

IRS00000001324
P.02
TOTAL P.002
SFC
APR-04-2005 20:16

Albuquerque Tea Party Inc. (90-0513502)

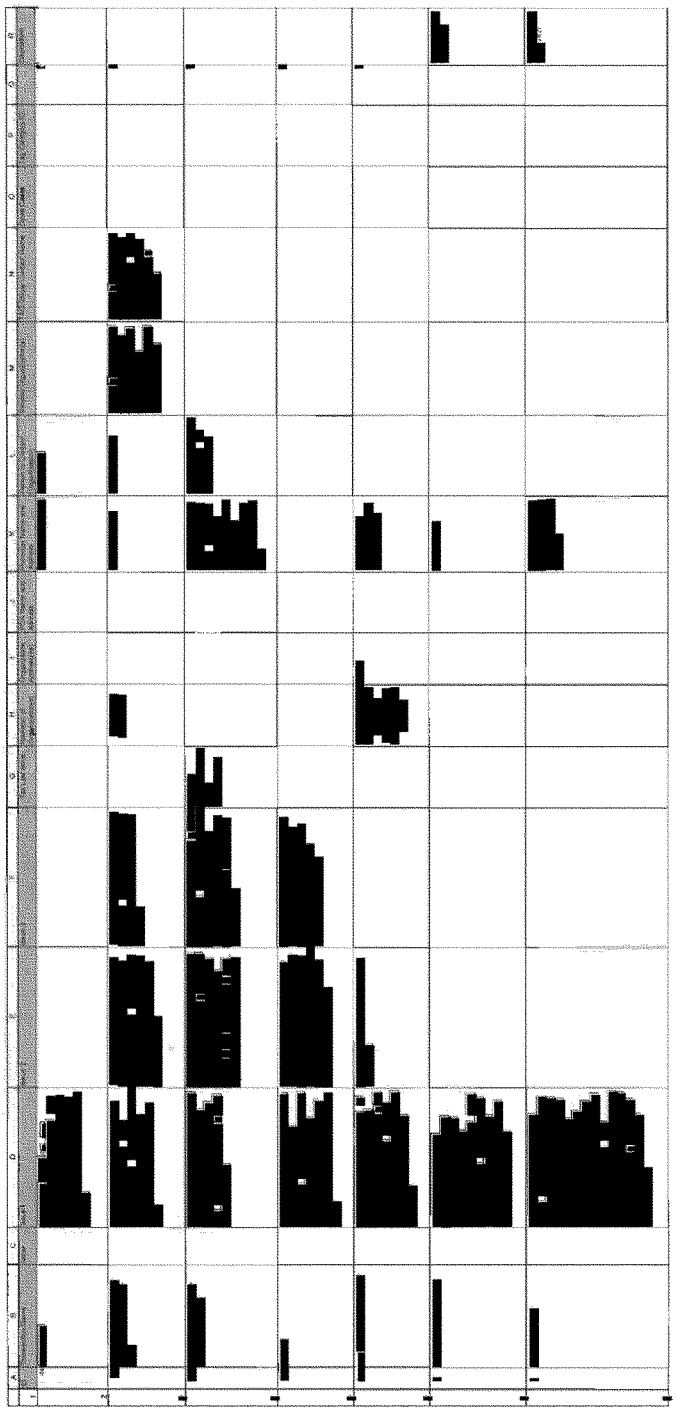
DATE (a)	SPECIAL INSTRUCTIONS AND ACTION TAKEN (b)	NAME (c)	HOURS (d)
11/15/11	Review development.	Kratenberg	
11/16/11	Rev file info: Ret to TCS w/ revisions	Kratenberg	
11/16/11	made revisions to dev. letter and mailed to POA	Galan	
11/28/11	Rec'd voicemail from org w/ questions about development letter	HG	
11/29/11	Returned message. left vm for Katherine Fattah.	HG	
11/30/11	Spoke w/ POA about developmnt letter and she requested extension.		
12/12/11	left message w/ Katherine Fattah re submitting meeting minutes on a disk & let her know we need hard copies.		
12/12/11	The taxpayer has changed its address		
1/11/12	Rec'd TP's resp. to 2nd development letter	HG	
1/24/12	Passed on file w/ recommendation to reviewer	HG	
3/20/2012	Called new POA R. Ash giving 60 day extension to respond to our development letter		
3/21/2012	faxed confirmation to POA of extension		
12/17/12	sent copy of ~~[illegible]~~ proposed denial draft to Sharon L. / Judy K. for review	HG	
4/16/13	Received fax from POA Ash asking for status update. faxed response indicating the case is being reviewed. Also mailed a copy to the POA		

Form 9504 (1-03)

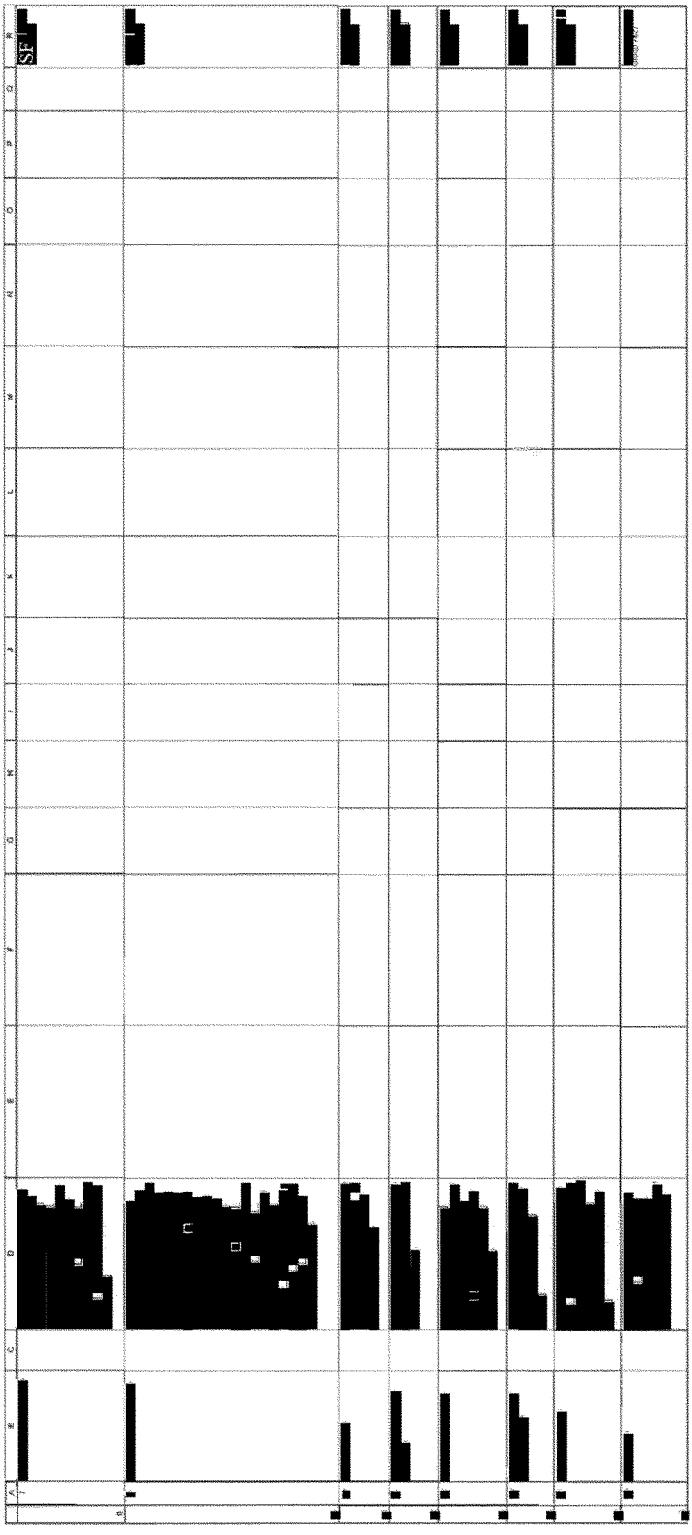
JUN-13-2013 08:42 IRS TEGE DIO SFC P.002

File 04192013
Tab 1 – Potential Abusive Historical

SFC 001401



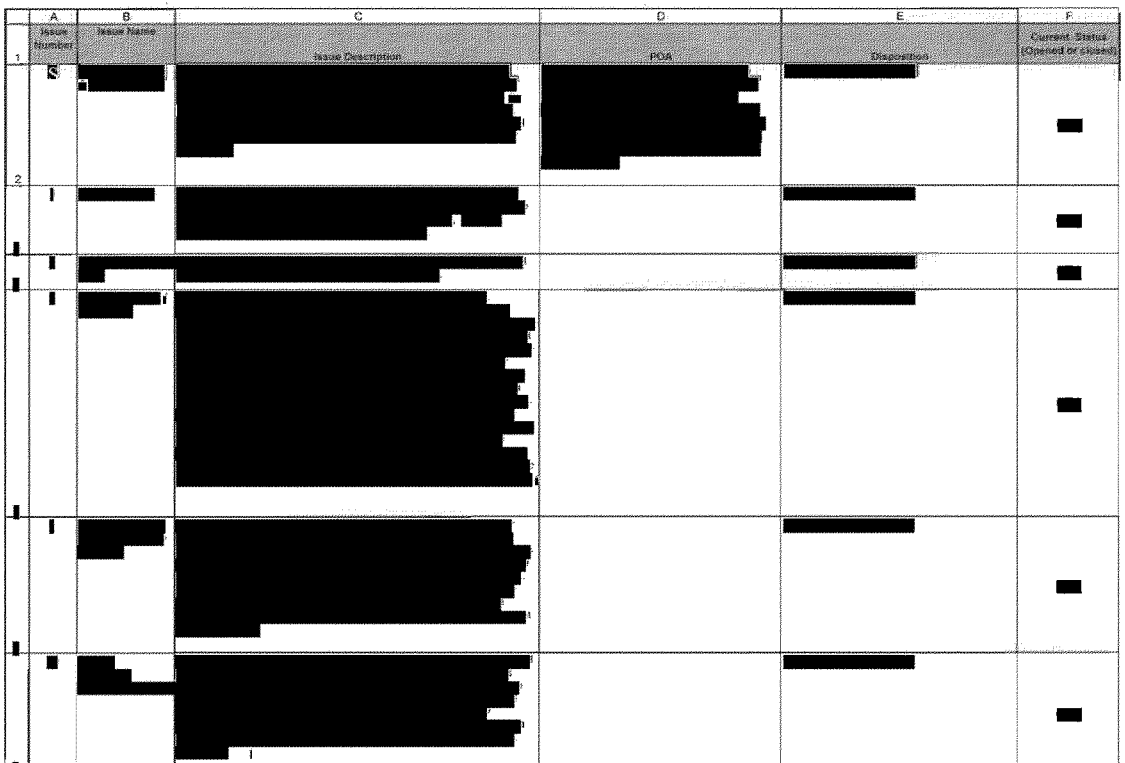
IRS0000002719



SFC 001402

IRS00000002720

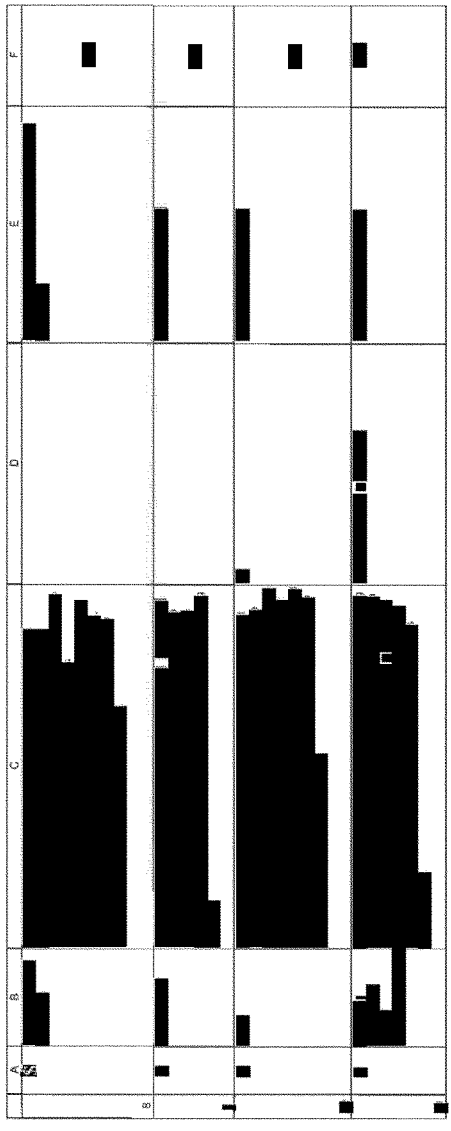
File 04192013
Tab 2 – Potential Abusive



	A	B	C	D	E	F
1	Issue Number	Issue Name	Issue Description	POA	Disposition	Current Status (Opened or closed)
2	[redacted]					

SFC 001405

IRS0000002723



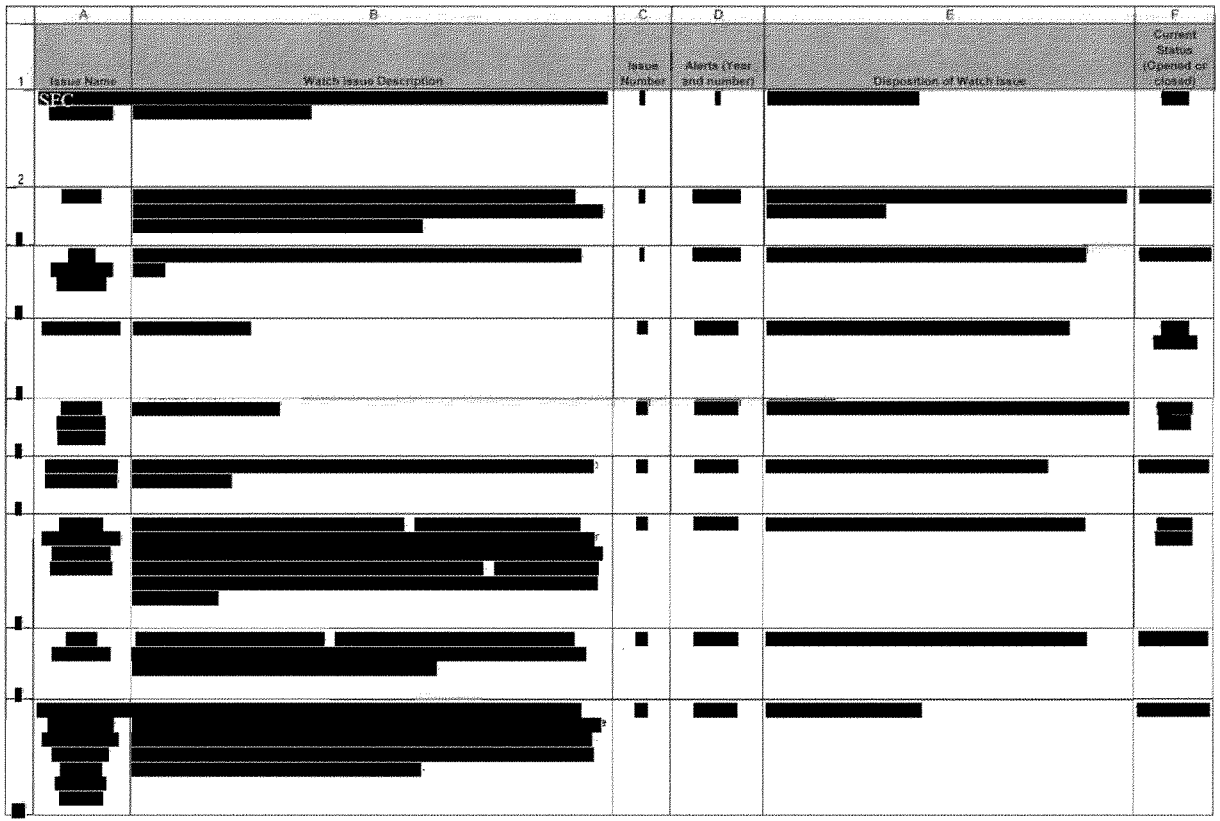
File 04192013
Tab 3 – Emerging Issues

	A	B	C	D	E	F
1	Issue Name	Issue Description	Issue Number	Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Opened or closed)
2	Current Political Issues	501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit). Note: advocacy action type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet this criteria.	EI-1	x	Forward case to Group 7823.	Open
3						
4						
5						
6						
7						
8						
9						
10						
11						

File 04192013
Tab 4 – Coordinated Processing

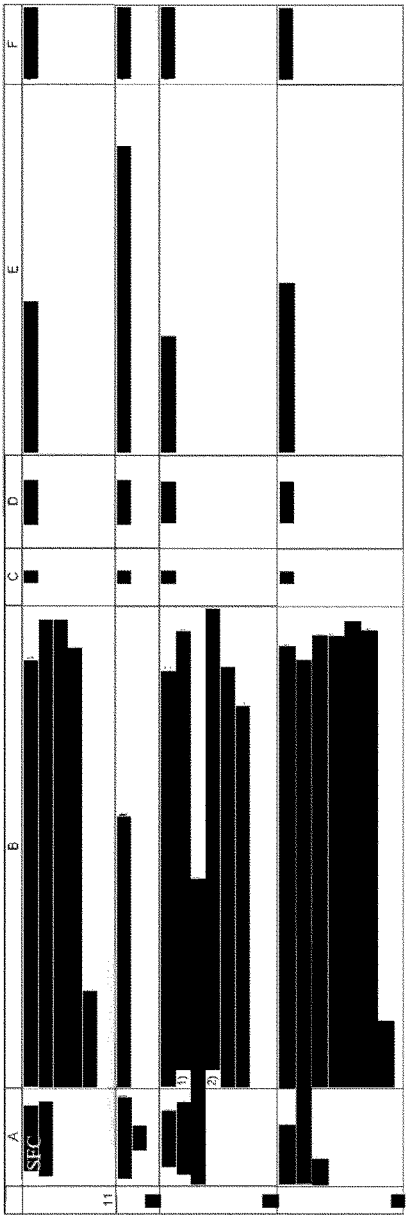
	A	B	C	D	E
1	Issue Name	Brief Issue Description	Issue Number	Coordinated Actions Taken	Current Status (Opened or closed)
2	SF				

File 04192013
Tab 5 – Watch List



	A	B	C	D	E	F
1	Issue Name	Watch Issue Description	Issue Number	Alerts (Year and number)	Disposition of Watch Issue	Current Status (Opened or closed)
2	SEC					

SFC 001412



IRS00000002730

SFC 001413

From: Paz Holly O
Sent: Monday, April 23, 2012 4:03 PM
To: Thomas Cindy M; Abner Donna J
Cc: Neuhart Paige
Subject: RE: Schedule for Next Two Weeks Including Tours and Action Items

Donna,

Sorry for the late notice about the visit. This came up last minute and has moved very quickly. We would like to interview all the folks who had been involved in this bucket of advocacy cases as a group to make folks feel as comfortable as possible. We are tied up tomorrow with other meetings and are leaving Thursday so we will need to get a hour or two of Liz's time on Wednesday. Liz can step out of group meetings with the BPMO for a bit and we'll move any meeting BPMO has with her alone to a different time in the day. We don't need to talk to anyone else in Quality as the focus right now is on a specific group of cases (not advocacy cases in general). We are interested in talking to Liz because she was involved with these specific cases when she was in Determs.

Holly

From: Thomas Cindy M
Sent: Monday, April 23, 2012 8:17 AM
To: Abner Donna J
Cc: Paz Holly O
Subject: RE: Schedule for Next Two Weeks Including Tours and Action Items

Donna,

The discussion and decision for D.C. folks to visit Cincinnati was last minute and plans weren't finalized until late in the week.

As indicated in the email below, Liz Hofacre was the initial coordinator for the advocacy cases and that is why everyone believes it is important that she be included in the discussion. Regarding her participation on 4/25, Holly will need to make the call as to whether it is more important for Liz to meet with the other Advocacy Team members and D.C. on 4/25 for an hour or two or for her to participate in the QA review.

It is my understanding that none of the advocacy cases that were identified as part of the BOLO bucket have been closed, and that one c3 case that is expected to be denied was recently copied and sent to QA, EQT, and EOG. If you have information to the contrary, please let me know. Thanks.

From: Abner Donna J
Sent: Monday, April 23, 2012 6:51 AM
To: Thomas Cindy M
Cc: Paz Holly O
Subject: FW: Schedule for Next Two Weeks Including Tours and Action Items
Importance: High

Hi Cindy,
Thanks for passing this along. I did not know Holly and company were coming to Cincinnati. Also, the April 25th date coincides with the date of the QA review in which my folks - including Liz - will be occupied most of the day. Therefore, QA will be available and willing to meet with any of the visitors the 24th or the 26th.

It is also important to note that QA has reviewed some advocacy cases and currently has three under review in EO Technical. A denial for a advocacy/political case was recently publicly posted. It is also important to point out that Liz is not the sole QA reviewer involved in the review of advocacy cases - she has simply been the QA reviewer that has attended most (not all) of the Determ meetings on the topic.

Thanks,
Donna

From: Thomas Cindy M
Sent: Saturday, April 21, 2012 12:17 AM
To: Abner Donna J
Subject: FW: Schedule for Next Two Weeks Including Tours and Action Items
Importance: High

Donna,

I apologize, I meant to cc: you on the email below. Also, the 5 folks from D.C. want Liz Hofacre to be included with those being interviewed on 4/25 since she was the initial coordinator for these cases and is the QA rep. on the Advocacy Team.

If you have questions regarding this, please let me know. Thanks.

From: Thomas Cindy M
Sent: Friday, April 20, 2012 8:50 PM
To: Haley Philip H; Shankling Lonnie; Jefferson-White Beverly J; Lahey Victoria; Lewis Jovonnie; Brinkley Lynn A; Waddell Jon M; Chumney Tyler N; Shafer John H; Bibb Kenneth B; Angner William J; Berry Daniel W; Bowling Steven F; Combs Peggy L; Esrig Bonnie A; Craig Karen K
Cc: Sheer Mary; Beason Carole Tamara
Subject: Schedule for Next Two Weeks Including Tours and Action Items
Importance: High

Because of the hearings involving advocacy cases in which Steve Miller will need to testify, several folks from TEGE Headquarters will be in Cincinnati next week to take a tour of our operations, review advocacy cases, etc., in order to prep Steve for the hearings. While the folks from D.C. are in Cincinnati, they plan to review all of the advocacy cases. A separate email will be sent regarding these cases.

The following week three representatives from TIGTA, along with the Acting Director, EO R&A, will be in Cincinnati to take a tour, etc., and as a separate event the Acting Commissioner, TEGE will be visiting.

Following is a schedule by day for the next two weeks of what will be taking place, where, and who will be involved.

April 23 - Visitors and Town Hall from 2:30 to 3:00 (Room 5411)

Holly Paz will hold a short meeting for all agents/managers in Cincinnati that are in the office on this day. Please be certain to pass this information on to specialists in your group. Other folks from TEGE Headquarters will be in Room 7116-D reviewing advocacy cases. Those from TEGE Headquarters who will be in Cincinnati are:

Senior Technical Advisors to Acting Commissioner, TEGE (Rob Malone, Nan Marks, Joe Urban),
Senior Technical Advisor to Director, EO (Sharon Light),
Acting Director, EO R&A (Holly Paz)

April 24 - Tour (CSPC and Room 7106)

The folks from D.C. and I will be taking a tour of the Cincinnati Submission Processing Center (CSPC) starting at 8 a.m. I expect that we will be back to the Federal Building by approx. 10 a.m. Then, a representative from the Screening Group will be needed to conduct a demo in TEDS of the initial screening process. Also, a representative from Group 7822 will be needed to conduct a demo in TEDS of the actions that take place for cases after the initial screening (e.g., assignment of AP/IP or full development and those steps that follow) with a focus on the advocacy cases. Room 7106 has been reserved for the demos. Those who should be in attendance include Peggy Combs (optional), John Shafer, Steve Bowling, and Tyler Chumney, as well as a representative from the Screening Group who will demo the initial screening process and a representative from Group 7822 who will demo actions taken by an agent for full development cases --- I'd recommend Ron Bell since he was one of the TEDS instructors and was also the advocacy case coordinator when we reached out to EOT for coordination. We can discuss on Monday (4/23).

Following the demos, the folks from D.C. will continue reviewing the advocacy cases in Room 7116-D.

April 25 - Meeting with those involved with the Advocacy Cases from 9:00 to ? (Room 7106)

The folks from D.C. would like to have a meeting with Steve Bowling, Tyler Chumney, Ron Bell, and Stephen Seok. This meeting will begin at 9:00 a.m. in Room 7106. After this meeting takes place, the folks from D.C. would like for a few of the agents on the Advocacy Team to join the others. Those who have been identified thus far include Joseph Herr, Liz Hofacre, Mitch Steele, and Carly Young. These folks should plan to come to Room 7112 at approx. 10 a.m. Someone will come to Room 7112 to get them when ready. It is possible that other Advocacy Team members will be added. Therefore, it would be beneficial if all those agents in Cincinnati who are on the Advocacy Team made sure they were in the office and available on 4/25/2012.

Following these meetings, the folks from D.C. will continue reviewing the advocacy cases in Room 7116-D.

April 26 - Folks from D.C. will continue reviewing the advocacy cases in Room 7116-D and will depart at approx. noon.

April 30 - TIGTA visit beginning at 2:30 p.m. (Room 4503)

Holly Paz and I will meet with TIGTA beginning at 2:30 p.m. We will take them to the Processing Section to look at hard-copy cases. Also, Nick Reinhardt will conduct a TEDS demo beginning after 3 p.m. I've requested Room 7106 for the TEDS demo, but may need to have it in Room 4503.

Those from TIGTA who will be in Cincinnati are:

Michael McGovern
Cheryl Medina
Thomas Seidell

May 1 - Tour (CSPC and Room 7106 or 7108)

The folks from TIGTA, along with Holly Paz and I, will be taking a tour of the Cincinnati Submission Processing Center (CSPC) starting at 8 a.m. I expect that we will be back to the Federal Building by approx. 10 a.m. Then, a representative from the Screening Group will be needed to conduct a demo in TEDS of the initial screening process. Also, a representative from Group 7822 will be needed to conduct a demo in TEDS of the actions that take place for cases after the initial screening (e.g., assignment of AP/IP or full development and those steps that follow) with a focus on the advocacy cases. Those who should be in attendance include Peggy Combs (optional), John Shafer, Steve Bowling, and Tyler Chumney, as well as a representative from the Screening Group who will demo the initial screening process and a representative from Group 7822 who will demo actions taken by an agent for full development cases --- I'd recommend

Ron Bell since he was one of the TEDS instructors and was also the advocacy case coordinator when we reached out to EOT for coordination. We can discuss on Monday (4/23).

May 2 - Acting Commissioner, TEGE (Joseph Grant), Director, TEGE Planning (Imraan Khakoo), and Acting Commissioner, TEGE Senior Technical Advisor (Nan Marks) Visit

9:00 - 10:00	Town Hall Session 1, Room 4519
10:30 - 11:30	Town Hall Session 2, Room 4519
1:00 - 2:00	Meeting with Managers, Room 7106
2:15 - 3:00	Automation Tool Demo, Room 7106
3:00 - ?	Meeting with L&E

SFC 001417

From: Thomas Cindy M
Sent: Thursday, May 10, 2012 11:37 PM
To: Paz Holly O
Subject: BOLO Spreadsheet - Description
Attachments: Draft IRM 7 20 4 - Emerging Issues - 05102012.doc

Yes, Group 7822 is responsible for updating the BOLO spreadsheet and sending BOLO Alerts to all EO Determinations specialists and managers when changes are made to the BOLO spreadsheet. One of the areas of responsibility for Group 7822 is Emerging Issues cases.

Issues can be updated on the BOLO spreadsheet for the Watch List, Potential Abusive, or Coordinated Processing by the manager of a particular group sending an email to the manager of Group 7822. For example, if Group 7824 (responsible for potential abusive cases) identifies something from an ATAT meeting, review of cases, etc., the Group 7824 manager or potential abusive case coordinator will send an email to the Group 7822 manager asking that an issue be revised. If there are concerns by the Group 7822 manager about what is being requested, the Group 7822 manager will elevate. For example, one manager previously requested that the Coordinated Processing tab include SEC SEC. The Group 7822 manager took exception with that because he believed we'd need to start adding every type of case we worked, where to draw the line, and the problem with these types of cases was the need for more training. Another example of how an issue is added to the BOLO spreadsheet, EOT manager contacts me to "watch for" certain types of cases that need to be coordinated with EOT. I'll email Group 7822 manager, who has the issue added to the "Watch For" tab on the BOLO spreadsheet, and the coordinator sends a BOLO Alert.

For emerging issues to be added to the BOLO spreadsheet, referrals are sent to Group 7822 and the coordinator reviews and researches the issue. The manager is responsible for consulting with the area manager and/or the EO Determinations program manager to determine how the emerging issue will be handled, i.e., whether I discuss with EOT manager, EO R&A Director, issue paper written, etc.

In June/July 2010, we had CPE and the Spreadsheet was introduced/shared with employees. At that time, I believe very basic information was shared with employees regarding the Spreadsheet and what would be included. Shortly after CPE (in August 2010), we came up with BOLO as the name of the Spreadsheet. Since CPE, when information was shared with employees, we've had a few discussions with managers as to how the process should work but no formal, written procedures have been shared. In October 2011, we started revising IRM 7.20.4 (Specialty Issues IRM), including reviewing, revising, and sending to OTC and Publishing all letters and forms referenced, incorporating written procedures where there are gaps such as Emerging Issues, etc. Refer to draft material prepared for processing Emerging Issue cases.

If you have questions regarding this, please let me know. Thanks.

From: Paz Holly O
Sent: Wednesday, May 09, 2012 11:29 PM
To: Thomas Cindy M
Subject: question re BOLO

One of the things we have been asked by Steve is to think about potential adjustments to the BOLO process going forward. If I understand correctly, the emerging issues group is responsible for updating it. Do I have that right? What's the process for adding to it? Do suggestions come into a centralized place? How is it decided whether or not to put something on and how to describe it?

Thanks!

DRAFT

IRM 7.20.4

7.20.4.9 (MM-DD-YYYY)
Emerging Issues and Coordinated Cases

(1) "Emerging Issues" are issues identified in cases during the determination process which may require additional study, research, or coordination by the designated group for various reasons. An emerging issue is often identified by:

- Multiple applications exhibiting identical or highly similar programs;
- The programs are of a novel, unfamiliar, or unconventional kind;
- Unusual technical questions and issues arise in connection with the common programs;
- Applicable precedent is not immediately obvious; and/or
- There is a change in the related legal or cultural environment (e.g., a change in the law or world events, such as an economic crisis.)

(2) "Coordinated cases" are cases that do not meet emerging issue criteria or other reserved inventory categories but which may be desirable to work in a coordinated fashion to ensure uniformity and consistency of case processing. For example, a group of cases that represent a filing trend rather than simultaneous submission of applications by a few closely related organizations.

(3) Emerging issues and coordinated processing cases will be tracked on the Be On the Look Out (BOLO) spreadsheet (see IRM 7.20.4.9.2.3).

7.20.4.9.1 (MM-DD-YYYY)

Identification and Referral

(1) A specialist may identify a potential emerging issue or cases benefitting from coordinated processing at any stage of processing.

(2) If a potential issue is identified, the specialist will complete Form XXXXX, Potential Referral to Designated Specialty Group.

(a) The form must include clearly stated reasons for the referral.

(b) The case remains with the assigned specialist until he or she receives notice of the disposition of the referral.

(3) The specialist's manager reviews the referral. If the manager agrees with the specialist, he/she signs the referral form. The specialist will send the referral to the manager of the designated group for consideration with a copy to the specialist's manager.

(4) Cases identified in technical screening are forwarded with the approved referral form to the designated group. If related hard copy cases are forwarded, cases should be banded together and marked "related cases".

(5) All referral forms and any related documents should be sent using secure email.

7.20.4.9.2 (MM-DD-YYYY)
Receipt and Review of Referral by the Designated Group

(1) The designated EO Determinations group selects a primary coordinator.

(2) The coordinator reviews the referral form and makes one of the following recommendations:

- Coordinated handling of the related cases is warranted
- The issue identified qualifies as an emerging issue
- The referral should not be accepted
- The referral involves a potential abusive transaction and/or fraud issue and is discussed with the coordinator in the group designated to work those cases before any recommendation is made.

(3) Accepted referrals are reviewed by the coordinator's manager for concurrence.

(4) If the referral is not accepted, an explanation of why it was not accepted is sent to the referring group's manager.

(5) If a referral from the screening group is not accepted, cases will be rescreened according to procedures set forth in IRM 7.20.2.3.

7.20.4.9.2.1 (MM-DD-YYYY)
Identified Emerging Issues

(1) The group manager will assign a specialist to study the emerging issue.

(2) The coordinator will identify and locate all open cases meeting the profile of the emerging issue.

(3) The assigned specialist will:

(a) Conduct research on the identified issue;

(b) Present his or her conclusions and the research upon which they are based to the group manager; and

(c) Consult with the group manager to determine which cases should be assigned to the emerging issues group.

(4) The group manager will consult with the area manager and/or the EO Determinations program manager to determine whether an issue paper should be prepared to assist upper management in deciding how the emerging issue is to be handled. If appropriate:

(a) The specialist will draft the issue paper.

(b) The group manager will review and perfect the issue paper and will elevate it to the area manager.

(c) The area manager will review and share the final issue paper with the EO Determinations program manager.

(d) The program manager will discuss the issue with EO Determinations senior management and/or EO Rulings and Agreements in the Washington Office, as deemed necessary, to determine the appropriate handling of the emerging issue and will communicate its decision down to the group manager.

(5) The emerging issue coordinator will:

(a) List instructions in the "Disposition" column of the worksheet for EO Determinations personnel to follow, and

(b) Will, if the emerging issue is accepted, add the issue and its description to the "Emerging Issues" tab of the BOLO spreadsheet (see IRM 7.20.4.9.2.3).

(6) The coordinator will disseminate the decision to the groups through a follow-up alert and will update the information in the BOLO spreadsheet, as necessary.

7.20.4.9.2.2 (MM-DD-YYYY)
Identified Coordinated Processing Cases

(1) If the coordinator's manager agrees that coordinated case processing may be appropriate, he or she will assign the coordinator or another specialist to create an action plan.

(a) The action plan will include specific proposals for consistent handling of the cases.

(b) The action plan will be elevated to management.

(2) Management will communicate to the group manager its decision concerning the handling of the cases in question.

(3) If the management decision is made to coordinate the working of the cases, the coordinator will add the issue to the "Coordinated Processing" tab of the BOLO spreadsheet along with the approved instructions for handling of the cases.

(4) The coordinator will issue an email alert to the groups notifying them of the new coordinated processing issue including a brief description of any actions to take.

DRAFT

(5) The coordinator will update the issue on the spreadsheet and issue follow-up alerts, as appropriate.

7.20.4.9.2.3 (MM-DD-YYYY)
Be On the Look Out (BOLO) Spreadsheet and E-mail Alerts

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

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

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

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

(2) The Emerging Issues coordinator will maintain the combined spreadsheet including:

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

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

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

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

(e) Updating the spreadsheet as instructed by the group manager.

(3) EO Determinations groups will be notified of new Watch List items, Potential Abusive Transaction and Fraud Issues, Emerging Issues, and Coordinated Processing cases through single e-mail alerts. When there is any change or update to the status or procedural handling of any listed issue/case, a follow-up alert will be disseminated by e-mail.

(4) The Emerging Issues coordinator is responsible for issuing all e-mail alerts.

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

DRAFT

SFC 001425

From: Thomas Cindy M
Sent: Thursday, May 24, 2012 3:25 PM
To: Bibb Kenneth B
Cc: Adigun Sonya I; Day Crystal B
Subject: Advocacy Cases -- Favorable Closures
Attachments: Phone Script favorable advocacy case (5 24 12).doc; favorable c4 ltr with educational language re political activity 5 24 12.doc

Importance: High

Ken,

The wording for the favorable determination letters is attached. Per Steve Miller's request, these cases need to be closed by COB 5/25/2012. If these cases will be taken to Processing to close, please make certain that they know the cases must be closed by COB 5/25/2012. Thanks so much!

-----Original Message-----
From: Paz Holly O
Sent: Thursday, May 24, 2012 3:24 PM
To: Thomas Cindy M
Subject: RE: Emailing: Phone Script favorable advocacy case (5 24 12).doc, favorable c4 ltr with educational language re political activity 5 24 12.doc

Yes and yes. We call all orgs that got a development letter but have not yet responded and put addendum 1 in their letters. We don't need to call orgs that responded to the development letter(s) or orgs that didn't get a development letters (the newer cases).

Thank you!

-----Original Message-----
From: Thomas Cindy M
Sent: Thursday, May 24, 2012 3:06 PM
To: Paz Holly O
Subject: FW: Emailing: Phone Script favorable advocacy case (5 24 12).doc, favorable c4 ltr with educational language re political activity 5 24 12.doc
Importance: High

To clarify....

Are we required to call the c4 applicants that received a development letter in all cases where they didn't respond and we're issuing a favorable letter (phone script)? And, we are also required to include the paragraph on the letter for these cases before issuing the letter (favorable c4 ltr with paragraph 1)?

-----Original Message-----
From: Paz Holly O
Sent: Thursday, May 24, 2012 2:50 PM
To: Thomas Cindy M
Subject: Emailing: Phone Script favorable advocacy case (5 24 12).doc, favorable c4 ltr with educational language re political activity 5 24 12.doc

Here are the approved phone script and c4 favorable letter. Thank you!

SFC 001427

Internal Revenue Service
P.O. Box 2508
Cincinnati OH 45201

Department of the Treasury

Date:

Employer Identification Number:

Person to Contact and ID Number:

Name of Organization
Address

Toll Free Contact Number:
(877) 829-5500
Accounting Period Ending: **[8010]**
(Variable)
Form 990 Required: **[8012]**
(Variable)
Effective Date of Exemption: **[8013]**
(Variable)
Contribution Deductibility: **[8014]**
(Variable)
Addendum Applies: **[8015]**
(Variable)

Dear Applicant:

[1] We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code. **Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.**

(Required – Variable)

[4] Please see enclosed Publication 4221-NC, Compliance Guide for Tax-Exempt Organizations (other than 501(c)(3) Public Charities and Private Foundations), for some helpful information about your responsibilities as an exempt organization.

(Automatic)

[5999]

Sincerely,

(Automatic)

[8500]

Lois G. Lerner
Director, Exempt Organizations

(Automatic)

[8610] Enclosure: Publication 4221-NC

(Automatic)

Letter 948 (Rev. 09/23/09)

Addendum for Use in Favorable Advocacy Org C4 Cases in Which Applicant Was Sent a Development Letter But Has Not Yet Responded

Please note that we have just completed another review of your request to be recognized as tax-exempt under section 501(c)(4) of the Internal Revenue Code. Based on that review, we concluded that we do not need the additional materials previously requested because your application and materials provide sufficient information.

Addendum for Use in ALL Favorable Advocacy Org C4 Cases

Enclosed with this letter is an educational booklet about the various tax law requirements applicable to section 501(c)(4) organizations. Additional information about these various requirements is available at www.irs.gov/charities. For example, as discussed in pages 3-5 of the enclosed Pub 4221-NC, section 501(c)(4) organizations may attempt to influence the selection, nomination, election or appointment of an individual to a federal, state, or local public office (political campaign activity). However, political campaign activity does not further a section 501(c)(4) exempt purpose and, together with all other non-exempt activity, cannot be the organization's primary activity. We hope you will find this information helpful and encourage you to review it carefully.

Script – Phone Calls to Favorable Advocacy Org Cases With Outstanding Development Letter

Hello. My name is _____. I am calling about the application for recognition of tax-exempt status submitted by [insert applicant name]. The IRS previously sent you a request for additional information, and I believe we haven't yet received a response. But, we've taken another look at your application and materials, and have concluded that we have sufficient information to make a decision without the requested information. I am pleased to tell you that we have determined that [insert applicant name] qualifies for exemption under 501(c)(4). You should receive your determination letter within two weeks.

IF asked why it took so long:

I'm sorry for the difficulty you have had getting exempt status. We received an increased number of applications for 501(c)(4) status that were different from what we have seen in the past. We needed to understand the activities being conducted so we could make sure that those activities are consistent with what the tax law allows.

SFC 001430

From:	Thomas Cindy M
Sent:	Thursday, June 28, 2012 10:25 PM
To:	Ng Faye H; Estes Janine L; Herring Donald Grant; Garuccio Jodi L; Young Carly; Herr Joseph R; Steele Mitchell P
Cc:	Bibb Kenneth B; Lahey Victoria; Brinkley Lynn A; Waddell Jon M; Lewis Jovonnie; Berry Daniel W; Chumney Tyler N; Bell Ronald D; Combs Peggy L; Esrig Bonnie A; Sheer Mary; Bowling Steven F
Subject:	FW: Clarification of Various Issues Regarding Advocacy Case Processing
Attachments:	donor info letter.doc; Phone Script favorable advocacy case (5 24 12).doc; favorable c4 ltr with educational language re political activity 5 24 12.doc
Importance:	High

Please read Holly's email below. If you have questions/concerns, please elevate them. Thanks.

From: Paz Holly O
Sent: Wednesday, June 27, 2012 11:46 PM
To: Thomas Cindy M
Cc: Light Sharon P
Subject: FW: clarification of various issues regarding advocacy case processing
Importance: High

I want to provide some clarification as to certain scenarios that have arisen as folks work the bucket 1 and bucket 2 advocacy cases.

1. Donor names - If we asked an org for donor names and the org provided them, we need to expunge that info from the file and send the applicant a letter to that effect (refer to Attachment 1). If we asked for the names but the org did not provide them, no need to send the letter re: expunging the file; the favorable can be issued (bucket 1) or a development letter can be sent (bucket 2).

2. Outstanding development letter - (a) If the org was previously sent a development letter and (b) has not yet responded and (c) we are sending a new development letter, we need to call the org before sending the new development letter to explain that we have just completed another review of the file and all we need is x, y, z to be described in letter and they should disregard the old letter (refer to Attachment 2 and Attachment 3 addendum 1 and modify accordingly). The new development letter should contain some language similar to the following :

   e.g., Please note that we have just completed another review of your request to be recognized as tax-exempt under section 501(c)(x) of the Internal Revenue Code. Based on that review, we concluded that we do not need all of the additional material previously requested. The information we need is as follows :

3. Autorevocation- If research reveals that the applicants are already autorevoked by operation of law, the cases should be held until further notice. Applicants that are not yet autorevoked but will be in the near future, if they don't file soon, should be contacted and reminded to file.

4. As we discussed in the training and bucketing, there is no need to engage in extensive development regarding each and every activity that may constitute political campaign intervention. The key question is, if those activities were political intervention, does the applicant have sufficient social welfare activity to meet the primary test.

5. In the process of bucketing the cases, the bucketers looked at applicants' websites and other publicly available information on the applicants. As this research was conducted just a few weeks ago, there is no need for the individuals drafting development letters to organizations in bucket 2 to conduct additional research.

SFC 001432

Dear Applicant:

On [date], we requested additional information regarding your application for recognition of tax-exempt status under section 501(c)(x). Included in this request for additional information was a request for information concerning donors.

The information regarding donors was requested in error and was not used in the consideration of your application for tax-exempt status. Accordingly, we have expunged such information and it will not become part of your application file.

If you have any questions regarding this letter, please contact the person ….

Addendum 1 for Use in Favorable Advocacy Org C4 Cases in Which Applicant Was Sent a Development Letter But Has Not Yet Responded

Please note that we have just completed another review of your request to be recognized as tax-exempt under section 501(c)(4) of the Internal Revenue Code. Based on that review, we concluded that we do not need the additional materials previously requested because your application and materials provide sufficient information.

Addendum 2 for Use in ALL Favorable Advocacy Org C4 Cases

Enclosed with this letter is an educational booklet about the various tax law requirements applicable to section 501(c)(4) organizations. Additional information about these various requirements is available at www.irs.gov/charities. For example, as discussed in pages 3-5 of the enclosed Pub 4221-NC, section 501(c)(4) organizations may attempt to influence the selection, nomination, election or appointment of an individual to a federal, state, or local public office (political campaign activity). However, political campaign activity does not further a section 501(c)(4) exempt purpose and, together with all other non-exempt activity, cannot be the organization's primary activity. We hope you will find this information helpful and encourage you to review it carefully.

Script – Phone Calls to Favorable Advocacy Org Cases With Outstanding Development Letter

Hello. My name is _____. I am calling about the application for recognition of tax-exempt status submitted by [insert applicant name]. The IRS previously sent you a request for additional information, and I believe we haven't yet received a response. But, we've taken another look at your application and materials, and have concluded that we have sufficient information to make a decision without the requested information. I am pleased to tell you that we have determined that [insert applicant name] qualifies for exemption under 501(c)(4). You should receive your determination letter within two weeks.

IF asked why it took so long:

I'm sorry for the difficulty you have had getting exempt status. We received an increased number of applications for 501(c)(4) status that were different from what we have seen in the past. We needed to understand the activities being conducted so we could make sure that those activities are consistent with what the tax law allows.

From: Thomas Cindy M
Sent: Thursday, June 28, 2012 10:49 PM
To: Paz Holly O
Subject: RE: updated advocacy numbers

Holly,

Our numbers are what I sent a couple of days ago:

41 cases approved
31 development letters sent to bucket 2 organizations

From: Paz Holly O
Sent: Wednesday, June 27, 2012 4:23 PM
To: Abner Donna J; Thomas Cindy M
Subject: updated advocacy numbers

We are meeting with Steve and Sarah on Friday to provide an update on these cases. Please send me updated numbers of favorables issued, bucket 2 development letters sent, number of Quality reviews completed (broken out separately for c3 and c4) and number of disagreements by Friday morning. Thanks!

SFC 001435

IRS0000005239

From: Thomas Cindy M
Sent: Tuesday, October 30, 2012 9:12 PM
To: Paz Holly O
Subject: Issue from Advocacy Team Meeting Held 10/30/2012

Holly,

I had a meeting with the advocacy team this morning to go over some general inventory information regarding #'s of cases, to discuss the QA process, and to address any of their concerns.

Regarding QA - thus far, 3 cases were returned on checksheets after QA approved the cases. I view these as "advisory" memos. Joseph Herr reviewed all 3 and indicated that it was just "picky" stuff. But, we did ask the specialists to spend a little more time documenting workpapers for these cases.

An issue that was raised that I need to elevate is regarding the bucket 4 cases. Specifically, only a handful of cases are assigned to Mitch and Joseph. They indicated that they don't know what to do when responses are received. Who is their contact? Are they supposed to send copies of responses to the contact in D.C.? If not, what action is required on their part? Also, they are concerned that with the pace that is taking place that they'll be working the bucket 4 cases until they retire (this isn't intended to be a flip comment, but rather a sincere concern). We all understand why several people are reviewing the files, but are certain folks working this exclusively to make sure these cases are moving? I explained to them that when referrals are sent to EO Exam for political type cases a team of 3 review the referral to make the decision as to whether an organization will be audited --- again, they do got it. Additionally, I told them I wasn't 100% sure but believe some of the same folks reviewing the bucket 4 cases are the ones who were reviewing the copies of the c4 cases we had to send in response to the Congressional request. Anyway, it would be helpful if a POC was identified for them or if some guidance was provided specifying under which circumstances they need to contact D.C. after receiving responses from the organizations. .

NOTE: Joseph is going to start making contact with all the c3 bucket 4 cases to see if they are willing to change to c4 if we determine that c4 is more appropriate.

SFC 001437

From: Thomas Cindy M
Sent: Saturday, April 27, 2013 2:25 PM
To: Estes Janine L; Ng Faye H; Herr Joseph R; Steele Mitchell P; Herring Donald Grant; Young Carly; Garuccio Jodi L
Cc: Bowling Steven F; Waddell Jon M; Chumney Tyler N; Brinkley Lynn A; Combs Peggy L; Phegley Joseph Kevin; Lahey Victoria; Angner William J; Lewis Jovonnie
Subject: Political Advocacy Cases

Until further notice, you don't need to request new political advocacy cases for assignment. I spoke with Holly on Friday regarding these cases and the fact that development letters sent to D.C. as late as October 2012 still haven't been reviewed. Holly indicated that there is going to be a change in the process.

Specifically, you won't be sending development letters to your individual contacts. Instead, they will all be sent to Sharon Light, who will control them. Also, Sharon will forward them to a reviewer as the reviewer needs work. This should eliminate some of the backlog going forward because some of the reviewers in D.C. have other work on their plates.

Holly will let us know when the change in process is in effect, and when we need for you to start requesting new political advocacy cases for assignment.

If you have any questions/concerns, as always, please elevate them through your manager. Thanks for your cooperation.

SFC 001438

From: Paz Holly O
Sent: Friday, November 02, 2012 5:31 AM
To: Lerner Lois G
Cc: Marx Dawn R
Subject: TIGTA
Attachments: Lerner answers TIGTA questions (advocacy) (final).doc

Here is the final clean version of your answers.

IRS0000005950

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

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

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

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

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

To ensure consistent treatment of applications, EO Determinations had long been alerting its specialists to emerging issues by sending emails describing particular issues or factual situations warranting additional review or coordinated processing. Because it was difficult to keep track of all of these separate email alerts, EO Determinations staff requested a consolidated list of all such alerts. EO Determinations was developing the Be On the Lookout (BOLO) list in early 2010. The BOLO, which is an Excel spreadsheet, provides a centralized source of regularly updated information to EO Determinations specialists about potentially abusive organizations or fraud issues, issues and cases requiring coordinated processing, emerging issues and issues for which to watch. The

BOLO currently includes four tabs: (1) Potential Abusive, (2) Emerging Issues, (3) Coordinated Processing, and (4) Watch List.

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

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

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

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

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

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

From: Heagney Nancy L
Sent: Thursday, July 29, 2010 2:13 PM
To: Bell Ronald D; Garuccio Jodi L; Hofacre Elizabeth L; Eckard Diane M; Combs Richard A; Schlaack Jr Edward S; Wan Sherry Q; Chumney Tyler N; Kallman Thomas M; McGee John J; Doeker David A; Krebs Shawndea G; Pomerantz Edward J; Perkins Edwina; Dornette Tracy; Bantly Scott P; Young Carly; Garrett April; Hanson Michael J; Bothe Larry W; Condon Michael W; Ludwig Michael A; Chen Julie; Mayi Sirijun; Steele Mitchell P; Herring Donald Grant; McDonald Jacob A; Brown Christopher R; Maloney Susan; Robinson Sheila M; Liggett Yvonne; Cummins Faith E; Gentry Diane M; Luk Zenia; Seok Stephen D; Franczak Cara D; McLaughlin Geraldine R; Laux Joseph J; Sheer Mary; Brandes James A; Lee Winnie; Johnson Felicia; McCoy Joy; Batey Karen A; Kennedy Joseph R; Royce Sherri L; Kowalczyk Chad A; Lahey Victoria; Lawrence Dorothy M; Slaughter David L; Estes Janine L
Cc: Shafer John H; Beckerich Karl J; Monford Rochelle; Muthert Gary A; Schaber Dale T; Vance Roger W; Koester John J; Kiser Joan C; Kitchens Kimberly L; Norton Renee Railey; Sanders Shawntel R; Trimble Del L; Collins Glenn W; Cullen Jeffery A; Yee Elsie S; Yee Ling F; Nicolin Jennifer A; Van Der Sluys Lisa M
Subject: RE: Screening Workshop
Attachments: Screening Workshop July 28 2010 Summary.doc

Here are the Screening Workshop meeting minutes.

Nancy

From: Heagney Nancy L
Sent: Tuesday, July 27, 2010 6:23 PM
To: Heagney Nancy L; Bell Ronald D; Garuccio Jodi L; Hofacre Elizabeth L; Eckard Diane M; Combs Richard A; Schlaack Jr Edward S; Wan Sherry Q; Chumney Tyler N; Kallman Thomas M; McGee John J; Doeker David A; Krebs Shawndea G; Pomerantz Edward J; Perkins Edwina; Dornette Tracy; Bantly Scott P; Young Carly; Garrett April; Hanson Michael J; Bothe Larry W; Condon Michael W; Ludwig Michael A; Chen Julie; Mayi Sirijun; Steele Mitchell P; Herring Donald Grant; McDonald Jacob A; Brown Christopher R; Maloney Susan; Robinson Sheila M; Liggett Yvonne; Cummins Faith E; Gentry Diane M; Luk Zenia; Seok Stephen D; Franczak Cara D; McLaughlin Geraldine R; Laux Joseph J; Sheer Mary; Brandes James A; Lee Winnie; Johnson Felicia; McCoy Joy; Batey Karen A; Kennedy Joseph R; Royce Sherri L; Kowalczyk Chad A; Lahey Victoria; Lawrence Dorothy M; Slaughter David L; Estes Janine L
Cc: Shafer John H; Beckerich Karl J; Monford Rochelle; Muthert Gary A; Schaber Dale T; Vance Roger W; Koester John J; Kiser Joan C; Kitchens Kimberly L; Norton Renee Railey; Sanders Shawntel R; Trimble Del L; Collins Glenn W; Cullen Jeffery A; Yee Elsie S; Yee Ling F; Nicolin Jennifer A; Van Der Sluys Lisa M
Subject: RE: Screening Workshop

Attached is a handout for the screening workshop and the agenda.

Nancy

From: Heagney Nancy L
Sent: Tuesday, July 20, 2010 2:23 PM
To: Bell Ronald D; Garuccio Jodi L; Hofacre Elizabeth L; Eckard Diane M; Combs Richard A; Schlaack Jr Edward S; Wan Sherry Q; Chumney Tyler N; Kallman Thomas M; McGee John J; Doeker David A; Krebs Shawndea G; Pomerantz Edward J; Perkins Edwina; Dornette Tracy; Bantly Scott P; Young Carly; Garrett April; Hanson Michael J; Bothe Larry W; Condon Michael W; Ludwig Michael A; Chen Julie; Mayi Sirijun; Steele Mitchell P; Herring Donald Grant; McDonald Jacob A; Brown

SFC 001443

Christopher R; Maloney Susan; Robinson Sheila M; Liggett Yvonne; Cummins Faith E; Gentry Diane M; Luk Zenia; Seok Stephen D; Franczak Cara D; McLaughlin Geraldine R; Laux Joseph J; Sheer Mary; Brandes James A; Lee Winnie; Johnson Felicia; McCoy Joy; Batey Karen A; Kennedy Joseph R; Royce Sherri L; Kowalczyk Chad A; Lahey Victoria; Lawrence Dorothy M; Slaughter David L; Estes Janine L
Cc: Shafer John H; Beckerich Karl J; Monford Rochelle; Muthert Gary A; Schaber Dale T; Vance Roger W; Koester John J; Kiser Joan C; Kitchens Kimberly L; Norton Renee Railey; Sanders Shawntel R; Trimble Del L; Collins Glenn W; Cullen Jeffery A; Yee Elsie S; Yee Ling F; Nicolin Jennifer A; Van Der Sluys Lisa M
Subject: Screening Workshop

Good afternoon,

We will have a screening workshop on Wednesday, July 28th at 10:00 a.m. in Room 4519. We do not anticipate this lasting more than a couple of hours. We would appreciate it if you could attend.

Nancy Heagney

Screening Workshop Notes - July 28, 2010 1

Participants included members of the screening group, embedded screeners from Cincinnati, west coast screeners, selected secondary screeners, TE/GE EO Quality Assurance's Staff and Area 1 & 2 Managers. The workshop agenda, PowerPoint and attachments were presented to participants via email.

Topics and Highlights

Opening Statements: John Shafer

- Welcomed participants.
- Encouraged participants to email topics for inclusion in our next Workshop.
- Current workshop is to provide an update on current issues and concerns.
- Floor was turned over to Presentators. Topics/Presentators follow:

Healthcare Reform: Roger Vance/John Schafer

- Re-empathized items listed on the Healthcare Memorandum are subject to Mandatory Secondary Screening.
- Any reference to "Patient Protection and Affordable Care Act" and the "Health Care and Education Reconciliation Act of 2010" still requires Secondary Screening.
    - Wayne Bothe, Secondary Screener indicated that Health Care does not include the following:
        - Elderly Housing
        - Assisted Living
- New Topics/Phrases that require Secondary Screening include:
    - "Accountable Care" Organizations,
    - "Additional Medicare Payments to Physician Medicare based upon Quality Care."
- Any topic that you believe, or think, that it might be related to Health Care should be subject to Secondary Screening. John Shafer - "Err on the side of caution".
- VEBAs must be screened by Group 7824 and should not be screened out.
- Initial Screeners should not assign the T# for Health Care; utilize the Category # for Secondary Screening as presented on the new 51 Sheet and/or TEDS.

Organization filing after 27-Month their Formation: Glenn W Collins/John Shafer

- Glenn provided a brief summary as to why a secondary screening process was created.
- Pension Protection Act of 2006 created the legal requirement for organizations not required to file Form 990* to notify the IRS within three years of exemption. Failure to do so creates Automatic Revocation of Exemption.
    - *This requirement does not include Churches or Church-Related Organizations- and are not subject to the Automatic Revocation.
    - An opportunity for a one-time relief from revocation has been presented.
    - As a result automatic revocations have been delayed until January 2011.
    - Once effective automatic revocations will reflect ST 97.
- Three characteristics were identified that mandates transfer to Group 7822 for Secondary Screening and IDRS research.

- The emailed attachment outlines the overall process.
- Glenn deferred additional statements and/or questions to John Shafer on yesterday's developments; how they affect the screening process and timeline.
- Concerns can be directed to Glenn for additional research if necessary.

Current/Political Activities: Gary Muthert

- Discussion focused on the political activities of Tea Parties and the like-regardless of the type of application.
- If in doubt Err on the Side of Caution and transfer to 7822.
- Indicated the following names and/or titles were of interest and should be flagged for review:
    - 9/12 Project,
    - Emerge,
    - Progressive
    - We The People,
    - Rally Patriots, and
    - Pink-Slip Program.

- Elizabeth Hofacre, Tea Party Coordinator/Reviewer
    - Re-empathize that applications with Key Names and/or Subjects should be transferred to 7822 for Secondary Screening. Activities must be primary.
    - "Progressive" applications are not considered "Tea Parties"

Disaster Relief: Renee Norton/Joan Kiser

- Advise audience that buzz words or phrases include:
    - "X" Rescue
    - References to the Gulf Coast, Oil Spills,
- Reminded screeners that Disaster Relief is controlled by 7838, and then forwarded to Group 7827, for Secondary Screening.
- Denied Expedites worked by initial screener:
    - Complete Expedite Denial CCR, place on left side of file.
    - Email Renee or Joan with specific reason why expedite was denied and disposition (i.e. AP, IP, 51).
    - Place Post-It on Orange Folder advising Karl
        - "Denied Expedite / Fwd to M Flammer."

Power of Attorneys: Nancy Heagney

- Form 2848 that references 990, 941 or the like should be
    - Printed and annotate on the bottom per procedures
    - Documentation on TEDS should be made.
        - See Interim Guidance located on Public Folders.

Closing Sheets: Gary Muthert

- Closing Sheets should not cover pertinent info on the AIS sheet or EDS' 8327.
- Case Grade and Data (e.g. NTEEs) must be correctly presented and accurately depict the case's complexity and purpose.
    - Inaccurate presentations create processing delays.
    - Steve Bowling, Mgr 7822 "Volumes of cases are graded incorrectly."
    - EDS and TEDS must Agree to achieve desire business results

Credit Counseling (CC)

Stephen Seok

- Re-stressed impact that section 501(q) had on purely educational cases.
    - Cases are fully developed as 501(q) Credit Counseling Cases.
    - Key analysis is whether financial education and/or counseling activities are "substantial".
    - Cases with financial education and/or financial counseling- substantial or insubstantial are still subject to Secondary Screening until further notice.
    - Continue to document the analysis as "Substantial" or "Insubstantial" on the CC Check-sheet.
    - Feedback on cases received is in process.

TAG

Jon Waddell

- The New List will be completed and issued this week- approximately 7/30/10.
- Sharing a Drive on the Server has created the delay/dilemma.
- Monthly Emails will restart shortly after the List's distribution.
- Listing will include the following:
    - Touch and Go, Emerging Issues and Issues to Watch For.
    - Annie Martin Cases* (Puerto Rico based low-income housing) are considered "Potential Abusive Cases".
    - Grant People Cases (Las Vegas, NV) should continue to be sent to TAG Group for re-screening

    *LCD referrals are in process since both have questionable practices.

SFC 001447

From: Paz Holly O
Sent: Monday, May 06, 2013 1:47 PM
To: Lerner Lois G; Light Sharon P
Subject: FW: Proposed Denial - Political c4

Our first proposed denial of a c4 advocacy case [redacted] will be issued tomorrow.

1

IRS0000007348

From: Thomas Cindy M SFC S
Sent: Tuesday, July 02, 2013 9:06 AM
To: Schiller Karen M
Subject: FW: TAG Alert

From: Westcott Cindy M
Sent: Wednesday, April 18, 2007 12:24 PM
To: Waddell Jon M
Cc: Camarillo Sharon L; Abner Donna J; Lieber Theodore R
Subject: FW: TAG Alert

Jon,

When TAG alerts are sent out in the future, please be sure to copy me, Donna Abner, and Ted Lieber on the e -mails. Ted will be responsible for disseminating the information to others in D.C. should he deem it necessary. Thanks.

From: Camarillo Sharon L
Sent: Tuesday, April 17, 2007 3:48 PM
To: Westcott Cindy M
Subject: FW: TAG Alert

fyi

Sharon L. Camarillo
EO Determinations Manager, Area 1

9350 E. Flair Drive
El Monte, CA 91731-2885

Telephone: SFC
Fax: SFC

From: Waddell Jon M
Sent: Tuesday, April 17, 2007 7:01 AM
To: Shankling Lonnie; Calvin Juliette; Haley Philip H; Armstrong Richardson Dorothy J; Jefferson White Beverly J; Cogburn Lee D; Combs Peggy L; Jett Jennifer A; Barker Terry L; Steele Mitchell P; Lewis Jovonnie; Herr Joseph R; Angner William J; Westerkamm JoAnn; Shafer John H; Bailey John P
Cc: Bibb Kenneth B; Werner Connie M; Camarillo Sharon L; Robinson Cynthia L; Hofacre Elizabeth L; McGee John J; Kallman Thomas M; Stuerenberg Nancy L
Subject: TAG Alert

SFC 001449

Good Morning,

The following four areas have been identified for a TAG Alert. Information is as follows:

1 SEC[redacted]

This is a consistentency issue and two applications have been received thus far from SEC[redacted]. Activity is to provide guidance t SEC[redacted] o SEC[redacted]. Cookie-cutter applications. No evidence of a preparer/POA. TAG # 201.

2. SEC[redacted]

This a potential abusive issue. These are applications fro SEC[redacted] with high potential for LLC involvement. Cookie-cutter applications and the POA i SEC[redacted]. TAG #202

3. SEC[redacted]

Potential Cookie Cutter preparer. Has currently submitted three applications revolving around the provision of community services. All three appear to be similar.

4. SEC[redacted]

Potential Cookie Cutter preparer. Organization has submitted three applications to date that are similar and are all involved in outreach ministires.

Note: Items #3 and #4 have not yet been assigned TAG #'s but will be soon.

thanks

Jon

SFC 001450

From: Thomas Cindy M [SFC]>
Sent: Tuesday, July 02, 2013 9:20 AM
To: Schiller Karen M
Subject: FW: TAG info
Attachments: Closures and Open Inventory Breakdown by Group - Draft(1).xls; BOLO Spreadsheet 02 02 11.xls

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From: Thomas Cindy M
Sent: Wednesday, March 16, 2011 4:12 PM
To: Paz Holly O
Subject: FW: TAG info

Holly,

Information you requested regarding the TAG group and program was incorporated into the original email below.

As far as Lois' email below dated 3/11/2011, I think it may be unclear to folks that the TAG group is just 1 of 13 EO Determinations groups. The TAG group has designated cases that it works just like the other 12 groups in EO Determinations. In fact, most of the groups have more than one category of cases assigned to them. For example, one group works charter schools and farmers' co -ops, another group works foreclosure assistance/downpayment assistance/credit counseling cases, another group works p otential emerging issues and potential auto revocation cases, another carbon credit cases/VEBAs/foreign organizations, and on and on. The reason we took this step was to improve quality, decrease time per case, improve customer satisfaction, and improve e mployee/manager satisfaction so that everyone did not need to be a technical expert in every area.

If we do away with the TAG group, then every group and every specialist who gets a potential terrorist case (for example) will be coordinating with D.C., every specialist/manager will need to spin his/her wheels figuring out how to coordinate with FIU should a potential fraudulent situation occur, etc. That doesn't seem to be a very efficient process. If we are going to take away the designated cases fo r that group, then why have a foreclosure assistance group, why have a charter school group, why not spread the tea party cases out to everyone, etc.? I will say, however, that I don't have a problem if a decision is made to not include the TAG group in a ll the coordination efforts that take place between ATAT, EO Exam, etc. We don't do that with the other types of cases we work. We simply coordinate with EOT and EODQA when we have emerging issues such as tea party cases, or other new issues such as heal th care, foreclosure assistance, etc.

If you have any questions/concerns regarding the information provided, please let me know. Thanks.

From: Paz Holly O
Sent: Friday, March 11, 2011 4:57 PM
To: Lerner Lois G; Thomas Cindy M
Subject: Re: TAG

We're prepping for this meeting. Cindy is pulling together a bunch of data I have requested based on conversations you and I had. We will get on your calendar as soon as we have that information ready.

Sent from my BlackBerry Wireless Device

SFC 001451

From: Lerner Lois G
To: Paz Holly O; Thomas Cindy M
Cc: Downing Nanette M; Letourneau Dian e L
Sent: Fri Mar 11 14:15:35 2011
Subject: TAG

I'm sending this so I won't lose the thought. I'd like us to schedule a status on TAG and have a seriously discussion of the pros and cons. In my overall look at processes we've designed over the last several years, I want to better understand its utility and explore whether we should maintain it as is, change it, or get rid of it altogether. No hurry--just don't want it to fall through the cracks.

Lois G. Lerner
Director, Exempt Organizations

From: Paz Holly O
Sent: Friday, February 18, 2011 4:29 PM
To: Thomas Cindy M
Subject: TAG info

The info Lois would like in advance of the meeting about the tag group you and I discussed is:

number of employees in this group :

Total 13 (9 grade 12, 3 grade 13, 1 manager). One of the grade 13 agents serves as an anti-terrorism coordinator/liaison between EO Determinations groups and the Washington Office. Another grade 13 agent serves as a potential fraud and abusive tax avoidance schemes coordinator/liaison between the FIU and EO Determinations groups.

number of cases worked by the group (see attached)*

average cycle time of cases in this group (see attached)*

*The way EDS attributes cases to groups may adversely impact what we are trying to get at here. This is because EDS tracks data by specialist number and not by gr oup number. EDS will move all cases (open or closed) in a specialists number into and out of the TAG group as specialists move in and out. Specifically, anybody that was in the TAG group in 2009 but no longer there, will not have their cases counted for the 2009 closures. Anybody that wasn't in the TAG group then but moved there now, will have there closures from 2009 counted for the TAG group even though they weren't closed by the TAG group.

average age of cases currently open in tag (see attached)

list of categories of cases/issues that are worked in tag :

1. Foreign Conduits SFC [redacted]

2. Anti Terrorism Cases SFC [redacted]

SFC 001452

SFC [redacted]

3. Abusive Tax Avoidance Schemes: This category encompasses several case types such as the following:

- TAG #18 (Non Foreign Conduits): SFC [redacted]
- Corporation Soles: SFC [redacted]
- Abusive Promotions and Promoters: SFC [redacted]
- Referrals from other specialists: SFC [redacted]

4. Fraudulent Determination Letter SFC [redacted]

Based on the discussion you and I had the other day, information about how other emerging issues are worked would also be useful.

Most new emerging issues are identified by screeners through the initial screening process, for example tea party cases. When these potential emerging issue cases are identified, they are assigned to the group designated to work emerging issues. The category of cases are included on an Excel spreadsheet we refer to as "Be On the Look Out" (BOLO) under the tab "Emerging Issues." This spreadsheet is also used to identify TAG cases, TAG historical cases, Coordinated Processing cases, and "Watch For" cases. "Watch for" cases are almost always identified by EOT and brought to our attention. The BOLO spreadsheet is disseminated to managers and specialists so that they have a consolidated list to reference and don't need to keep indiv idual emails, etc. We require screeners and specialists to review the BOLO spreadsheet as part of their case review process. The latest BOLO spreadsheet that was disseminated to EO Determinations specialists and managers is attached.

The purpose of assigning emerging issue cases to one designated group is so that: 1) we are consistent in our approach in working these cases, and 2) we can minimize time charges to cases. When we have an emerging issue category, the applications have many similarities. The cases are usually assigned to one or two specialists who can work them in batches because they don't need to spend time familiarizing themselves with the issues, law, etc., and can ask many of the same questions in developmental letters.

The only current open emerging issue category we have are the tea party cases. I believe we have approximately 90 of these applications assigned to one specialist who is coordinating with a TLS in EOT.

Although we verbally communicated the emerging issue process t o managers and employees, we are still in the process of developing a referral form and writing formal procedures for processing these type cases so that specialists/managers have a complete understanding of the process. The intent is that when the emergi ng issue is closed, we will prepare an issue paper that will be maintained in our technical files available to all specialists as a way of transferring knowledge. Also, we will notify employees that the issue has been closed and provide them with the loca tion of the issue paper.

No time yet set for the meeting. Would be great if we could get the info together by mid -March.

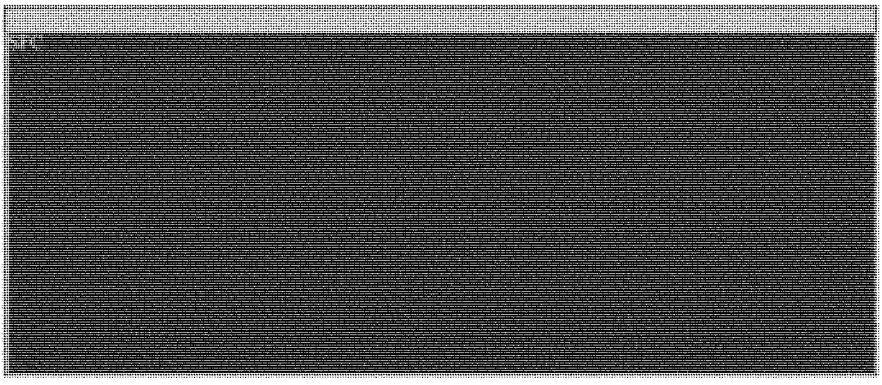
Thanks!

SFC 001453

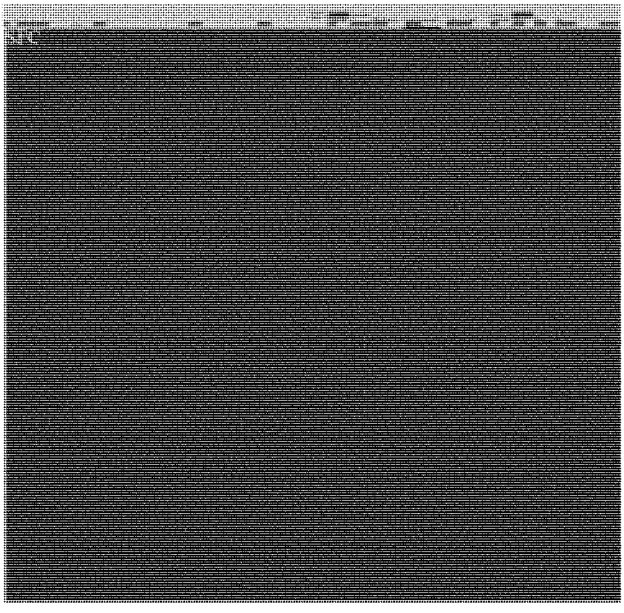
Holly

IRS0000008596

SFC 001454



SFC 001455



SFC 001456

Issue Name	Issue Description	Issue Number	Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Opened or closed)
Tea Party	Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) or 501(c)(4).	EI-1	x	Forward case to Group 7822. Ron Bell (coordinator). Cases are being coordinated with EO Tech- Chip Hull.	Open

Issue Name	Brief Issue Description	Issue Number	Coordinated Actions Taken	Current Status (Opened or closed)
SFC [redacted]				

SFC 001458

Issue Name	Watch Issue Description	Issue Number	Alerts (Year and number)	Disposition of Watch Issue	Current Status (Opened or closed)
SFC [redacted]					

SFC 001459

Closures and Open Inventory by Group
Group Number: 7830
Created on: 3/14/11
Created by: F5RGB
Data refreshed: 03/14/2011 00:44:54 CDT

EMPLOYEES

Total Employees in TAG Group	
Grade 12	9
Grade 13	3
Manager	1

OPEN INVENTORY

Total Open Cases	Average Age of Case
444	145.9797297

CASE CLOSURES

Fiscal Year	Total Closures	Average Cycle Time	Average Specialist Hours
2009	3354	149.9487179	4.148449612
2010	2217	156.6824538	6.038470907
2011 (thru February 18, 2011)	740	141.7675676	6.262635135

Fiscal Year	Status 06 (Merit Closures)	Average Cycle Time	Average Specialist Hours
2009	799	51.3292	0.3939
2010	370	51.7027	0.5665
2011 (thru February 18, 2011)	179	28.8268	0.5251

Fiscal Year	Status 09 (AP/IP Closures)	Average Cycle Time	Average Specialist Hours
2009	961	124.5026015	2.272008325
2010	547	102.6489945	1.884826325
2011 (thru February 18, 2011)	85	89.57647059	2.681176471

Fiscal Year	Full Development Closures	Average Cycle Time	Average Specialist Hours
2009	1594	214.723	7.1617
2010	1300	209.297	9.3436
2011 (thru February 18, 2011)	476	193.559	9.0598

SFC 001460

From: Thomas Cindy M [SFC >
Sent: Tuesday, July 02, 2013 9:25 AM
To: Schiller Karen M
Subject: FW: Combined Issue Spreadsheet
Attachments: Copy of Combined Spreadsheet TAG 7 27.xls

Importance: Low

From: Waddell Jon M
Sent: Monday, July 01, 2013 12:09 PM
To: Thomas Cindy M
Subject: FW: Combined Issue Spreadsheet
Importance: Low

Copy of Combined Issue Spreadsheet prior to August 2010 from Lynn

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From: Brinkley Lynn A
Sent: Monday, July 01, 2013 11:15 AM
To: Waddell Jon M
Subject: FW: Combined Issue Spreadsheet
Importance: Low

From: Hofacre Elizabeth L
Sent: Tuesday, July 27, 2010 2:23 PM
To: Angner William J; Bibb Kenneth B; Bowling Steven F; Brand es James A; Brinkley Lynn A; Calvin Juliette; Combs Peggy L; Fierro Gerardo; Haley Philip H; Herr Joseph R; Jefferson White Beverly J; Lewis Jovonnie; Shafer John H; Shankling Lonnie
Cc: Camarillo Sharon L; Melahn Brenda
Subject: Combined Issue Spreadsheet
Importance: Low

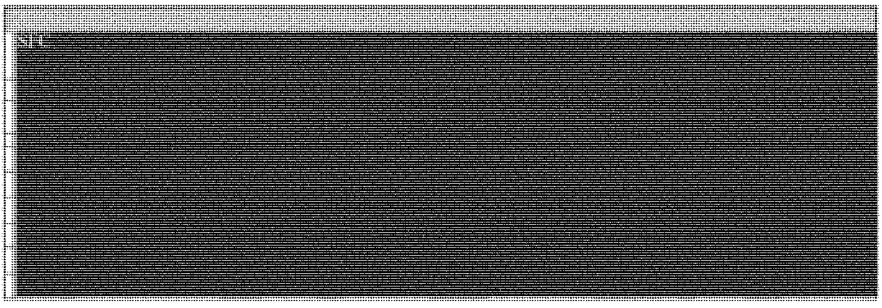
Distributions Recipients:

Attached is the Combined Issue Spreadsheet. Please contact me if you have any questions.

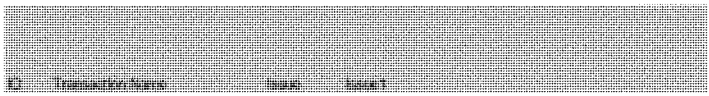
Thank you,

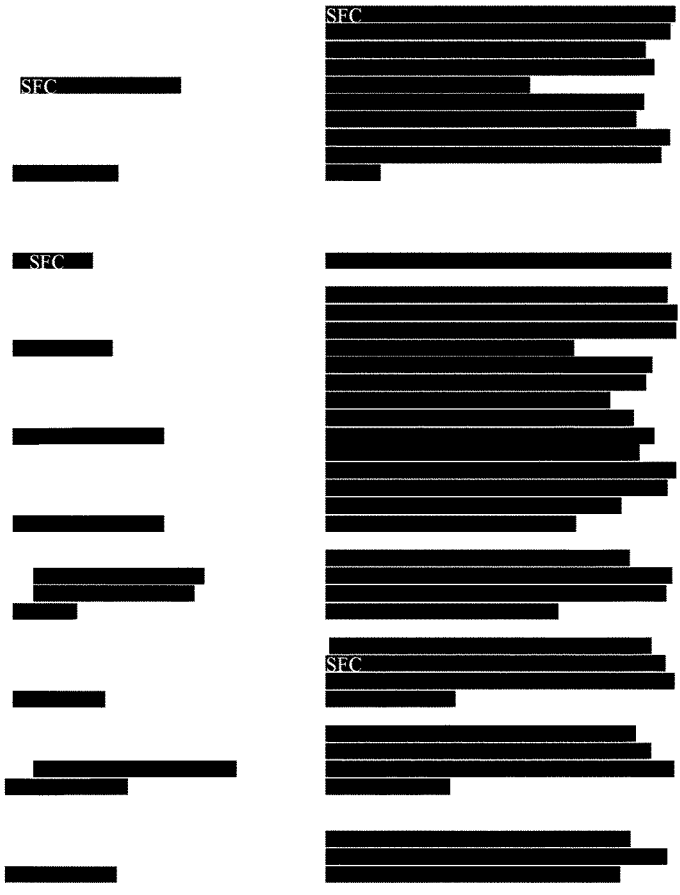
Liz Hofacre
TEGE EOD Emerging Issues Coordinator
SFC

SEC 001461

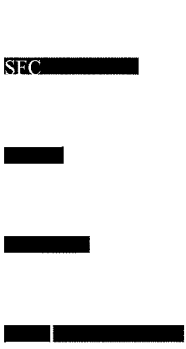


SFC 001462





SFC 001463



170 Progressive

Political activities

SFC 001464

SEC

SEC

SFC 001465

SEC [redacted]

[redacted]

[redacted]

Common thread is the word "progressive". Activities appear to lean toward a new political party. Activities are partisan and appear as anti-Republican. You see references to "blue"

SEC [redacted]

[redacted]

Applicants submit Form 1023. Their "progressive " activities

[redacted]

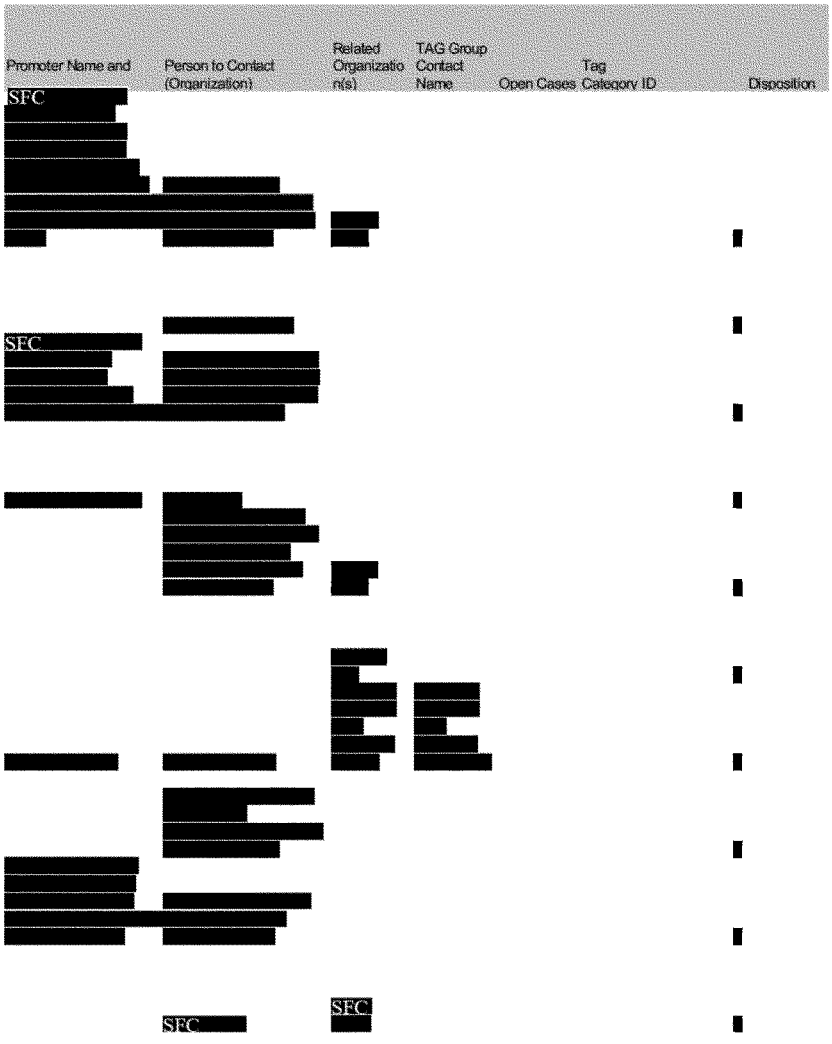
[redacted]

SEC [redacted]

[redacted]

[redacted]

SFC 001466


Promoter Name and
Person to Contact (Organization)
Related Organization(s)
TAG Group Contact Name
Open Cases
Tag Category ID
Disposition
SFC
SFC
SFC
SFC

SFC 001467

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Matsko Hood.

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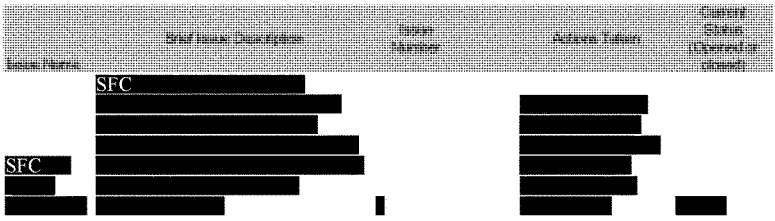
SFC 001468

Issue Name	Issue Description		Issue Number	Alerts (Year and number)
501(c)(2)	These cases involve a commingled pension trust holding title to a high dollar note receivable secured by real estate. The application appear to be prepared from a template. The fund manager is usuall SEC [redacted].		x	x
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).		EI 1	x

Disposition of Emerging Issue	Current Status (Opened or closed)	
Any future cases may be closed on merit if applicable. EOT determined these applications qualify under 501(c)(2). A referral was completed to address any EP concerns.	Closed	
Any cases should be sent to Group 7825. Liz Hofacre is coordinating. These cases are currently being coordinated with EOT.	Open	

SFC 001470



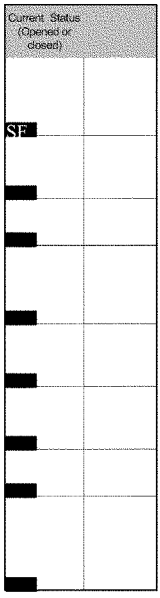
IRS0000008619

SFC 001472

IRS0000008621

SEC
SEC

SFC 001474



SFC 001475

IRS0000008624

From: Westcott Cindy M
Sent: Wednesday, March 04, 2009 11:44 AM
To: Fish David L
Cc: Seto Michael C; Paz Holly O
Subject: RE: Question from FEC about nonprofit groups

Okay. Let me know if you need anything else from me.

From: Fish David L
Sent: Wednesday, March 04, 2009 12:42 PM
To: Westcott Cindy M
Cc: Seto Michael C; Paz Holly O
Subject: RE: Question from FEC about nonprofit groups

Mike was checking on a request for the file, because we assumed FEC might want it. I think he already asked someone down there for it.

From: Westcott Cindy M
Sent: Wednesday, March 04, 2009 12:40 PM
To: Fish David L
Subject: FW: Question from FEC about nonprofit g roups

We approved exemption under 501(c)(4) on 11/16/2007 for Citizens for the Republic, Inc. The BMF shows the organization is in good status but the name was changed to American Issues Project, Inc. on 9/9/08.

If you need any other information from me, please let me know.

From: Fish David L
Sent: Tuesday, March 03, 2009 8:24 PM
To: Kindell Judith E; Lerner Lois G
Cc: Callahan Jeanne; Choi Robert S; Westcott Cindy M
Subject: Re: Question from FEC about nonp rofit groups

We looked something up--will find out from mike in the morning.

From: Kindell Judith E
To: Lerner Lois G
Cc: Callahan Jeanne; Fish David L; Choi Robert S; Westcott Cindy M
Sent: Tue Mar 03 18:36:05 2009
Subject: FW: Question from FEC about nonprofit groups
This is what I sent then - I have not looked to see if there was more updated info

---

From: Kindell Judith E
Sent: Tuesday, February 03, 2009 5:21 PM
To: Lerner Lois G; Fish David L
Cc: Choi Robert S; Kant Deborah R; Callahan Jeanne
Subject: RE: Question from FEC about nonprofit groups

I went on Lexis and did not find either American Future Fund or American Issues Project on the website. I did find the following information about Citizens for the Republic, Inc., but nothing for Avenger, Inc. It appears that the last update that Lexis used was August 2008. I looked in the DC file on our website whi ch was updated 1/9/09 and the only one of these organizations that I found was Avenger, Inc - using the same EIN as Citizens for the Republic (see info below). If AFF or AIP are not located in DC, we would need to know what state they are in to locate the m on our website.

Copyright (c) 2004 Tax Analysts Exempt Organizations List

Copyright (c) 2004 Tax Analysts
Exempt Organizations List

February 2004

LENGTH: 86 words

DEPARTMENT: Exempt Organizations List (EOL)

TYPE: Official Announcements, Notices, and New Releases

CITE: EIN 26-0196975

HEADLINE: EXEMPT INFORMATION FOR CITIZENS FOR THE REPUBLIC INC (Status Date: August 2008)

AUTHOR: Internal Revenue Service

Section 501(c)(4) -- Civic Leagues, etc.

SUMMARY:
Information on the exempt status of this organization was obtained from the IRS Exempt Ogranization master list last updated on August 19, 2008.

GEOGRAPHIC: District of Columbia

INDEX:
Exempt Organization, Status Approval

REFERENCES:
Subject Area:
Exempt Organizations

TEXT:
Status Date: August 2008

CITIZENS FOR THE REPUBLIC INC
3000 K ST NW STE 500
WASHINGTON, DC 20007-5111

Employer Identification Number: 26-0196975

SFC 001478

Ruling Date: November 2007

Group Affiliation: This organization is an independe nt organization or an independent auxillary (i.e., not affiliated with a National, Regional or Geographic grouping of organizations)

Type of Entity: Corporation

Classification: Civic League

Deductibility of Contributions: Contributions are not deduct ible

Accounting Period: December

Filing Requirements: 990 or 990EZ return (Income exceeds $ 25,000)

Advance Ruling Expiration Date: Not Available

NTEE: R99 - Civil Rights, Social Action, Advocacy N.E.C.

**********END OF DOCUMENT**** **********

260196975 AVENGER INC [redacted] 0 4 3 1

From: Lerner Lois G
Sent: Tuesday, February 03, 2009 5:04 PM
To: Fish David L; Kindell Judith E
Cc: Choi Robert S; Kant Deborah R; Callahan Jeanne
Subject: FW: Question from FEC about nonprofit groups

What can we do to help the FEC here? I'm a little confused about his statement that I told him the org. had not received exemption--it may be that they hadn't mentioned it was a c3 and I told them the org didn't show up on Pub 78. In any event, how can a member of the p ublic find out whether an org has been granted exemption if it isn't a c3 on Pub 78? Second, once they do know the org. received exemption, what's the most expeditious way for a government agency to get the public file? Thanks!

From: WPowers [redacted] [mailt [redacted]]
Sent: Tuesday, February 03, 2009 4:55 PM
To: Lerner Lois G
Cc [redacted]
Subject: Question from FEC about nonprofit groups

Dear Ms. Lerner,

I am an Enforcement Division attorney at the Federal Election Commission. Several months ago, Wade Sovonick and I spoke with you about the American Future Fund, a 501(c)(4) organization that had submitted an exemption application the IRS in March of 2008. I greatly appreciated you taking the ti me to explain the exemption process to me and the background information has been very useful in that case. I was hoping that you might be able to answer a follow -up question about the American Future Fund, as well as a similar question about another grou p, the American Issues

Project. Any assistance you could provide would be greatly appreciated.

When we spoke last July, you had told us that the American Future Fund had not received an exemption letter from the IRS. I understand that you are not able to give us any information on the group's application if it is pending, but could you please tell me whether the IRS has since issued an exemption letter to the American Future Fund? Also if the IRS has granted American Future Fund's exemption, would it b e possible for you to send me the publicly available information and documents related to American Future Fund?

I was also wondering if you could tell me whether the IRS had issued an exemption letter to a group called the American Issues Project? The group also appears to be the successor of two other organizations, Citizens for the Republic and Avenger, Inc. Were either of these groups granted an exemption? As with the American Future Fund, could you please provide any information and documents that would be publicly available in relation to the American Issues Project, Citizens for the Republic, or Avenger, Inc.? I was also wondering whether you could briefly explain to me how your office typically handles a group that has been granted an exemption letter but later changes its name and/or board of directors.

Thank you very much for all of your help. If you do have any information that you can share with me about either the American Future Fund or the American Issues Project, please feel free to co ntact me by either email or phone (202) 694 - 1650.

Sincerely,

William A. Powers
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Tel SFC
Fax SFC

SFC 001480

From: Paz Holly O
Sent: Wednesday, September 21, 2011 3:56 PM
To: Fish David L; Megosh Andy
Cc: Seto Michael C
Subject: advocacy cases

We have now have over 100 "advocacy" cases on hold in determs awaiting guidance from EOT/EOG in the form of a list of areas to be developed. Justin has been overseeing Hillary on this. In meeting with Cindy in Cincy last week and looking at some of the cases, it is clear to me that we cast the net too wide and have held up cases that have nothing to do with lobbying or campaign intervention (e.g., org distributing educational material on the national debt). We are tasking Hillary with the task of looking at these cases on TEDs and triaging them - identifying those that clearly are advocacy cases and those that are clearly not. We would like Hillary to be able to go to Justin if she has any questions about the cases she is reviewing. Does that work?

Thanks,

Holly

SFC 001481

TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

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

Date: July 7, 2010

American Junto, Inc.
P. O. Box 11236
Cincinnati, OH 45211-0236

Employer Identification Number:
27-1120689
Person to Contact and ID Number:
Carter C. Hull
ID SFC
Contact Telephone Number:
SFC
FAX Number:
SFC
Response Requested By:
July 28, 2010

Dear Applicant:

We have reviewed your application for exempt status under section 501(c)(3) of the Internal Revenue Cod e and found that additional information is needed to help determine whether you are tax exempt. To complete our consideration we need the following information over the signature of one of your principal officers or directors.

1. Article 3.1 of your bylaws provides that you shall have no members other than the persons elected or appointed as members of your Board of Directors, who shall be considered to be your members. State whether you have expanded or intend to expand your Board of Directors beyond the t wo persons currently listed in your application. If so, list such new members.

2. Article 5.2 of your bylaws provides that your Board of Directors shall appoint a President, a Secretary, a Treasurer, an Executive Vice President, one or more Vice - Presidents, Assistant Secretaries, Assistant Treasurers, and such other officers as they may determine. State whether you have appointed any such officers, and provide their names and titles.

3. Part I, question 5, of your application states that your fiscal year ends on October 31, and Part IX, Part A, indicates that your fiscal year ends on December 31 . Section 7.12 of your bylaws states that your fiscal year ends on March 31. State which of these is your correct fiscal year.

4. Article 6.2 of your bylaws provides th at you may devote a substantial part of activities for lobbying purposes (including the publishing or distribution of statements) or otherwise attempting to influence legislation. You also included in your application Form 5768, Election/Revocation of El ection by an Eligible Section 501(c)(3 Organization To Make Expenditures To Influence Legislation. Describe in detail how you attempt to influence legislation and state whether you have already filed Form 5768 with the Internal Revenue Service Center in O gden, UT.

5. Article 6.2 of your bylaws also provides that you may participate or intervene in (including the publishing or distribution of statements) any political or judicial campaign on behalf of any candidate for public office only to an insubstantial d egree. In Section 1 of Part VIII of your application you checked the box stating that you support or oppose candidates in political campaigns. Describe in detail your activities in this regard.

6. In Part V of your application, you state that the compensat ion to Mr. Littleton and Mr. Lillback, your directors, will be $6,000. In your narrative regarding Part V, you state that salary and wages are currently structured at $12,000 per year for each director. In Part IX, you estimate that compensation of direc tors will be $12,000 in 2010, $18,000 in 2011, and $24,000 in 2012. State which of these statements is correct.

7. Provide a breakdown of your income from gross receipts (line 10 of your financial data in Part IX of your application) from admissions, merc handise sold or services performed, or furnishing of facilities in any activity that is related to your exempt purposes.

8. In your application you state that your present and planned activities include raising funds for all forms of voter education in the S tate of Ohio. Describe in detail all the forms of voter education you intend to be involved in and submit copies of all flyers, handouts, pamphlets, or other written material you will distribute at such activities.

9. Describe in detail how you will utiliz e nonpartisan county precinct member organizations, educational speakers, and nonpartisan govemmental accountability to educate voters on current events.

10. Describe in detail how your contracted associates will complete the public education process and provide copies of the specific contract arrangements which you will record and outline, and describe how your members will complete the remaining activities.

11. Describe in detail your fundraising through (a) mail solicita tions, (b) email solicitations, (c) personal solicitations, (d) phone solicitations, (e) accepting donations on your website, and (f) receiving donations from another organization's website. Provide copies of any flyers, handouts, pamphlets, or other written material you provide to the p articipants or organizations you are soliciting from.

12. Attached are copies of the "Home" page and the "About Us" page from your website dated July 1, 2010. Verify this is your website.

13. You state in your application that both your directors are also active boar d members for Cincinnati Tea Party, a political organization described in section 527 of the Code. You further state that one of your directors is also a board member of Ohio

Liberty Council, which you state is also a political organization described in section 527, and that your other director serves on the advisory board of the Ohio Liberty Council.

(a) Describe in detail your connection to and the activities you perform for the Cincinnati Tea Party and the Ohio Liberty Council as a foundation for the Ohio Liberty Council.
(b) As "the educational arm of the Ohio Liberty Council and therefore servant to member groups throughout Ohio," as stated on your website, describe in detail the control that Ohio Liberty Council has over you, the names of the member groups you serve, and the services you provide to the Council and to the member groups.
(c) Provide copies of the educational speeches your speakers make and provide copies of the resources they provide to any individual or group.
(d) Describe the connection between Cincinnati Tea Party and Ohio Liberty Council.
(e) Describe in detail the duties and activities of your director while he serves on the advisory board of the Ohio Liberty Council.
(f) You state in section 15 of your narrative that any board votes of the Cincinnati Tea Party involving your resources will require your directors to exclude themselves. Describe in detail any rights, powers, or control that the Cincinnati Tea Party has over you, especially with regard to your resources.

14. Describe in more detail your ability "to provide the specific shelter for organizations seeking to create educational opportunities under tax exempt status," as stated in your narrative regarding section 13b.

15. Provide copies of all of your newsletters.

16. Provide a copy, or an explanation of what will be used, of the grant form or format you are considering for the grant process for other organizations to complete their educational activities. Also state what controls you intend to impose on any grant.

The information you submit should be accompanied by the following declaration:

Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information, and such facts are true, correct, and complete.

If the additional information shows you qualify for exempt status, we will send you an exemption letter. If the additional information shows you do not qualify for exempt status, we will explain our decision and provide information about the appeal rights available to you.

Respond by the date shown in the heading of this letter. If you need an extension of time to respond, or if you have any other questions about this matter, call me at the above telephone

number. You will expedite our receipt of your reply by using the following address on the envelope. If it is convenient, you may fax your reply using the fax number shown in the heading of this letter.

Internal Revenue Service
TE/GE (SE:T:EO:RA:T:2)
Carter C. Hull, 3N3
1111 Constitution Ave, N.W., PE
Washington, DC 20224

If you do not provide the requested information in a timely manner, it will be considered by the Service as a failure to take all reasonable steps to secure t he ruling you requested. Under section 7428(b)(2) of the Code, your failure to take all reasonable steps to secure the ruling requested in a timely manner may be considered as a failure to exhaust the administrative remedies available to you within the Service, and thus may preclude the issuance of a declaratory judgment in this matter under the judicial proceedings of section 7428.

Thank you for your cooperation.

Sincerely yours,

Carter C. Hull
Tax Law Specialist
Exempt Organizations
Technical Group 2

Attachments:
Copy of website – 2 pages

SFC 001485

Advocacy Cases
(June 6, 2012)

1. Albuquerque Tea Party, Inc. SFC) (TLS Hillary Goehausen and Reviewer Justin Lowe) – 501(c)(4) application; formed for education and advocacy purposes, educating on the political process and advocating for the preservation of Constitutional rights, limited government, lower taxes, developing whether they engage in political activities, in development (11/7/2011) EXPEDITED; working on a proposed denial (2/2012) ; has until early May to respond to a new request for inform ation (4/2012); Taxpayer will not submit an additional response, Hillary is working on proposed denial. (6/6/12)

2. SFC _ SFC) (TLS Hillary Goehausen and Reviewer Debbie Cowen) – 501(c)(4) application issue advocacy organization, the organization primarily seems to be a platform fo SFC to publicize his ideas on lower taxes, constitutional issues, abortion, etc....preparing file memo recommending denial, plan to be on reviewer's desk by 11/18/2011 (11/8/2011) ; preparing a file memo (2/2012) ; file memo to be completed by end of Apirl (4/2012) ; Revising file memo to be a proposed denial (6/6/12)

3. SFC _ SFC 0) (TLS Al Page and Reviewer Debbie Cowen) – 501(c)(4) application, educate about redistricting process, lobby the state legislature for a fair redistricting process, outreach to the community; assigned on 11/8/2011 (11/8/2011) (2/2012); not started yet, at least 4 cases in front of this one (4/2012) ; Al has not started the case yet (6/6/12)

4. SFC _ SFC) (TLS Hillary Goehausen Reviewer Debbie Cowen) – 501(c)(3) advocacy organization on abortion issues , but also appears to have engaged in prohibited political activities b/c the organization will a llow commentators to post statements favoring/opposing candidates for public office based on their stance. ; proposed denial drafted by Siri and Hillary needs to review. (11/8/2011); in review with Debbie Cowen (2/2012) ; with Mike to be transferred to Couns el for their review (4/2012)

5. SFC _ SFC) (TLS Hillary Goehaussen) TAM from EOD under 501(c)(3) ; targeted voter registration and voter guides on specific issues and candidates (political intervention); need to determine if the favorable letter should have been issued, and determining how procedurally to resolve the case; case is suspended; with Mike Seto for sign -off (2/2012) Expected to be completed by end of April (4/2012)

6. SFC _ SFC) (TLS Sadie Copel and) Application in which the organization is operating a grassroots lobbying campaign to educate the public about Israel policies toward Palestinians. The organization's officers/directors appear to be Jewish activists toward the abolition of Israeli set tlements in Palestinian territories, dismantling the walls that Israel constructed around the territories and calling for an end to Israeli "human rights violations" against Palestinians. Case is currently with Tom Miller for review, and determining whether case also has international issues. Determining whe ther more

information is needed; case is back with Sadie – looking up names to determine terrorist ties, recommendation by end of March (2/2012) ; Sadie needs to draft a favorable memo and then she will give case to Mike to determine whether this case will impede litigation efforts in Z street case (4/2012). No progress since 4/20/12. (6/6/2012)

7. SFC _ SFC) – An organization applying under §501(c)(4) (TLS Gitterman, EOT revie wer Hull, EOG reviewer Lowe). The organization does ads, blogs, and fundraising on the Internet (mainly) in support of conservative causes; close to the line re: political campaign intervention; case went to CC and next step is to draft development letter to get a better understanding as to activities. Next step – development letter sent (2/2012); taxpayer given extension to answer letter ; Janet will get back to me when taxpayer responds (4/12); She received response from development letter and has asked intern to go through boxes of docs to determine what was sent (6/6/12)

8. SFC _SFC) – An organization applying under §501(c)(3) that advocates for polygamy; in suspense while waiting for CC on the apostolic community issue. (Carter – initiator, Berick – reviewer). In suspense due to polygamy issue (2/2012); still in suspense (4/2012) No longer in suspense (5/3/2012); Jonathan prepared proposed denial and is working with reviewer to finalize it. (6/6/12)

9. SFC _– SFC) (TLS: Susan Cundiff; Reviewer: Debbie Cowen) Taxpayer is exempt under 501(c)(3) and its mission is to inform and educate the public on the role that money plays in elections and the actions of government to empower the public by providing unbiased information and advocate for a transparent and responsive government. They do this by tracking publicly available campaign contributions information including lobbying expenditures and personal financial interests of executive and legislative branch personal. They report this information on their websit SFC as well as other media outlets and have entered into a contract to provide election info to a certain media organization for a fee; they are requesting a ruling that such activity does not jeopardize their exemption and such payments under the contract is not UBI. STATUS – Not started yet. (2/2012); not yet started, inline behind several review cases and a PLR re: private operating foundation (4/2012) ; Susan will review the case to determin e whether she complete it quickly. (6/6/12)

10 SFC _– SFC) This is a c4 applicant that indicates it was formed to provide education to the public on the legislative process and to encourage participation in the legi slative process. They will focus on issues related to civil society, rule of law, the electoral process and responsible government and produce policy papers and pamphlets. Their activities are vague and broad. It appears they also publish a scorecard on ho w legislators vote on topics of interest to the org and are engaging in candidate support. Not yet started (2/2012) Cursory review (4/2012); Have not started case (6/6/12).

11 SFC _– SFC) This is a Cincy application in which we are providing assistance to EOD. The applicant is applying for 501(c)(4) of

the Code. It plans to educate the public on the constitution, the democratic process, and are doing a substantial amount of campaign intervention. Cincy initially recommended a favorable exemption. EO reviewed the file and is proposing a proposed denial b/c its activities are primarily political intervention. EO prepared a file memo and the case is now with Counsel for their review. Hilary spoke with Counsel and they have sl owly started looking at it. (6/6/12)

Cases assigned to EOT Group 1 for review

(1 SFC [redacted] (Jonathan Carter and Danny Smith) – assigned to Hilary Goehausen due to potential advocacy issues. Recommending a favorable exemption. (6/6/12)

(2)

SFC 001488

From: Goehausen Hilary
Sent: Friday, December 14, 2012 8:02 AM
To: Grodnitzky Steven
Subject: SCRs
Attachments: SCR Dec 2012 Advocacy Orgs.doc; SCR Dec 2012 IS.doc

Changes to both have been made.

Thanks,
Hilary

Hilary Goehausen
Tax Law Specialist
Exempt Organizations
Technical Group 1
1111 Constitution Ave., NW
Washington, D.C. 20224
p SFC
[redacted]

IRS0000011237

SFC 001489

CASE NAME: A. Cases Pending in EOT: (1) Prescott Tea Party, LLC (501(c)(3) applicant), Closed FTE. (2) Albuquerque Tea Party, Inc. (501)(c)(4) applicant) (EIN: 90-0513502) Open (3) American Junto (501(c)(3) applicant) Closed FTE B. TAS Pending in EOT: (4) First Coast Tea Party – TA returned to EOD for processing (5) Free and Equal Elections Foundation - Open **TIN/EIN:** **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023 (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**
CASE OR ISSUE SUMMARY: These organizations are "advocacy organizations," and although are separately organized, they appear to be part of a larger national political movement that may be inv olved in political activities. These types of advocacy organizations are followed closely in national newspapers (such as The Washington Post) almost on a r egular basis and have also become the subject of congressional inquiries. Cincinnati has in its inventory a number of applications from these types of organizations that applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and from organizations that applied for recognition of exemption under section 501(c)(4) as social welfare organizations.	

CURRENT SIGNIFICANT ACTIONS ON CASE:

A. Applications Pending in EO Technical:

(1) Prescott Tea Party LLC - Closed FTE on 05/26/10 for failure to respond to a development letter.

(2) Albuquerque Tea Party, Inc. 501(c)(4) – Open (draft proposed denial in review with Sharon Light, EO Technical Advisor)

EOT met with Counsel on August 10, 2011 to discuss further development of the case, and Counsel returned the case to EOT for additional development. The applicant submitted a response to the second development letter. The organization notified EOT that it has retained counsel who requested additional time to supplement its response to the second development letter . EOT granted the request and the new deadline to supplement its response to the development letter is May 15, 2012. After not receiving a response, the POA told the TLS assigned to the case that the organization was satisfied with the information previously submitted and would not be providing any supplemental materials and will wait for the Service's determination . EOT Group 1 forwarded on December 17, 2012, a draft proposed denial to Sharon Light (technical advisor to the EO Director) for review. The draft proposed denial is still in review.

(3) American Junto – Closed FTE on 04/04/12 for failure to respond to a development letter .

Coordination between HQ and Cincinnati is continuing regarding information letters to applicants seeking exemption under §§ 501(c)(3) and 501(c)(4). Additionally, EOT reviewed approximat ely 160 cases from EOD to assist in determining the types of activities in which these organizations may be engaging. EOT continues to assist EOD with development of these cases .

B. Technical Assistance Requests (TA) from EO Determinations Pending in E O Technical– See the following two cases below – First Coast Tea Party, and Free and Equal Elections Foundation

(5) First Coast Tea Party – Closed

Case returned to EOD to be developed as part of the bucketing process established in Cincinnati. Cincinnati sent EOT the case file for a section 501(c)(4) applicant (First Coast Tea Party) to review its proposed favorable determination. EOT and EOG reviewed the file to assist EOD with the determination. EOT returned the case to EOD to be developed as part of the bucketing process established in Cincinnati.

(5) Free and Equal Elections Foundation – Open (With Judy Kindell and Sharon Light for review)

TLS is working the case. EOT is also reviewing a draft proposed denial in which EOD sent for a 501(c)(3) advocacy organization case called Free and Equal Elections Foundation. After meeting with Judy Kindell (technical advisor to the EO Director) , it was determined that EOT w ould draft a new proposed denial. This case is handled in EOT as a technical assis tance to EOD. In November 2012, EOT forwarded the 501(c)(3) proposed denial is currently with Judy Kindell and Sharon Light for review.

- EOT is working approximately 9 other advocacy application cases in the office.

SIGNIFICANT NEXT STEPS, IF ANY: Organization (2): Albuquerque Tea Party – complete proposed denial for Judy/Sharon to review. Organization (5): Free and Equal Elections Foundation – 501(c)(3) - Review of proposed denial with Sharon/Judy.	**ESTIMATED CLOSURE DATE:** December 31, 2012
BARRIERS TO RESOLUTION, IF ANY: Concerns are whether the organizations are primarily involved in political activities and whether substantial private benefit exists.	
SUBMITTED BY: Hilary Goehausen, SE:T:EO:RA:T:1	**MANAGER:** STEVE GRODNITZKY, SE:T:EO:RA:T:2
DATE: December 13, 2012	

From: Herr Joseph R
Sent: Wednesday, September 24, 2008 3:32 PM
To: Abston Yvonne; Cummins Faith E; Daniels Linda D; Duvall Steve D; Hall Lynn; Hanson Michael J; Herr Joseph R; Herring Donald Grant; Hofacre Elizabeth L; Liggett Yvonne; Martin Connie M; Ranney Myron L; Tobler Deborah
Subject: FW: Policitial Case Alert

Importance: High

Group,

Please coordinate with me if you have a "politically sensitive" case described below.

Thank you,

Joseph

Joseph R. Herr
Manager - Group 7825
Exempt Organizations Determinations
550 Main Street, Room 4122
Cincinnati, OH 45202
SEC [redacted] fax

From: Camarillo Sharon L
Sent: Wednesday, September 24, 200 8 9:38 AM
To: Angner William J; Bibb Kenneth B; Calvin Juliette; Haley Philip H; Herr Joseph R; Kowalczyk Chad A; Shankling Lonnie; Thomas Tyrone I; Waddell Jon M
Subject: FW: Policitial Case Alert
Importance: High

Heads Up --- IRM 7.20 is to be changed to require for mandatory review those cases with politically sensitive issues referenced in the memo attached. In the meantime, please make sure that if anyone has one of these cases, that they send it to EODQA. Per the memo, "politically sensitive" are those cases with some of the following activies:

- Voter Registration
- Inaugural host committies
- Pst-election transition teams
- Voter guides
- Voter Polling
- Voter Education
- Other activities that may appear to propose or oppose a specific candidate or issue.

If you have any of these cases in your inventory, please be sure to mark them for mandatory review.

Sharon L. Camarillo
EO Determinations Manager, Area 1

9350 E. Flair Drive
El Monte, CA 91731-2885

Telephone: SFC [redacted]
[redacted]

From: Westcott Cindy M
Sent: Wednesday, September 24, 2008 5:28 AM
To: Camarillo Sharon L; Blair James H
Subject: FW: Policitial Case Alert
Importance: High

Sharon/Jim,

Please read Donna's e-mail below. A reminder probably needs to be sent to your staff that these cases are manda tory review.

From: Melahn Brenda
Sent: Wednesday, September 24, 2008 8:2 4 AM
To: Westcott Cindy M
Subject: FW: Policitial Case Alert
Importance: High

From: Melahn Brenda
Sent: Monday, September 08, 2008 8:26 AM
To: Shafer John H; Bowling Steven F; Brinkley Lynn A; Combs Peggy L; Jefferson White Beverly J; Lewis Jovonnie; St Julien James A; Werner Connie M
Subject: FW: Policitial Case Alert
Importance: High

As a reminder any "political sensitive" case should be sent to EODQA. Memo from Rob dated 12/19/07 indicate they should be worked as full development cases (not screened out) AND they are mandatory review.

Brenda

From: Abner Donna J
Sent: Monday, September 08, 2008 7:57 AM
To: Westcott Cindy M; Camarillo Sharon L; Melahn Brenda
Cc: Bibb Kenneth B; Waddell Jo n M
Subject: Policitial Case Alert

The purpose of this e mail is to alert you to information discovered during the review of 2 cases designated by Jon Waddell for Manager discretion review. In brief, during the review of the 2 cases it was discovered th at several more already received exemption and because of the organization's structure, additional applications are very likely. Here's the specifics:

Jon's Cases: Emerge Maine Case # 4180018017
Emerge Nevada Case # 458028002

Already Exempt Emerge America Case #606044026 Closed Status 06 3/16/06
Emerge Women Leaders for a Democratic Future Case # 604246037 Closed status 01 9/2/04
Emerge Arizona Women Leaders for a Democratic Future Case #507291023 Closed status 01 3/12/08
Emerge New Mexico Case # 506194109 Closed status 01 5/8/07
Emerge Wisconsin Case # 438014038 Closed status 06 3/6/08

Open Case
Emerge Massachusetts Case # 418235013 Open status 61

As you can see from the above list the organizations appear to form based on "State" boundaries. Therefore, we may receive applications for the remaining states. The purpose of the organizations appear to be similar train "Democratic" party canidates in areas such as campaigning, fundraising, public speaking, press relations, and leadership skills.

Because of the partisan nature of the cases guidance from EO Techn ical is pending. Recent rulings considered inelude PLR 200833021 and Democratic Leadership Council, 542 F. Supp. 2d 63 (2008).

Per IRM 7.20.5 "sensitive political issue" cases were designated as subject to mandatory review in 2007. Please note the two case above closed in 2008 that did not come through QA.

I recommend an alert be issued regarding this type of case as well as a reminder that "sensitive political issue" cases are s ubject to mandatory review.

Thank you,
Donna

From: Abner Donna J
Sent: Wednesday, March 13, 2013 5:45 AM
To: Tierney Michael J; Hartrick Willliam M; Manohar Ramachandran; Dragoo Daniel D; Ludwig Michael A; Hofacre Elizabeth L; Sims Rosa L
Subject: Potential Political Advocacy

The information below provides additional guidance on what is included in the "political advocacy" bucketing process. Seems the word "advocacy"
should be excluded. I still have some lingering questions - see below.
The explanation below suggests that bucketing only includes cases were "political intervention" is a significant or clear issue and excludes organizations involved only in legislative "advocacy". I'll let everyone know as I learn more. In the meantime, if you have questions about a particular political or advocacy case let me know.
Thanks,
Donna

-----Original Message-----
From: Abner Donna J
Sent: Tuesday, March 12, 2013 2:33 PM
To: Light Sharon P
Cc: Thomas Cindy M
Subject: RE: Case Returned from EODQ A - Potential Political Advocacy

Hi Sharon,
I appreciate the explanation. However, I must admit that I'm now worried because I can think of several cases that upon initial review did not involve significant or clear political intervention. This includes some Tea Party cases, Acorn successors - Progress cases, the national debt cases, the recent "emerge -like" case, etc. Some of these cases claimed to be issue focused (legislative or lobbying) and it was only after identifying and developing the issue did we uncover political intervention.

Further, the case below was initially suspect for possible political intervention because of the "political" consultant under contract for $6,000 a month. It was only at the end of the process that we confirmed the primary activity legislative, not political.

I'm ok with the explanation below that this one particular case did not need to now go through bucketing because the case has been adequately developed to the point where we now know that political interven tion is not a problem. However, will this treatment be consistent? If a similar case was received by specialists today and screener noted the "political consultant" issue would it/should it be bucketed? Or, would we only send to bucketing if development uncovered significant or clear political intervention? And, if so, would this be consistent?
Thanks,
Donna

-----Original Message-----
From: Light Sharon P
Sent: Tuesday, March 12, 2013 12:45 PM
To: Abner Donna J

Cc: Thomas Cindy M
Subject: RE: Case Returned from EODQA - Potential Political Advocacy

There has been confusion about this issue. Some cases that only involved lobbying got bucketed and worked as advocacy cases because it wasn't clear form screening that political interv ention wasn't a problem. Cases got identified as "advocacy cases" if they mentioned lobbying and someone felt the lobbying was a sign of political intervention. And sometimes cases that vaguely mentioned "advocacy" got identified because it wasn't clear on screening whether they were talking about lobbying or political intervention. But when it's clear that lobbying, not political intervention, is the issue then they don't fit the criteria.

Joseph quotes the latest language identifying what to look f or, and I think it's a good way to distinguish between the two:

From the BOLO Spreadsheet, Issue EI-1, Current Political Issues, states, "501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political camp aign intervention (raising questions as to exempt purpose and/or excess private benefit).
Note: advocacy action type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet this criteria."

Does that help?

-----Original Message-----
From: Abner Donna J
Sent: Tuesday, March 12, 2013 12:34 PM
To: Light Sharon P
Cc: Thomas Cindy M
Subject: RE: Case Returned from EODQA - Potential Political Advocacy

Hi Sharon,
Seems QA needs to know what exactly is deemed appropriate for the "advocacy" inventory. Your write up suggests that it only includes political campaign intervention. We (QA) were under the impression that both "advocacy" - organizations supporting or opposing legislative action and "political" organizations supported or opposing a candidate were to be bucketed.

Please note that our review memo did not indicate any problems with political activities but instead noted the advocacy/legislative issues.
This is no different than other cases we have seen bucketed that supported or opposed particular legislation. Sorry - I'm confused as to what is and is not bucketed. Will you please clarify?
Thanks,
Donna

-----Original Message-----
From: Light Sharon P
Sent: Tuesday, March 12, 2013 12:18 PM
To: Thomas Cindy M; Abner Donna J
Subject: RE: Case Returned from EODQA - Potential Political Advocacy

Cindy and Donna -I reviewed Quality's memo and disagree with Recommendation no. 1 that this be treated as an advocacy case. Issues no. 1 and 2 do not indicate that this organization is involved in significant amounts of political

campaign intervention. They show that they are primarily, overwhelmingly, focused on legislative action. That is not political intervention.

A couple of things mentioned under Issues no. 1 and 2 may involve political intervention. One is the political consultant -- but my guess is that this is a paid lobbyist, unrelated to elections. The other is meetings with candidates who support or opposed legislation favored by the organization.
These meetings could very well just involve lobbying. Organizations often meet with candidates before an election because they have an opportunity to get access they may not get after the election is ove r. Unless the organization goes out after the meeting and announces that they support or oppose a candidate (presumably based on the candidate's position on their issues), there is no political intervention. Furthermore, even if both of these activities did constitute political intervention, they would not warrant treating the case as a political advocacy case. A 501(c)(4) organization can engage in a significant amount of political campaign intervention, and this organization is nowhere near that line.

Let me know if you have further questions.

Thanks,
Sharon

-----Original Message-----
From: Thomas Cindy M
Sent: Tuesday, February 26, 2013 3:42 PM
To: Light Sharon P
Subject: Case Returned from EODQA - Potential Political Advocacy
Importance: High

Sharon,

We received a case back from EODQA per the email dated 1/7/2013 (refer to Attachment 1). The Reviewer's Memo is in Attachment 2, and the reasons why we disagree with the case being included in the Political Advocacy group is in Attachment 3. Please let me know how you want us to handle this.
Thanks.

SFC [redacted]

---- Original Message ----
From: Waddell Jon M
Sent: Tue 2/19/13 3:45 PM
To: Thomas Cindy M
Subject: FW: Whether case should be cons idered political advocacy

Cindy

As a follow-up, Joseph Herr reviewed the case you dropped off the morning [redacted]) and he does not believe it should included in the Poltical Advocacy Bucket. Attached is Joseph's write -up explaining his position.

Note: Joseph reviewed the case as Ron Bell is not in the office today

thanks

From: Seok Stephen D
Sent: Tuesday, February 19, 2013 2:19 PM
To: Waddell Jon M
Cc: Herr Joseph R
Subject: FW: Whether case should be considered political advocacy

Good afternoon Jon,

Per Joseph's memo, which I agree completely, the case should not be in our Emerging Issue - Advocacy/Political category because there are no indication of significant political intervention.
Please see Joseph's memo attached for further detail.

I will bring the case file to you.

Thank you,
Stephen.

From: Herr Joseph R
Sent: Tuesday, February 19, 2013 1:24 PM
To: Seok Stephen D
Subject: Whether case should be considered political advocacy

Stephen,

Attached is the memorandum for the case we discussed.

Joseph

Joseph R. Herr

Revenue Agent Group 7821

Exempt Organizations Determinations

SFC [redacted]

[redacted] fax

From: Buller Siri
Sent: Tuesday, April 06, 2010 10:02 AM
To: Hull Carter C
Subject: RE: Political Issues

Hi, Chip! The Emerge 1024 applications involve organizations that solely train Democratic women who are considering running for office. I'm not sure how similar they are to the Tea Party applications, but I have attached the proposed denial letter for one of the organizations (I believe the letter is currently in Guidance and will later be sent to Chief Counsel). In case you find it useful, I am attaching a 2009 denial of a 1024 that I looked over while I was drafting this denial. I also looked at the documents associated with the Democratic Leadership Council case, and found the attached memo helpful.

We didn't send any development letters from our office, but when I am back in the office, I can show you the development letters that were sent from Cincinnati, if you'd like.

Let me know if I can help in any other way!
Siri

From: Hull Carter C
Sent: Tuesday, April 06, 2010 10:12 AM
To: Buller Siri
Subject: Political Issues

Hi Siri,

I was just assigned a couple of cases on Tea Party organizations, one seeking exemption under 501(c)(3) and one under 501(c)(4). I spoke with Justin, but he was not aware of any similar organizations. I spoke with Judy Kindell and she advised me that you had a case under consideration that may be somewhat sinilar (Emerge, or something like that). I would be appreciative if I could see the type of questions you asked that organization, or any memoranda you might have in this regard. Apparently, Cincinnati recognized one Tea Party case as exempt under 501(c)(3), and a couple exempt under 501(c)(4). There are a number of similar cases that are open in Cincinnati that are being suspended until we come up with a solution. Hopefully, we can all end up on the same page.

Thanks for any help you can provide.

Carter "Chip" Hull
Senior Tax Law Specialist
SEC [redacted] Phone
SEC [redacted] Fax

SFC 001501

From: Hull Carter C
Sent: Wednesday, June 01, 2011 10:08 AM
To: Lowe Justin
Subject: FW: c4 Rulings
Attachments: Westlaw Results : 2001 IRS NSAR 0918R; Westlaw Results : IRS NSAR 20044008E; Westlaw Results : IRS INFO 2001-0038; Westlaw Results : IRS NSAR 20000751R

Per your request.

From: Kastenberg Elizabeth C
Sent: Monday, March 14, 2011 11:34 AM
To: Hull Carter C
Subject: c4 Rulings

Chip,

Here's a couple of cases that are denials of c4 status for organizations engaged in "political activity ." I figured out how to just email them to you instead of printing them off. If you have any problems, just keep it until tomorrow.

BTW - it was a very sad reviewer meeting. It wasn't that difficult a concept to understand.

From: westlaw@westlaw.com
Sent: Monday, March 14, 2011 10:11 AM
To: Kastenberg Elizabeth C
Subject: Westlaw Results : IRS INFO 2001-0038
Attachments: Westlaw Document 10 11 20.doc

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Westlaw

IRS INFO 2001 0038, 2001 WL 34070352 (IRS INFO)

Internal Revenue Service (I.R.S.)
IRS INFO

Information Letter

Issue: March 30, 2001
January 12, 2001

Section 501 Exemption From Tax on Corporations, Certain Trusts, etc. (Exempt v. Not Exempt)501.00 00 Exemption From Tax on Corporations, Certain Trusts, etc. (Exempt v. Not Exempt)

501.04 00 Civic Leagues and Social Welfare Groups (See Also 0501.03 25)

The Honorable ***

***

Dear ***:

Thank you for your letter dated December 11, 2000 concerning ***. Your constituent, ***, asks whether that organization continues to qualify for tax exemption under section 501(c)(4) of the Internal Revenue Code.

To be recognized as exempt from federal tax under section 501(c)(4) of the Code, an organization must, among other things, operate exclusively to promote social welfare. An organization operates exclusively to promote social welfare if it "primarily" engages in promoting in some way the common good and general welfare of the people of the community. Promoting social welfare does not include participating in political campaigns either for or against any **political** candidate. An organization that is exempt under section 501(c)(4) may engage in **political** activity if its primary activity is to promote social welfare. If the organization does intervene in a political campaign, it may be subject to the tax imposed by section 527.

An organization whose primary activity is rating candidates for public office is not exempt under section 501(c)(4) in Rev. Rul. 67 368. This Rev. Rul. considers the rating of candidates, even on a nonpartisan basis, as participation on behalf of the candidates favorably rated. Because rating was the organization's primary activity, the organization was not operated exclusively for the promotion of social welfare. In contrast, an organization primarily engaged in social welfare activities may participate in campaign activities involving the nomination or election of public officials without adversely affecting its exempt status under section 501(c)(4). See Rev. Rul. 81 95.

The office of the IRS with jurisdiction over *** is Exempt Organizations Examination, Programs & Review. We have forwarded your information to that office for appropriate action.

We appreciate *** advising us of a possible violation of the Internal Revenue Code by a tax exempt organization. The Code includes taxpayer privacy provisions, which were enacted by Congress to protect the privacy of tax returns and tax return information of all taxpayers. We cannot disclose what action, if any, the IRS has taken or may take using the information you provided.

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I can tell you, however, we maintain an ongoing examination program to ensure that tax exempt organizations continue to meet the legal requirements for tax exemption and comply with tax laws. When an examination shows an organization is not complying with the tax laws, we take appropriate action.

Please tell your constituent that, if at a later date, she has more information relevant to this matter, she can send it directly to:

EO Examination, Programs & Review
T:EO:E:PR
Internal Revenue Service
1100 Commerce Street
Dallas, TX 75242

I appreciate your bringing this matter to our attention. If you have any questions, please call Steven Grodnitzky, ID # 50 18514, of this office at (202) 283 8941.

Sincerely,

by

/s/ Gerald V. Sack

Steven T. Miller
Director, Exempt Organizations

IRS INFO 2001 0038, 2001 WL 34070352 (IRS INFO)

END OF DOCUMENT

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From: westlaw@westlaw.com
Sent: Monday, March 14, 2011 10:13 AM
To: Kastenberg Elizabeth C
Subject: Westlaw Results : IRS NSAR 20000751R
Attachments: Westlaw Document 10 13 13.doc

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IRS NSAR 20000751R, 2000 WL 34548357 (IRS NSAR)

Internal Revenue Service (I.R.S.)
IRS NSAR

Non Docketed Service Advice Review

Issue: November 14, 2000

Employer Identification Number: ***

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(4). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

The information submitted indicates that you were incorporated under the non profit corporation laws of the State of *** on ***. Article III of your Articles of Incorporation states your objects and purposes as follows:

> To encourage and empower the women of *** to participate in Government by taking an active role through educational programs and dissemination of information, to enable the *** woman voter to participate in the development of issues and to take an active role in finding solutions through the governmental process; to promote opportunities for *** women to achieve elected and appointed positions in government, including for such purposes, the making of distributions to organization that qualify as exempt under section 501(c)(3) of the Internal Revenue Code...

You state in your application that you afford women the opportunity to participate in government by offering various venues to provide timely information. To this end, you host luncheons, conferences and membership meetings designed to enable Democratic women voters to participate in the development of issues through educational programs and the dissemination of information. You schedule speakers, including local and state business leaders and politicians, to discuss current topics of concern to your membership. You state that the overall goal of these functions is to actively establish *** women in the government process and to further promote a route for solutions. You state further, that these membership events are designed to promote opportunities for *** women to achieve elected and appointed positions in government.

You state on page 3 of you application that you plan to offer a *** contribution annually to the *** You indicate that your members strongly agree with the mission of the *** organization.

Pursuant to Article VI of your by laws, you are governed by a 17 member Board of Governors. Five Governors are chosen from each *** and *** and 2 members are elected at large from any of the three *** The Governors are elected by your general membership.

Article III of your by laws states that any registered *** woman eighteen years of age or older may join. The application for membership must be made in writing and is to be regarded as a guarantee on the part of the applicant of her interest in your objects and purposes. The membership application requires the applicant to be a registered *** in one of *** you represent. Election to membership requires a majority vote of your Board of Governors.

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Your primary source of financial support is direct public contributions from both the corporate community and individuals. You also receive member dues. In addition, you indicate that you may conduct fundraising activities such as raffles or auctions.

Section 501(c)(4) of the Internal Revenue Code (hereinafter "Code") provides for the exemption from federal income tax of organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4) 1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.

Section 1.501(c)(4) 1(a)(2)(ii) of the regulations provides that 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.

Rev. Rul. 60 193, 1960 1 C.B. 195, concludes that an organization created to encourage greater participation in governmental and **political** affairs qualifies for recognition of exemption under section 501(c)(4) of the Code. Activities of the organization include seminars and workshops held on campuses of colleges and universities. The subject matter of these seminars relates to the American political system. All lecturers, including academic political scientists and political leaders from the local and national levels, were required to maintain certain technical standards and were not allowed to advocate for any particular political group. Seminars and workshops were moderated by permanent staff personnel of the organization in order to prevent the program from becoming partisan in character.

Rev. Rul. 73 306, 1973 2 C.B. 179, provides that an organization formed for the purpose of promoting the common interest of tenants who reside in an apartment complex does not qualify for exemption under section 501(c)(4) of the Code. Any person regularly living in the complex is eligible for membership. The organization represented its member tenants in negotiations with the management of the complex in order to secure better maintenance and services, and reasonable rentals. The Service concluded that this organization was not described in section 501(c)(4) of the Code because it was operated to benefit its members and was not primarily engaged in activities that promote the common good and general welfare of the community.

In contrast, Rev. Rul. 80 206, 1980 2 C.B. 185, holds that an organization formed to promote the legal rights of all tenants in a community qualifies for exemption under section 501(c)(4) of the Code.

Rev. Rul. 73 349, 1973 2 C.B. 179, holds that an organization formed to purchase groceries for its members at the lowest possible prices on a cooperative basis is not exempt under section 501(c)(4) of the Code. Each member paid for the cost of food ordered plus a monthly service charge which defrayed the organization's expenses. The organization was a cooperative enterprise for the economic benefit or convenience of its members. The Service stated that the organization was operated primarily for the benefit of members and not to promote the common good and general welfare of the community.

Rev. Rul. 75 286, 1975 2 C.B. 210, describes an organization that was formed by the residents of a city block to preserve and beautify that block, to improve all public facilities within the block, and to prevent physical deterioration of the block. Its activities consisted of paying the city government to plant trees on public property within the block, organizing residents to pick up litter and refuse in the public streets and on public sidewalks within the block, and encouraging residents to take an active part in beautifying the block by placing shrubbery in public areas. Much of the public area improved by the organization was part of the public roadway lying between the

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sidewalk and the street in front of private property owned by members of the organization. Membership in the organization was restricted to residents of the block and those owning property or operating businesses there.

The Service concluded that the organization did not qualify for exemption under section 501(c)(3) of the Code but did qualify for exemption under section 501(c)(4). The Service reasoned that because the activities enhanced the value of the members' property rights, the organization served the private interests of its members and did not qualify for exemption under section 501(c)(3). However, the Service also reasoned that while the organization's activities were benefiting its members there was sufficient benefit conferred upon the community as a whole. Although private benefit did exist to the members, the primary benefit was to the community. Therefore, the organization was not operated primarily for the benefit of members, but primarily to promote social welfare.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), a corporation was organized for the purpose of purchasing a government housing project and converting it to cooperative, nonprofit housing for its members. Membership in the corporation was established by the purchase of a corporate share which allowed the purchaser an apartment unit. The court held that the organization was not described in section 501(c)(4) of the Code because the operation was a private self help enterprise with only incidental benefit to the community.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827 (1974), plumbers working in New York City were responsible for the cuts they made in the city streets. Prior to the organization's existence, the city had repaired the cuts and billed the plumbers individually. This system proved to he highly inefficient. The organization was formed in order to restore the city streets. It only repaired cuts made by its members. The joint effort of the plumbers reduced their liability and their expenses. While the court found the program to be highly beneficial, it concluded that the organization principally served the private economic interests of its members and, thus, could not be considered exempt under section 501(c)(4) of the Code.

Rev. Rul. 66 256, 1966 2 C.B. 210, describes an organization that was formed to bring about a fair and openminded consideration of social, political, and international questions by the promotion and sponsorship of a public forum at which debates and lectures were conducted. The organization invited prominent individuals to discuss varying political and social matters of national and community interest. The speakers, in addition to delivering their prepared text, answered questions of those attending. The other part of the organization's program involved the sponsorship of debates. Individuals representing opposing viewpoints were invited to debate particular topics. The debates were conducted in accordance with carefully drawn rules. Frequently, the persons invited to lecture or debate were controversial and occasionally there was opposition to their appearance. None of the programs or activities of the organization involved the participation or intervention in any political campaigns of candidates for public office.

The Service stated that the presentation of public lectures, forums, or debates was a recognized method of educating the public. The fact that the presence of the invited speaker or his opinions could precipitate controversy within the community did not adversely affect the status of an organization whose primary purpose was to provide a forum for speakers. Consequently, the Service concluded that the organization qualified for exemption under section 501(c)(3).

Rev. Rul. 76 456, 1976 2 C.B. 151, describes an organization that was formed for the purpose of elevating the standards of ethics and morality that prevail in the conduct of campaigns for election to public office at the national, state, and local levels. On a nonpartisan basis the organization collected, collated, and disseminated information concerning general campaign practices through the press, radio, television, mail, and puhlic speeches. In addition, the organization furnished 'teaching aids' to political science and civics teachers to help stress the need for ethical conduct in political campaigns. The organization proposed a Code of fair campaign practices. Although need for the Code was extensively publicized, the organization did not solicit the signing or endorsement of the Code by candidates for political office.

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The Service observed that the organization was instructing the public on subjects useful to the individual and beneficial to the community within the meaning of section 1.501(c)(3) 1(d)(3) of the regulations by encouraging voters to concern themselves with fair as well as unfair practices encountered in political campaigns. This was done, on a nonpartisan basis, so that citizens could increase their knowledge and understanding of our election processes and participate more effectively in their selection of government officials. Consequently, the Service concluded that the organization was operated exclusively for educational purposes and thus qualified for exemption under section 501(c)(3) of the Code.

Rev. Rul. 80 282, 1980 2 C.B. 178, describes an organization whose activities included the publication of Congressional incumbents' voting records on selected issues in a non partisan newsletter. The Service observed that the format and content of the publication were not neutral because the publication reported each incumbent's votes and his\her views on selected legislative issues and indicated whether that incumbent supported or opposed the organization's view. However, the voting records of all incumbents were presented and candidates for reelection were not identified. No comment was made on an individual's overall qualifications for public office, no statements expressly or impliedly endorsed or rejected any incumbent as a candidate for public office, and no comparison of incumbents with other candidates were made. The organizations noted the inherent limitations of judging the qualifications of an incumbent on the basis of certain selected votes by stating the need to consider such unrecorded matters as performance on subcommittees and constituent services. Furthermore, the organization did not widely distribute its compilation of incumbents' voting records. The publication was distributed to the organization's normal readership, numbering only a few thousand nationwide. This resulted in a very small distribution in any particular state or Congressional district. No attempt was made to target the publication toward particular areas in which elections are occurring nor to time the date of publication to coincide with an election. The Service concluded that the organization was not engaged in prohibited political campaign activity.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), an organization was formed for charitable and educational purposes. The organization's primary activity was to operate a school. The school trained individuals for careers as political campaign professionals. The school maintained a regularly scheduled curriculum, a regular faculty and a full time enrolled student body. Prior to the formation of the organization, the National Republican Congressional Committee (NRCC) sponsored programs designed to train candidates and to train and subsequently place campaign professionals in Republican campaigns. The organization stated that it was an outgrowth of the programs operated by the NRCC. NRCC contributed the physical assets, such as furniture and computer hardware, to the organization. Two of the organization's six full time faculty were previously involved in the NRCC's training program. One the of the organization's three initial directors was the executive director of the NRCC. The organization did not train candidates or participate in, or intervene in, any political campaign on behalf of any candidate. Neither did the organization engage in any activities tending to influence legislation. Applicants were required to provide the organization with professional references. While applicants were not required to formally declare their political affiliation to attend the organization's school, such affiliation could be deduced from the campaign experiences and political references contained in the applications. Graduates of the school were employed by various Republican organizations. No graduate was known to have affiliated with any domestic political party other than the Republican Party.

The Court concluded that the organization's activities benefited the private interests of *** entities and candidates more than incidentally. The organization, thus, served a substantial nonexempt purpose. Although the school had a legitimate educational program, the Court held that the school conducted its educational activities with the partisan objective of benefiting the interests of the *** Party.

In order to qualify for recognition of exemption under section 501(c)(4) of the Code, an organization must be primarily engaged in activities that promote social welfare. The promotion of social welfare may include activities that educate the public or lobby public officials or both. Exemption is not dependent on the point of view of the

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educational material or the issue being lobbied. In contrast to lobbying and educational activities, partisan **political** activity does not promote social welfare as defined in section 501(c)(4). Such activity promotes the interests of the one **political** faction. An organization engaging in such activity is engaged not merely in the clash of ideas, but in a contest for power.

The information you submitted indicates that you are a partisan organization and that your activities are partisan in nature. Your membership is limited to registered members of the ***. Your activities are chosen for their benefit to the *** and to your members who wish to run for public office on the *** ticket. You have agreed to contribute $ *** annually to the *** as your members strongly agree with the mission of that organization.

Unlike the organization described in Rev. Rul. 60 193, supra, which encouraged participation in the political process by explaining the process on a nonpartisan basis, you appear to have been created for the partisan objective of promoting the platform of and politicians affiliated with the *** Based on the above facts and circumstances, we conclude that, because of your partisan nature, you were not engaged in activities that promote social welfare.

In addition, an organization exempt under section 501(c)(4) of the Code must be operated exclusively for the promotion of social welfare. It may not benefit select individuals or groups, but must instead benefit the community as a whole. See Rev. Rul. 75 286, supra For example, the tenants' organization described in Rev. Rul. 73 306, supra, is distinguishable from the one described in Rev. Rul. 80 206 , supra, in that its activities are directed primarily toward benefitting its member tenants rather than all tenants in the community. See e.g.Rev. Rul. 73 349 ; Lake Forest, Inc. ; and Contracting Plumbers Cooperative; Restoration Corp , supra. Therefore, a sufficient amount of benefit to select individuals will preclude an organization that would otherwise qualify for exemption from being described in section 501(c)(4).

This private benefit standard is demonstrated in American Campaign Academy , supra and is relevant here. In that case, the court held that an organization created to serve a particular faction in the political spectrum was not exempt under section 501(c)(3) of the Code because its activities benefited the private interest of that particular faction. The private benefit standard as described in American Campaign Academy also applies to organizations seeking exemption under section 501(c)(4). The difference between these two Code sections lies in the weight accorded the private benefits (i.e. the amount of private benefits), not the standard. Seee.g. Rev. Rul. 75 286, supra.

A review of the information submitted leads to the conclusion that you are operated primarily for the benefit of *** and your members wishing to pursue public office. Like the organization in American Campaign Academy , your activities are designed to benefit a select group. Your activities benefit *** and its affiliated politicians by enhancing their electoral and political fortunes. They strengthen Party identification and generate public support and enthusiasm for its platform thereby enhancing the election or reelection prospects of Democratic politicians.

This conclusion is supported by your *** connections demonstrated in the history, creation, control, and operation of your organization. You were created by a group of women who are registered *** According to your by laws, you limit your membership to individuals who are registered members of *** Thus, the management of and all decision making for your organization resides with members of *** The authority to administer and direct your organization is vested with *** partisans.

In summary, we conclude that you are not operated primarily to promote social welfare because you are a partisan organization and your activities are partisan. In addition, we conclude that your activities also substantially benefit your members who are seeking public office. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code and you must file federal income tax returns.

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You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also bave a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877 829 5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
*** T:EO:RA:T:4, Rm. 6232
1111 Constitution Ave, N.W.
Washington, D.C. 20224

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

Sincerely,
Gerald V. Sack
Manager, Exempt Organizations Technical Group 4

This document may not be used or cited as precedent. Section 6110(j)(3) of the Internal Revenue Code.

IRS NSAR 20000751R, 2000 WL 34548357 (IRS NSAR)

END OF DOCUMENT

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SFC 001512

From: Seto Michael C
Sent: Monday, December 05, 2011 6:53 PM
To: Grodnitzky Steven
Cc: Shoemaker Ronald J
Subject: RE: Advocacy Organization cases
Yes. The screener, Ron Shoemaker, should be routing them to T1. Thanks, Mike

---

From: Grodnitzky Steven
Sent: Monday, November 28, 2011 11:25 AM
To: Seto Michael C
Cc: Grodnitzky Steven
Subject: Advocacy Organization cases

Mike,

Because I am tracking the advocacy organization cases now, I am tr ying to get a sense of the process for how these cases are handled when they are sent to EOT. Would the screener alert me when he/she screens the case? Or, are all these cases now being assigned to my group? Or is there some other manner for alerting me?

I just want to ensure I can properly keep track of them.

Thanks so much.

Steve

Steven Grodnitzky
Manager, Technical Group 1
Exempt Organizations, Rulings and Agreements
Tax Exempt and Government Entities Division
U.S. Internal Revenue Service
Phon SFC
fa SFC

SFC 001513

From: Seto Michael C
Sent: Tuesday, November 29, 2011 1:19 PM
To: Grodnitzky Steven
Subject: RE: Advocacy Organizations
The advocacy cases are not expedited unless the taxpayer requested expedited treatment and the request was approved. The exceptions are the two cases that are on the SCRs. I hope this help.

Thanks, Mike

From: Grodnitzky Steven
Sent: Tuesday, November 29, 2011 10:41 AM
To: Seto Michael C
Cc: Grodnitzky Steven
Subject: Advocacy Organizations

Are the advocacy cases supposed to be expedited for any reason? The reason I ask is because some folks are just getting assigned them, and if we work them in the order received as we are supposed to, it may take some time for them to get to in their inventory.

Steven Grodnitzky
Manager, Technical Group 1
Exempt Organizations, Rulings and Agreements
Tax Exempt and Government Entities Division
U.S. Internal Revenue Service
Phon SFC [redacted]
fax SFC [redacted]

From: Grodnitzky Steven
Sent: Monday, January 10, 2011 1:14 PM
To: Seto Michael C
Cc: Paz Holly O
Subject: FW: Denial

Just a heads up that the proposed denial for Emerge Maine will be issued to the taxpayer. This is the case in which the organization is training Democratic women for politics. We are relying on a private benefit denial, similar to the American Campaign Academy case, although this is a (c)(4). TEGE Counsel reviewed the denial and provided us with a some comments. This case will be used as a template for others we have in the office. The Emerge cases are part of a Significant Case Report.

Steven Grodnitzky
Internal Revenue Service
TEGE, Exempt Organizations
Rulings and Agreements
phone: SFC
fax: SFC

From: Buller Siri
Sent: Monday, January 10, 2011 1:52 PM
To: Grodnitzky Steven
Subject: Denial

Debbie dropped off the file for Emerge Maine in TPU.

Siri Buller
Tax Law Specialist
Technical Group 1
Exempt Organizations
P SFC
F SFC

SFC 001515

From: Westcott Cindy M
Sent: Wednesday, September 24, 2008 7:26 AM
To: Melahn Brenda
Subject: RE: Policitial Case Alert

Thanks

From: Melahn Brenda
Sent: Wednesday, September 24, 2008 8:24 AM
To: Westcott Cindy M
Subject: FW: Policitial Case Alert
Importance: High

From: Melahn Brenda
Sent: Monday, September 08, 2008 8:26 AM
To: Shafer John H; Bowling Steven F; Brinkley Lynn A; Combs Peggy L; Jefferson White Beverly J; Lewis Jovonnie; St Julien James A; Werner Connie M
Subject: FW: Policitial Case Alert
Importance: High

As a reminder any "political sensitive" case should be sent to EODQA. Memo from Rob dated 12/19/07 indicate they should be worked as full development cases (not screened out) AND they are mandatory review.

Brenda

From: Abner Donna J
Sent: Monday, September 08, 2008 7:57 AM
To: Westcott Cindy M; Camarillo Sharon L; Melahn Brenda
Cc: Bibb Kenneth B; Waddell Jon M
Subject: Policitial Case Alert

The purpose of this e mail is to alert you to information discovered during the review of 2 cases designated by Jon Waddell for Manager discretion review. In brief, during the review of the 2 cases it was discovered that several more already received exemption and because of the organization's structure, additional applications are very likely. Here's the specifics:

Jon's Cases: Emerge Maine Case # 4180018017
Emerge Nevada Case # 458028002

Already Exempt Emerge America Case #606044026 Closed Status 06 3/16/06
Emerge Women Leaders for a Democr atic Future Case # 604246037 Closed status 01 9/2/04
Emerge Arizona Women Leaders for a Democratic Future Case #507291023 Closed status 01 3/12/08
Emerge New Mexico Case # 506194109 Closed status 01 5/8/07
Emerge Wisconsin Case # 438014038 Closed status 06 3/6/08

Open Case
Emerge Massachusetts Case # 418235013 Open status 61

As you can see from the above list the organizations appear to form based on "State" boundaries. Therefore, we may receive applications for the remaining states. The purpose of the organizations appear to be similar train "Democratic" party canidates in areas such as campaigning, fundraising, public speaking, press relations, and leadership skills.

Because of the partisan nature of the cases guidance from EO Technical is pending. Recent rulings considered include PLR 200833021 and Democratic Leadership Council, 542 F. Supp. 2d 63 (2008).

Per IRM 7.20.5 "sensitive political issue" cases were designated as subject to mandatory review in 2007. Please note the two case above closed in 2008 that did not come through QA.

I recommend an alert be issued regarding th is type of case as well as a reminder that "sensitive political issue" cases are subject to mandatory review.

Thank you,
Donna

From: Westcott Cindy M
Sent: Wednesday, September 24, 2008 7:28 AM
To: Camarillo Sharon L; Blair James H
Subject: FW: Policitial Case Alert
Attachments: Merit Screening of Cases with Political Issues (65.1 KB); IRM 7.20.5 Revision Just Posted (4.06 KB)

Importance: High

Sharon/Jim,

Please read Donna's e-mail below. A reminder probably needs to be sent to your staff that these cases are mandatory review.

From: Melahn Brenda
Sent: Wednesday, September 24, 2008 8:24 AM
To: Westcott Cindy M
Subject: FW: Policitial Case Alert
Importance: High

From: Melahn Brenda
Sent: Monday, September 08, 2008 8:26 AM
To: Shafer John H; Bowling Steven F; Brinkley Lynn A; Combs Peggy L; Jefferson White Beverly J; Lewis Jovonnie; St Julien James A; Werner Connie M
Subject: FW: Policitial Case Alert
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To: Westcott Cindy M; Camarillo Sharon L; Melahn Brenda
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Subject: Policitial Case Alert

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I recommend an alert be issued regarding this type of case as well as a reminder that "sensitive political issue" cases are subject to mandatory review.

Thank you,
Donna

Internal Revenue Service

memorandum

date: DEC 19 2007

to: Manager, Exempt Organizations Determinations SE:T:EO:RA:D
Manager, EO Determinations Quality Assurance SE:T:EO:RA:QA
Manager, EO Technical SE:T:EO:RA:T

from: Director, Exempt Organizations Rulings and Agreements SE:T:EO:RA

subject: Merit Screening and Inventory Reduction Project

The purpose of this memorandum is to provide instructions for processing exemption applications where sensitive political issues may be present.

Exemption applications that present the types of sensitive political issues described below should be assigned for full case development and should not be approved through the EO Determination merit screening process or the EO Technical inventory reduction project.

As you know, organizations described in Code section 501(c)(3) must not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to)any candidate for public office. Sensitive political issues that may be present in exemption applications include the following types of activities.

- Voter registration
- Inaugural host committees
- Post election transition teams (to assist the elected official prior to officially assuming the elected position)
- Voter guides
- Voter polling
- Voter education
- Other activities that may appear to support or oppose candidates for public office

If you have questions about this memorandum, please contact Marv Friedlander at SFC [redacted]

From: Westcott Cindy M
Sent: Friday, October 10, 2008 11:30 AM
To: Camarillo Sharon L
Cc: Melahn Brenda
Subject: RE: 2 Political Activity Cases

Thanks for information. I will work with EO Technical to find out if they want all Emerge cases in the future. If so, we will simply have our screeners send them. If not, we will most likely take Jon up on his offer. I let you know what decision is made. Thanks.

From: Camarillo Sharon L
Sent: Friday, October 10, 2008 10:26 AM
To: Westcott Cindy M
Cc: Melahn Brenda
Subject: FW: 2 Political Activity Cases

Cindy: Here is the e-mail that Jon received asking that we forward our tw o political cases (Emerge Maine and Emerge Nevada) to EOT. I think Jon's suggestion is good, that we coordinate any other related cases through one group - he has volunteered to do this.

Sharon L. Camarillo
EO Determinations Manager, Area 1

9350 E. Flair Drive
El Monte, CA 91731-2885

Telephone: SFC [redacted]
[redacted] [redacted]

From: Waddell Jon M
Sent: Friday, October 10, 2008 6:36 AM
To: Camarillo Sharon L
Subject: FW: 2 Political Activity Cases

Sharon,

I'm forwarding this along as it looks like EOT is going to take these two political cases off of our hands. Additionally, thinking ahead a bit, we might want to coordinate future receipt of Emerge Cases directly through Group 7821 and we can then send them from one spot to D.C. From past experience there could be many more that are received on a state by state basis.

thanks

SFC 001521

From: Lowe Justin
Sent: Friday, October 10, 2008 9:25 AM
To: Waddell Jon M
Cc: Kindell Judith E; Lieber Theodore R
Subject: 2 Political Activity Cases

Good Morning Jon,

I talked with Judy and Ted about the 2 political activity cases, Emerge Maine and Emerge Nevada. Please send them up to us. We will hold on to them here until the litigation on this issue has concluded and then work them. If more cases with a similar fact pattern come in, please let me know.

Thanks,

Justin Lowe
Tax Law Specialist
EO Technical Group 1
Rulings and Agreements, TEGE
Phone SFC
[redacted]

SFC 001522

From: Kant Deborah R
Sent: Thursday, October 16, 2008 9:44 AM
To: Westcott Cindy M
Cc: Trilli Darla J; Lowe Justin
Subject: RE: 2 Political Activity Cases

Our thinking is that you could keep the cases and hold them (as we are doing in the Emerge Nevada and Maine cases) pending the outcome of a similar issue in the DLC litigation. At that point, we can decide on the best course of action.

Let me know if you have concerns about this.

-deb

From: Westcott Cindy M
Sent: Friday, October 10, 2008 12:35 PM
To: Kant Deborah R
Cc: Trilli Darla J
Subject: FW: 2 Political Activity Cases

Debi,

Please see the e-mail below. It appears that we may be getting more "Emerge" cases in, possibly from every state. Should all of these cases be sent to EO Technical?

From: Lowe Justin
Sent: Friday, October 10, 2008 9:25 AM
To: Waddell Jon M
Cc: Kindell Judith E; Lieber Theodore R
Subject: 2 Political Activity Cases

Good Morning Jon,

I talked with Judy and Ted about the 2 political activity cases, Emerge Maine and Emerge Nevada. Please send them up to us. We will hold on to them here until the litigation on this issue has concluded and then work them. If more cases with a similar fact pattern come in, please let me know.

Thanks,

Justin Lowe
Tax Law Specialist
EO Technical Group 1
Rulings and Agreements, TEGE
Phone: SFC [redacted]

SFC 001523

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: Emerge Maine and Emerge Nevada **TIN/EIN:** 418018017 and 458028002 **POA:** N/A	**TAX PERIODS:** **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Cincinnati, OH	☐ **INITIAL REPORT** ☒ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☒ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☒ Other (explain in Case Summary)
FORM TYPE(S): :1024	**START DATE:** 7/28/2008
POTENTIAL DOLLARS INVOLVED (IF > $10M) :	**CRIMINAL REFERRAL?** No **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

Two organizations from 2 different states applied for exemption under section 501(c)(4) for the purpose of training women to run for political office . The services are only provided to women affiliated wit h the Democratic Party and focus on a variety of subjects such as public speaking and press relations, as well as how to conduct fund raising activities. The applications appear to represent potential partisan political activity.

Coordination has take n place between EO Determinations, the Quality Office, and EO Technical.

CURRENT SIGNIFICANT ACTIONS ON CASE:

In August 2008, cases were referred to the Quality Office according to IRM procedures. Research completed by the Quality Off ice unveiled that 4 "Emerge" organizations were already approved with the oldest approval dating back to September 2004.

On October 9, 2008, after consultation with EO Technical, the two cases were transferred to them for review. The review of these 2 ca ses are dependent upon the resolution of the current court case between the IRS and the DLC (Democratic Party Leadership Council).

Additional "Emerge" cases will be coordinated with EO Technical.

SIGNIFICANT NEXT STEPS, IF ANY: Cases have been transferred to EO Technical awaiting details of current DLC Court Case.	**ESTIMATED CLOSURE DATE:** Unknown

BARRIERS TO RESOLUTION, IF ANY:
Barriers include: Outstandanding court case between IRS and the DLC a nd fact that 4 "Emerge"

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

SFC 001524

TEGE Division Sensitive Case Report
(revised January 2007)

organizations were already approved for exemption.	
SUBMITTED BY: Jon Waddell	**MANAGER:** SHARON CAMARILLO
DATE: 10/21/2008	

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

Screening Workshop Notes - July 28, 2010 1

Participants included members of the screening group, embedded screeners from Cincinnati, west coast screeners, selected secondary screeners, TE/GE EO Quality Assurance's Staff and Area 1 & 2 Managers. The workshop agenda, PowerPoint and attachments were presented to participants via email.

Topics and Highlights

Opening Statements: John Shafer

- Welcomed participants.
- Encouraged participants to email topics for inclusion in our next Workshop.
- Current workshop is to provide an update on current issues and concerns.
- Floor was turned over to Presentators. Topics/Presentators follow:

Healthcare Reform: Roger Vance/John Schafer

- Re-empathized items listed on the Healthcare Memorandum are subject to Mandatory Secondary Screening.
- Any reference to "Patient Protection and Affordable Care Act" and the "Health Care and Education Reconciliation Act of 2010" still requires Secondary Screening.
    - Wayne Bothe, Secondary Screener indicated that Health Care does not include the following:
        - Elderly Housing
        - Assisted Living
- New Topics/Phrases that require Secondary Screening include:
    - "Accountable Care" Organizations,
    - "Additional Medicare Payments to Physician Medicare based upon Quality Care."
- Any topic that you believe, or think, that it might be related to Health Care should be subject to Secondary Screening. John Shafer - "Err on the side of caution".
- VEBAs must be screened by Group 7824 and should not be screened out.
- Initial Screeners should not assign the T# for Health Care; utilize the Category # for Secondary Screening as presented on the new 51 Sheet and/or TEDS.

Organization filing after 27-Month their Formation: Glenn W Collins/John Shafer

- Glenn provided a brief summary as to why a secondary screening process was created.
- Pension Protection Act of 2006 created the legal requirement for organizations not required to file Form 990 * to notify the IRS within three years of exemption. Failure to do so creates Automatic Revocation of Exemption.
    - *This requirement does not include Churches or Church-Related Organizations- and are not subject to the Automatic Revocation.
    - An opportunity for a one-time relief from revocation has been presented.
    - As a result automatic revocations have been delayed until January 2011.
    - Once effective automatic revocations will reflect ST 97.
- Three characteristics were identified that mandates transfer to Group 7822 for Secondary Screening and IDRS research.

- The emailed attachment outlines the overall process.
- Glenn deferred additional statements and/or questions to John Shafer on yesterday's developments; how they affect the screening process and timeline.
- Concerns can be directed to Glenn for additional research if necessary.

Current/Political Activities: Gary Muthert

- Discussion focused on the political activities of Tea Parties and th e like-regardless of the type of application .
- If in doubt Err on the Side of Caution and transfer to 7822.
- Indicated the following names and/or titles were of interest and should be flagged for review:
    - 9/12 Project,
    - Emerge,
    - Progressive
    - We The People,
    - Rally Patriots, and
    - Pink-Slip Program.

- Elizabeth Hofacre, Tea Party Coordinator/Reviewer
    - Re-empathize that applications with Key Names and/or Subjects should be transferred to 7822 for Secondary Screening. Activities must be primary.
    - "Progressive" appli cations are not considered "Tea Part ies"

Disaster Relief: Renee Norton/Joan Kiser

- Advise audience that buzz words or phrases include:
    - "X" Rescue
    - References to the Gulf Coast, Oil Spills,
- Reminded screeners that Disaster Relief is controlled by 7838, and then forwarded to Group 7827, for Secondary Screening.
- Denied Expedites worked by initial screener:
    - Complete Expedite Denial CCR, place on left side of file.
    - Email Renee or Joan with specific reason why expedite was denied and disposition (i.e. AP, IP, 51).
    - Place Post-It on Orange Folder advising Karl
        - "Denied Expedite / Fwd to M Flammer."

Power of Attorneys: Nancy Heagney

- Form 2848 that references 990, 941 or the like should be
    - Printed and annotate on the bottom per procedures
    - Documentation on TEDS sho uld be made.
        - See Interim Guidance located on Public Folders.

Closing Sheets: Gary Muthert

- Closing Sheets should not cover pertinent info on the AIS sheet or EDS' 8327.
- Case Grade and Data (e.g. NTEEs) must be correctly presented and accurately depict the case's complexity and purpose.
    - Inaccurate presentations create processing delays.
    - Steve Bowling, Mgr 7822 "Volumes of cases are graded incorrectly."
    - EDS and TEDS must Agree to achieve desire business results

Credit Counseling (CC)

Stephen Seok

- Re-stressed impact that section 501(q) had on purely educational cases.
    - Cases are fully developed as 501(q) Credit Counseling Cases.
    - Key analysis is whether financial education and/or counseling activities are "substantial".
    - Cases with financial education and/or financial counseling - substantial or insubstantial are still subject to Secondary Screening until further notice.
    - Continue to document the analysis as "Substantial" or "Insubstantial" on the CC Check-sheet.
    - Feedback on cases received is in process.

TAG

Jon Waddell

- The New List will be completed and issued this week- approximately 7/30/10.
- Sharing a Drive on the Server has created the delay/dilemma.
- Monthly Emails will restart shortly after the List's distribution.
- Listing will include the following:
    - Touch and Go, Emerging Issues and Issues to Watch For.
    - Annie Martin Cases* (Puerto Rico based low-income housing) are considered "Potential Abusive Cases".
    - Grant People Cases (Las Vegas, NV) should continue to be sent to TAG Group for re-screening

    *LCD referrals are in process since both have questionable practices.

From: Paz Holly O
Sent: Monday, August 01, 2011 9:28 AM
To: Thomas Cindy M
Subject: FW: New York Times -- 501(c)(4)s

Importance: High

Here is the NYT article about the approval of some Emerge orgs and denials of others that we discussed.

From: Burke Anthony
Sent: Thursday, July 21, 2011 6:45 AM
To: Eldridge Michelle L
Cc: Lemons Terry L; Keith Frank; Zarin Roberta B; Lerner Lois G; Williams Grant; Dinh Leuyen D
Subject: New York Times 501(c)(4)s

Michelle, here is today's New York Times article about the 501(c)(4) organizations denied exempt status. The article suggests that organizations applying for exempt status may receive disparate treatment based on the location of the IRS office reviewing the application.

The New York Times

July 20, 2011

3 Groups Denied Break By I.R.S. Are Name d

By STEPHANIE STROM

Three nonprofit advocacy groups that were denied tax exemption by the Internal Revenue Service were all units of Emerge America, an organization devoted to cultivating female political leaders for local, state and federal government.

The I.R.S. denied tax exemption to the groups — Emerge Nevada, Emerge Maine and Emerge Massachusetts — because, the agency wrote in denial letters, they were set up specifically to cultivate Democratic candidates. Their Web sites ask for evidence that participants in their training programs are Democrats.

News of the I.R.S. decision, which surfaced in heavily redacted denial letters to the groups that were posted to the agency's Web site last Thursday, raised concerns among advocacy groups, known as 501(c)(4) organizations after the section of the tax code that governs them, at large.

Crossroads GPS, a conservative advocacy organization with ties to Karl Rove, the Republican strategist, sent an e -mail to supporters on Tuesday, assuring them that it was not one of the three groups denied exemption.

Karen Middleton, president of Emerge America, acknowledged on Wednesday that the three state organizations had been denied an exemption. She said the groups were in the process of converting into 527 organizations, which are also tax - exempt but disclose their donors, unlike 501(c)(4) groups.

"We're all small organizations," Ms. Middleton said. "We train about 25 Democratic women each year in each state where we work, and we don't engage in any work that involved candidates or campaigns."

The I.R.S. has approved five other state Emerge organizations — in California, Arizona, New Mexico, Wisconsin and Kentucky — as advocacy groups.

"It's just bizarre," said Kimberly Ellis, executive director of Emerge California. "Nevada has been around and waiting for approval for the last five years, and in the inte rim, Oregon and Kentucky are established and file for their approval — and Kentucky gets it but Nevada, Maine and Massachusetts don't."

Michelle Eldridge, an I.R.S. spokeswoman, said the agency could not comment on individual taxpayers.

Paul Streckfus, a former I.R.S. official, said such inconsistency was not unusual. In part, it is because the office that handles approval of tax-exempt groups, he said, receives hundreds if not thousands of applications a day at its office in Cincinnati. Some of the appli cations are then sent for processing at field offices around the country, and, in some cases, to headquarters in Washington.

"My guess is that the one that recently got approved went to a different office than the ones that were denied, which seem to have been handled in Washington," Mr. Streckfus said.

Ms. Ellis said Kentucky's application was processed in an I.R.S. office in the Western United States. She did not know where the still-pending application of Emerge Oregon ended up.

SFC 001530

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

Are you OK wit SFC [redacted] 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: Newtown or Boston.

-----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 th SFC [redacted] that was in the article I forwar ded, 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 advi ce, 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 i SFC) 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.

SF is a not-for-pro i SFC 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 b SFC

SFC 001533

The following individuals are expected to attend: SFC [redacted].

-----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 guarante e 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 SFC [redacted]) 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.

SFC 001534

From: Lerner Lois G
Sent: Monday, May 06, 2013 3:11 PM
To: Marks Nancy J
Subject: SFC [redacted].doc
Attachments: SFC [redacted].doc

IRS0000013040

SFC – Application for Recognition of Exempt Status under 501(c)(3)

1. Form 1023

   - Their Articles of organization provide that it is organized and operated exclusively for charitable 501(c)(3) purposes. The articles further provide that "[t] he principal activities of the Corporation shall be to assist those affected by th SFC of SFC, or othe SFC which may occur in the United States in the future."

   - Their expedite request states that a "substantial portion" o f the SFC raised "will be disbursed to the individuals affected by th SFC as soon as possible to help alleviate the pain, suffering and stress caused by thi SFC."

   - Their narrative statement provides their "principal purpose . . . is to ass ist those affected by th SFC."

   - Their narrative states that their "primary activity in furtherance of [their] charitable purpose will be the collection and distribution of funds to those in need as a result of the SFC o SFC and the related events that followed."

   - Their narrative states that "[the] funds will be distributed on a reasonable and objective basis to the victims of th SFC as quickly as possible, hopefully within six to eight weeks after the protocol fo r distribution is finalized and completed claim forms have been received."

   - Finally, their narrative state SFC will develop the protocol for distributing funds. It is anticipated that the protocol will be similar to those used in other charita ble funds."

2. IRS Development Letter – May 1, 2013:

   - Generally explained the rules for relief organizations, namely that they serve an indefinite class and conduct a needs assessment prior to distributing funds. Provided a copy of IRS Pub. 3833 – Disaster Relief.

   - Charitable class questions – although the articles of organization state that the organization will assi SFC of thi SFC and others that may occur in the future, other statements indicate that a substantial portion of its time and money will be going to only thos SFC in th SFC. Therefore, the charitable class may be too small and limited to specific individuals.

   - Distribution of funds: the application discusses an "objective and reasonable protocol," which is language contained in th SFC legislation that only applied to th SF an SFC victims. It does not mention assessing the needs of the victims. We requested information on what types of assistance they will provide, how

they will distribute the funds, and requested copies of their draft protocol and claims form.

3. May 3, 2013 response to development letter

- In General
  - They plan on fulfilling its charitable mission in two phases. First is the collection and distribution of funds raised throug SFC to meet the immediate needs of th SFC SFC and the families of thos SF SFC (p. 3 of 49)
    - SFC
  - [redacted]
  - [redacted]
- [redacted]
  - [redacted]
  - SFC

SFC

- [redacted]
  SFC
- [redacted]
- [redacted]

- [redacted]
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- SFC [redacted]

- SFC [redacted]
- [redacted]
- [redacted]
  SFC [redacted]
  - [redacted]
    - [redacted]
      SFC [redacted]

SFC 001540

- SFC [redacted]

- [redacted]
  SFC [redacted]
  SFC [redacted]

SFC [redacted]

- [redacted] SFC [redacted]
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SFC 001544

From: Lerner Lois G
Sent: Monday, May 06, 2013 3:13 PM
To: Marks Nancy J
Subject: SFC [redacted] 1 Page Summary.doc
Attachments: SFC [redacted] 1 Page Summary.doc

IRS0000013050

SFC [redacted] – Application for recognition of (c)(3) status

- Application for recognition of exemption under 501(C)(3) submitte SFC [redacted]
- The organization states that their principal purpose is to assist those affected by th SFC [redacted]. In furtherance of that purpose they will collect and distribute funds to those "in need" as a result of th SFC [redacted]
- They have hire SFC [redacted] to set up a "reasonable and objective" payment protocol
- We sent a development letter on May 1, 2013 asking questions on their charitable class (to determine if it was sufficiently indefinite) and their payment protocol (are payments based on any form of needs assessment)
- Their response states that they intend to distribute funds in two separate phases.
  - SFC [redacted]
    - [redacted]
    - [redacted]
    - [redacted]
  - The second phase will begin afte SFC [redacted]
- They have likely solved the charitable class issue (though some concerns may remain abo SFC [redacted] and there is not much detail on their activities other than the payment distributions)
- However, their payment protocol is problematic and would prevent us from being able to recognize them as a charitable (c)(3) organization
- Potential solutions to their problem:
  - Modify the payment protoc SFC [redacted]
  - SFC [redacted]
  - They could always seek a legislative solutio SFC [redacted]

SFC 001546

From: Thomas Cindy M
Sent: Monday, April 23, 2012 7:26 PM
To: Marks Nancy J; Malone Robert; Urban Joseph J; Light Sharon P; Paz Holly O
Subject: FW: Advocacy Organization Team Members and Meetings
Attachments: 111216 Meeting Minutes Resolution.doc

Sorry --- I still had this email in my inbox.

Appears there are 12 advocacy team members, and 2 meetings (only one with minutes).

From: Chumney Tyler N
Sent: Tuesday, April 17, 2012 3:21 PM
To: Thomas Cindy M
Cc: Combs Peggy L
Subject: FW: Advocacy Organization Team Members and Meetings

Cindy,

The information you requested, see below.

Tyler Chumney
TE/GE EOD Manager Grp 7822
SEC [redacted]

From: Seok Stephen D
Sent: Tuesday, April 17, 2012 1:42 PM
To: Chumney Tyler N
Subject: RE: Advocacy Organization Team Members and Meetings

Tyler,

Below please find the requested information:

Names of Team members:

Stephen Seok, Ron Bell, Janine Estes, Joseph Herr, Grant Herring, Mitch Steele, Carly Young, Jodi Garuccio, Annetta Morris, Greg Woo, Elizabeth Marquez, Liz Hofacre.

Team Meetings

12/16/11 - Minutes attached. 2/28/12 - No Minutes.

Thank you,
Stephen.

SFC 001547

From: Chumney Tyler N
Sent: Tuesday, April 17, 2012 9:04 AM
To: Seok Stephen D
Subject: FW: Advocacy Organization Team Members and Meetings
Importance: High

Stephen,

See the request below for team members, team meetings, minutes. Lets discuss, come see me when you have a minute.

Tyler Chumney
TE/GE EOD Manager Grp 7822
SFC

From: Thomas Cindy M
Sent: Tuesday, April 17, 2012 8:44 AM
To: Chumney Tyler N
Cc: Combs Peggy L
Subject: Advocacy Organization Team Members and Meetings
Importance: High

Please send me a list of specialists who are on the team working advocacy organization cases. Also, please let me know when team meetings were held. And, if minutes were taken and shared with team members, please send them to me. Thanks.

Advocacy Team Meeting Minutes (12/16/11, 7112B) and Resolution

Attendees: Steve, Stephen, Ron, Janine, Joseph, Grant, Mitch, Annette, Greg, Elizabeth, Liz
Absent: Carly, Jodi (on leave)

1) History of Advocacy Cases was briefed by Liz, Ron, and Steve

2) Advocacy Case Briefing by Stephen:

About 172 cases so far and counting
37 c3 125 c4, no other sections.
Mostly Advocacy with strong or some political activities, at least implied
About 155 cases reviewed by EO Tech: Favorable 13, Denial 13, All othe rs: Development Needed.
30 Something TEA party, Several 912, Repeal PPACT (Patient Protection and Affordable Care Act), Enact Universal Single-Payer Health Case System, etc.

3) Purpose of Advocacy Team:

Consistent development and determination through team effort
Thorough development and determination through team effort
Carful development and determination through team effort

4) Discussion on how we tackle the cases

Control date: General Rule

Cases by Patterns: Specializing similar cases? - Tea Party, c3, c4, 912, general category (not belonging to patterned cases), etc.: Will pursue as long as we do not deviate from the general rule.

Constant updates on new ideas, questions and cases - All team members, management, QA, EO Tech.

1) Stephen, Joseph, and Liz will formulate a general template questionnaire from the letters done by EOD and EO Tech and it will be done by the Advocacy Team members in the future.
2) Once the draft is formulated, it will be emailed to the Advocacy Team members for review and input, and will be discussed at a round table style meeting.
3) This process will be repeated if needed until finalized.

Case closing: Approval and Denial - coordinated process among team members, coordinator, management, QA, and EO Tech - maybe to less degr ee once all the foundations are established to increase efficiency and effectiveness: Further details will be discussed and forthcoming as case developments progress.

5) Work Capacity: Team Members Time Allocation Survey - the team members will notify Ste phen after a discussion with their manager.

6) Case assignment: Questions that ha ve been used so far will be emailed for inquiry letters as a reference:

The various inquiry letters sent out from EO Tech and EO D are attached with those minutes.
Note: The memorandum for file by Hull Carter (EO Tech) will be emailed to all team members as soon as I image it.

Cases will be assigned this afternoon to those who requested them - I will send an notification email after assignment.

7) Research Tools: All cases should be researched in Accurint and the web during the development. For the Team members who do not have Accurint, Accurint ID request form is attached with this memo.

Note: Manager forwards the completed request form to Saundra C Shaw after approval.

From: Bowling Steven F
Sent: Wednesday, January 25, 2012 2:57 PM
To: Bell Ronald D
Subject: RE: BOLO

I think we can leave it in. Some of the orgs are pushing that other than occupy groups.

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street SFC
Cincinnati, OH 45202
Tel SFC
Fax SFC

From: Bell Ronald D
Sent: Wednesday, January 25, 2012 1:17 PM
To: Bowling Steven F
Subject: RE: BOLO

Steve,

I thought the $ocial economic reform in the updated current political issues was our "code word" for the occupy organizations. If so, do we need that in the current political issues description since we decided to have a separate issue for the occupy orgs?

From: Bowling Steven F
Sent: Wednesday, January 25, 2012 1:11 PM
To: Bell Ronald D
Subject: BOLO

Ron,
I made changes to the emerging issues tab to remove advocacy orgs and update the issue in an effort to capture what we are looking for. I also added Occupy orgs to the Watch List. Review the changes and if you do not have any concerns send out the BOLO alert.

Thanks,

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street SFC
Cincinnati, OH 45202
Tel SFC
Fa SFC

SFC 001551

From: Chumney Tyler N
Sent: Friday, May 25, 2012 1:33 PM
To: Seok Stephen D; Bell Ronald D
Subject: FW: Occupy Cases - Watch List Case Identified

Stephen & Ron,

Re SFC [redacted]

Stephen - Provide to Ron a summary of the activities and issues in the Occupy case you have, also provide Ron a copy of the letter(s) you have sent
Ron - Please prepare a summary of the above Occupy case and what is similar with the cases

Come see me Tuesday May 29 so we can discuss this briefly.

Thank you,

Tyler Chumney
TE/GE EOD Manager Grp 7822
SFC [redacted]

From: Chumney Tyler N
Sent: Friday, May 25, 2012 2:28 PM
To: Combs Peggy L
Subject: Occupy Cases Watch List Case Identified

Peggy,

Re SFC [redacted]

Do the "occupy" cases meet the Current Political Issues description? No, these cases have not been considered to be Current Political Issues. The BOLO Watch List Tab Issue Description number 21 'Occupy Organizations' includes the text "social injustices due to "big-money" influence." Although this is similar to the Emerging Issue Tab for the BOLO Advocacy Political cases with the EI-1 Issue Description that includes the text "$ocial economic reform/movement" my understanding is that these Occupy organizations are not advocating expanding/limiting the government.

The above case was screened by Ron, he has determined it is an "Occupy" issue. I do not know who screened the other "Occupy" case that Stephen has.

As for getting these case to the bickerers or the assignment and development by someone who has gotten the May 2012 EO DC folks Advocacy training please let me know.

I do not know the specifics of the case but I will be getting this information. I will obtain and forward to you a summary that will include the following:
- the issues
- if the issues are similar to the case Stephen has
- the letter Stephen has sent

Thank you,

Tyler Chumney

TE/GE EOD Manager Grp 7822
SFC [redacted]

From: Combs Peggy L
Sent: Friday, May 25, 2012 1:36 PM
To: Chumney Tyler N
Subject: RE: Watch List Case Identified
Importance: Low

Tyler,

Do the "occupy" cases meet the Current Political Issues description? Did Ron look at them? Are they politically advocating for economic reform? If so, I think we need to let the bickerers take a look at these two cases as well. If Ron hasn't looked at it, please give it to him to take a look.

If not a Current Political Issue, then please send Stephen's additional information letter to me on the one he has - I'd like to take a look at it to see what the issues are before we proceed.

Thanks.

From: Combs Peggy L
Sent: Friday, May 25, 2012 8:23 AM
To: Chumney Tyler N
Subject: RE: Watch List Case Identified
Importance: Low

Tyler,

Are these cases considered advocacy cases per the BOLO? If so, I would think that we would want to have these developed by someone who has received the recent training. If not, is there a separate description for them on the BOLO?

Did Ron screen the case already? What are the issues in the case? Are they similar to the issu es in the case Stephen has? Can you have any additional information letters Stephen has sent scanned and e -mailed to me?

Thanks.

From: Chumney Tyler N
Sent: Thursday, May 24, 2012 3:34 PM
To: Combs Peggy L
Subject: FW: Watch List Case Identified

Peggy,

There is one other "Occupy" case, Steve Bowling just called to let me know this. He also to ld me it is assigned to Stephen Seok who is developing the case.

Thank you,

Tyler Chumney
TE/GE EOD Manager Grp 7822
SFC [redacted]

From: Chumney Tyler N
Sent: Thursday, May 24, 2012 3:23 PM
To: Combs Peggy L
Subject: Watch List Case Identified

Peggy,

Re SEC [redacted]

This is an "Occupy" organization on the watch list issue number 21.

"Occupy" Organizations	Involve organizations occupying public space protesting in various cities, call people to assemble (people's assemblies) claiming social injustices due to "big money" influence, claim the democratic process is controlled by wall street/banks/multinational corporations, could be linked globally. Claim to represent the 99% of the public that are interested in separating money from politics and improving the infrastructure to fix everything from healthcare to the economy.	21	2012 #1	Forward case

Please let me know any updates or concerns regarding this situation and if it should be elevated. For instance should a summary be prepared?

Let me know how this case should be handled. Thank you,

Tyler Chumney
TE/GE EOD Manager Grp 7822
SEC [redacted]

From: Seok Stephen D
Sent: Sunday, May 27, 2012 10:51 AM
To: Chumney Tyler N; Bell Ronald D
Subject: RE: Occupy Cases - Watch List Case Identified
Attachments: TEDS SFC Not Sent Yet.doc; TEDS SFC .doc; SFC Summary.doc

Tyler & Ron,

Attached please find a summary of the activities and issues and letters of the Occupy case. The case file is on Tyler's desk and the case application and my letter are available via TEDS, if you need. I am on leave next Tuesday. However, I am planning to be in office on Wednesday May 30. I will be happy to discuss this further when I come back to office, if you still need a discussion.

Thank you,
Stephen.

From: Chumney Tyler N
Sent: Friday, May 25, 2012 2:33 PM
To: Seok Stephen D; Bell Ronald D
Subject: FW: Occupy Cases Watch List Case Identified

Stephen & Ron,

Re SFC

Stephen - Provide to Ron a summary of the activities and issues in the Occupy case you have, also provide Ron a copy of the letter(s) you have sent
Ron - Please prepare a summary of the above Occupy case and what is similar with the cases

Come see me Tuesday May 29 so we can discuss this briefly.

Thank you,

Tyler Chumney
TE/GE EOD Manager Grp 7822
SFC

From: Chumney Tyler N
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To: Combs Peggy L
Subject: Occupy Cases Watch List Case Identified

Peggy,

Re SFC

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"social injustices due to "big-money" influence." Although this is similar to the Emerging Issue Tab for the BOLO Advocacy Political cases with the EI-1 Issue Description that includes the text "$ocial economic reform/movement" my understanding is that these Occupy organizations are not advocating expanding/limiting the government.

The above case was screened by Ron, he has determined it is an "Occupy" issue. I do not know who screened the other "Occupy" case that Stephen has.

As for getting these case to the bickerers or the assignment and development by someone who has gotten the May 2012 EO DC folks Advocacy training please let me know.

I do not know the specifics of the case but I will be getting this information. I will obtain and forward to you a summary that will include the following:
- the issues
- if the issues are similar to the case Stephen has
- the letter Stephen has sent

Thank you,

Tyler Chumney
TE/GE EOD Manager Grp 7822
SFC [redacted]

From: Combs Peggy L
Sent: Friday, May 25, 2012 1:36 PM
To: Chumney Tyler N
Subject: RE: Watch List Case Identified
Importance: Low

Tyler,

Do the "occupy" cases meet the Current Political Issues description? Did Ron look at them? Are they politically advocating for economic reform? If so, I think we need to let the bickerers take a look at these two cases as well. If Ron hasn't looked at it, please give it to him to take a look.

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Thanks.

From: Combs Peggy L
Sent: Friday, May 25, 2012 8:23 AM
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Subject: RE: Watch List Case Identified
Importance: Low

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Did Ron screen the case already? What are the issues in the case? Are they similar to the issues in the case Stephen has? Can you have any additional inform ation letters Stephen has sent scanned and e-mailed to me?

Thanks.

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Sent: Thursday, May 24, 2012 3:34 PM
To: Combs Peggy L
Subject: FW: Watch List Case Identified

Peggy,

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Thank you,

Tyler Chumney
TE/GE EOD Manager Grp 7822
SEC

From: Chumney Tyler N
Sent: Thursday, May 24, 2012 3:23 PM
To: Combs Peggy L
Subject: Watch List Case Identified

Peggy,

Re SEC

This is an "Occupy" organization on the watch lis t issue number 21.

"Occupy" Organizations	Involve organizations occupying public space protesting in various cities, call people to assemble (people's assemblies) claiming social injustices due to "big money" influence, claim the democratic process is controlled by wall street/banks/multinational corporations, could be linked globally. Claim to represent the 99% of the public that are interested in separating money from politics and improving the infrastructure to fix everythi ng from healthcare to the economy.	21	2012 #1	Forward case

Please let me know any updates or concerns regarding this situation and if it should be elevated. For instance should a summary be prepared?

Let me know how this case should be handled. Thank you,

Tyler Chumney
TE/GE EOD Manager Grp 7822
SEC

SFC [redacted]

Activities:

Applicant criticizes the roles of established political and monetary systems or organizations such as large corporations and banks, G20, IMF, World Bank, NATO, current political systems of U.S. (two party system, Electoral College voting system, etc.) and advocates the needs of changes on such systems. Currently its founder is carrying out the activities, and it intends to recruit workers and train volunteers to accomplish its goals. Its advocacy includes conservation of environment and animal protection.

Issue:

Applicant applied for c3 exemption. Is its advocacy exclusively educational?

SFC 001558

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

Department of the Treasury

Date SFC

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Employer Identification Number:
SFC
Person to Contact – Group #: 7822
Specialist Name - Stephen Seok
ID# 203334
Contact Telephone Numbers:
SFC Phone
SFC Fax
Response Due Date:
April 2, 2012

Dear Sir or Madam:

We need more information before we can complete our consideration of your application for exemption. Please provide the information requested on the enclosed Informat ion Request by the response due date shown above. Your response must be signed by an authorized person or an officer whose name is listed on your application. Also, the information you submit should be accompanied by the following declaration:

> *Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information, and such facts are true, correct, and complete.*

If we approve your application for exemption, we will be required by law to make the appl ication and the information that you submit in response to this letter available for public inspection. Please ensure that your respon se doesn't include unnecessary personal identifying information, such as bank account numbers or Social Security numbers, that could result in identity theft or other adverse consequences if publicly disclosed. If you have any questions about the public inspection of your application or other documents, please call the person whose name and telephone number are shown above.

To facilitate processing of your application, please attach a copy of this letter and the enclosed Application Identification Sheet t o your response and all correspondence related to your application. This will enable us to quickly and accurately associate the additional documents with your case file. Also, please note the following important response submission information:

- Please don't fax and mail your response. Faxing and mailing your response will result in unnecessary delays in processing your application. Each piece of correspondence submitted (whether fax or mail) must be processed, assigned, and reviewed by an EO Determinations specialist.

Name SFC [redacted]

- Please don't fax your response multiple times. Faxing your response multiple times will delay the processing of your application for the reasons noted above.

- Please don't call to verify receipt of your response without allowing for adequ ate processing time. It takes a minimum of three workdays to process your faxed or mailed response from the day it is received.

If we don't hear from you by the response due date shown above, we will assume you no l onger want us to consider your application for exemption and will close your case. As a result, the Internal Revenue Service will treat you as a taxable entity. If we receive the information after the response due date, we may ask you to send us a new ap plication.

In addition, if you don't respond to the information request by the due date, we will conclude that you have not taken all reasonable steps to complete your application for exemption. Under Internal Revenue Code section 7428(b)(2), you must show that you have taken all the reasonable steps to obtain your exemptio n letter under IRS procedures in a timely manner and exhausted your administrative remedies before you can pursue a declaratory judgment. Accordingly, if you fail to timely provide the information we need to enable us to act on your application, you may lose your rights to a declaratory judgment under Code section 7428.

We have sent a copy of this letter to your representative as indicated in Form 2848, Power of Attorney and Declaration of Representative.

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

Sincerely yours,

Stephen Seok
Exempt Organizations Specialist

Enclosure: Information Request

Name SFC [redacted]

RETURN THIS PAGE WITH YOUR RESPONSE

Please read the Penalties of Perjury statement on page 1 above. Then, please sign an d date below, indicating you agree to the Declaration.

_____ _____

Name Date

Additional Information Requested:

1) The stipends that you pay for the people described in the attachment of your Schedule H should be treated as wages, not as scholarships or any other items in Schedule H of Form 1023 because you pay them for the work they provide. Thus, your Schedule H and scholarship or like kind program is not part of this determination. If you disagree with this assessment, provide your position why your payments should be treated as a Schedule H item.

2) Is your website up? If so, provide the address of your website.

3) Please provide the following information for your board of directors and officers:

   a) Provide all copies of your minutes from inception to the present.

   b) Provide the titles, duties, work hours, and compensation amounts of your board members and officers. 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) Describe the qualifications of your board of directors and officers. Your response may include resumes.

4) Describe your donation, contribution, and grant expenses for each year of existence and near future years which includes the information below. If no such activity, please confirm by answering this question "None to be provided."

   a) 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."

   b) The amount of each of the donations, contributions, and grants and the dates you donated, contributed, or granted them.

   c) State how your donations, contributions, and grants fulfill your exempt purpose.

5) Provide the following for your fundraising activities:

Name SFC [redacted]

a) Copies of all solicitations including pamphlets, flyers and brochures your organizati on has made regarding fundraising.

b) State your fundraising expenses and income for each year of existence and near future years.

c) Please indicate the percentage of time and resources you have spent or will spend conducting these activities in relation to 1 00% of all your activities.

6) Provide the following information for all the events , programs, and activities (which may include meetings, forums, rallies, etc.) you have conducted and participated in from your inception to now and you will conduct and parti cipate in next two years. Please answer the following for each event, program, and activity:

a) The time, location, and detailed description of each event , program, and activity.

b) The purpose of each event, program, and activity.

c) Provide copies of materials that (will be) used for each event, program, and activity.

d) Who was (will be) invited to speak at the event and why were (will) they (be) invited? Of the invitees, who actually spoke (will speak) at the event, program, and activity?

e) Indicate the percentage of time and resources you spent (will spend) on each event, program, and activity in relation to 100% of all your activities.

f) Income and expense details for each event, program, and activity. For the future event, program, and activity, please provide a forecasted budget.

7) Have you attempted or will you attempt to influence the outcome of specific legislation? If so, provide the following:

a) Provide a list of the legislation and how you influenced the legislation.

b) Provide copies of all communications, pamph lets, advertisements, and other materials distributed by your organization regarding the legislation.

c) Provide copies of any radio, television, or internet advertisements relating to your lobbying activities.

d) Please indicate the percentage of time and resou rces 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 or will you directly or indirectly participate(d) or intervene(d) in any politic al campaign on behalf of (or opposition to) any candidate for public office including attempts to influence political campaigns through both direct and indirect support of, or opposition to, a candidate. If so, provide the following details for each of yo ur political campaigns and interventions:

Name SFC [redacted]

a) Please describe the nature of the political campaign or intervention in detail which may include candidate ratings or endorsements. Provide your endorsement criteria in your description.

b) Names and party affiliations of the candidates you support or oppose.

c) Date and time of the political campaign or intervention.

d) Copies of all handouts, media advertisements, pages of internet advertisements and other means (to be) provided and distributed for the political campaign or intervention.

Please provide your copies in tangible format such as CDs, DVDs, tapes, and paper. Please do not substitute them with web links.

e) If you provided or will provide funds to the candidates or the organizations that support them, provide the name of the recipient, the amount and time of the donation, and the source of the funds. Please provide this information for each of your donations.

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.

9) Are you associated with any candidates for public office or any other entities such as IRC 501(c)(3), 501(c)(4) or 527 organizations? If so, provide the f ollowing:

a) Provide the name, employer identification number, and address of the organization(s).

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 an swering "No" to this question.

PLEASE DIRECT ALL CORRESPONDENCE REGARDING YOUR CASE TO:

US Mail:

Internal Revenue Service
Exempt Organizations
P. O. Box 12192
Covington, KY 41012-0192

Street Address for Delivery Service:

Internal Revenue Service
Exempt Organizations
ATTN: Extracting Stop 312
201 Rivercenter Blvd
Covington, KY 41011

SFC 001563

6

Name SFC

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Employer Identification Number:
SFC
Person to Contact – Group #: 7822
Specialist Name - Stephen Seok
ID# 203334
Contact Telephone Numbers:
SFC Phone
SFC Fax

SFC 001564

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

Department of the Treasury

Date SFC

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Employer Identification Number:
SFC
Person to Contact – Group #: 7822
Specialist Name - Stephen Seok
ID# 203334
Contact Telephone Numbers:
SFC Phone
SFC Fax
Response Due Date:
May 25, 2012

Dear Sir or Madam:

We need more information before we can complete our consideration of your application for exemption. Please provide the information requested on the enclosed Information Request by the response due date shown above. Your response must be signed by an authorized person or an officer whose name is listed on your application. Also, the information you submit should be accompanied by the following declaration:

> *Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information, and such facts are true, correct, and complete.*

If we approve your application for exemption, we will be required by law to make the application and the information that you submit in response to this letter available for public inspection. Please ensure that your response doesn't include unnecessary personal identifying information, such as bank account numbers or Social Security numbers, that could result in identity theft or other adverse consequences if publicly disclosed. If you have any questions about the public inspection of your application or other documents, please call the person whose name and telephone number are shown above.

To facilitate processing of your application, please attach a copy of this letter and the enclosed Application Identification Sheet to y our response and all correspondence related to your application. This will enable us to quickly and accurately associate the additional documents with your case file. Also, please note the following important response submission information:

- Please don't fax and mail your response. Faxing and mailing your response will result in unnecessary delays in processing your application. Each piece of correspondence submitted (whether fax or mail) must be processed, assigned, and reviewed by an EO Determinations specialist.

- Please don't fax your response multiple times. Faxing your response multiple times will

delay the processing of your application for the reasons noted above.

- Please don't call to verify receipt of your response without allowing for adequate processing time. It takes a minimum of three workdays to process your faxed or mailed response from the day it is received.

If we don't hear from you by the response due date shown above, we will assume you no long er want us to consider your application for exemption and will close your case. As a result, the Internal Revenue Service will treat you as a taxable entity. If we receive the information after the response due date, we may ask you to send us a new appli cation.

In addition, if you don't respond to the information request by the due date, we will conclude that you have not taken all reasonable steps to complete your application for exemption. Under Internal Revenue Code section 7428(b)(2), you must sho w that you have taken all the reasonable steps to obtain your exemption letter under IRS procedures in a timely manner and exhausted your administrative remedies before you can pursue a declaratory judgment. Accordingly, if you fail to timely provide the information we need to enable us to act on your application, you may lose your rights to a declaratory judgment under Code section 7428.

We have sent a copy of this letter to your representative as indicated in Form 2848, Power of Attorney and Declaration of Representative.

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

Sincerely yours,

Stephen Seok
Exempt Organizations Specialist

Enclosure: Information Request

Name SFC [redacted]

RETURN THIS PAGE WITH YOUR RESPONSE

Please read the Penalties of Perjury statement on page 1 above. Then, please sign and d ate below, indicating you agree to the Declaration.

Name _____ Date _____

Additional Information Requested:

1) Provide further details for your involvement in SFC [redacted]" - see the attached article date SFC [redacted] b SFC [redacted], your founder and governing member, that mentions your organization.

   a) Explain SFC [redacted]".

   b) What is you role in SFC [redacted]"?

   c) What activities have you conducted fo SFC [redacted]"?

   d) Provide copies of information that you will disseminate fo SFC [redacted]".

   e) Indicate the percentage of time and resources you spent will spend on each event, program, and activity in relation to 100% of all your activities.

2) Enclosed are copies of pages from your website. We have made them part of your file. If the attached information does not belong to your organization, please contact the person whose name and telephone number are shown in the heading of this letter.

   Your website shows an article SFC [redacted] that is critical of the two-party political system of the U.S. Explain the following:

   a) Explain how your organization will change the two-party political system of the U.S.

   b) Will you SFC [redacted] Trainin SFC [redacted]") include spe cific instructions to change the two-party political system of the U.S.?

   c) You mention that SFC [redacted] will impact Congress and the White House." Explain how your organization will implement this.

   d) You state, "Words without action are worthless." What actions will your organization recommend?

   e) You refer to politicians who "represent the perpetuation of their incumbencies." Explain how you will determine which politicians to target, and the actions you will take regarding their campaigns.

Name SFC [redacted]

3) We understand you do not have a schedule for your activitie s. However, we need your plan of the activities you will conduct to determine whether you qualify for 501(c)(3). Refer the following:

Excerpt from Section 4.03 of Rev. Proc. 2012 -9:

Section 4.03 of Rev. Proc. 2012-9, provides that exempt status will b e recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere restateme nt of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedu res or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activit ies will be exempt, the Service will generally issue a proposed adverse determination letter or ruling.

With this in mind, please provide the following information:

Provide the following information for the events, programs, and activities (which may inc lude meetings, forums, rallies, etc.) you will conduct and participate in the near future.

a) The time, location, and detailed description of event s, programs, and activities planned.

b) The purpose of each event s, programs, and activities planned.

c) Provide copies of materials that will be used for each event s, programs, and activities.

d) Indicate the percentage of time and resources you spent will spend on each event, program, and activity in relation to 100% of all your activities.

e) Budgets for each event, program, and activity.

PLEASE DIRECT ALL CORRESPONDENCE REGARDING YOUR CASE TO:

US Mail:

Internal Revenue Service
Exempt Organization s
P. O. Box 12192
Covington, KY 41012-0192

Street Address for Delivery Service:

Internal Revenue Service
Exempt Organizations
ATTN: Extracting Stop 312
201 Rivercenter Blvd
Covington, KY 41011

SFC 001568

5

Name SFC [redacted]

SFC [redacted]
SFC [redacted]
SFC [redacted]
SFC [redacted]
SFC [redacted]

Employer Identification Number:
SFC [redacted]
Person to Contact – Group #: 7822
Specialist Name - Stephen Seok
ID# 203334
Contact Telephone Numbers:
SFC [redacted] Phone
SFC [redacted] Fax

SFC 001569

From: Combs Peggy L
Sent: Friday, January 20, 2012 10:15 AM
To: Sheer Mary
Subject: RE: Potential Watch List/ BOLO item - Occupy Groups Applying for (c)(3)

Importance: Low

Thanks, I forwarded the suggestion to Cindy.

From: Sheer Mary
Sent: Monday, January 09, 2012 3:23 PM
To: Combs Peggy L
Subject: Potential Watch List/ BOLO item Occupy Groups Applying for (c)(3)

Hi Peggy,

There was a news articles in the 12/29 listing of "In T he News" on the intranet that indicated some of the "Occupy" groups may be applying for 501(c)(3) including one in N.C. that states on its website that it has voted to apply for (c)(3) status. I thought that this might be something worthy of keeping an ey e out for due to the significant news coverage that these groups have generated and potential qualification issues.

Article: http://irweb.irs.gov/AboutIRS/Nwsctr/ExtIRSNews/ITN/29868.aspx

Thanks,
Mary

SFC 001570

From: Combs Peggy L
Sent: Friday, January 20, 2012 11:32 AM
To: Bowling Steven F
Cc: Thomas Cindy M
Subject: FW: Potential Watch List/ BOLO item - Occupy Groups Applying for (c)(3)

Here are the e-mails with description...

From: Combs Peggy L
Sent: Friday, January 20, 2012 11:15 AM
To: Thomas Cindy M
Subject: FW: Potential Watch List/ BOLO item Occupy Groups Applying for (c)(3)

Cindy,

Elevating for consideration to add to BOLO:

OCCUPY GROUPS WOULD FACE BURDENS, GET BENEFITS FROM TAX EXEMPT STATUS, PRACTITIONERS SAY

By David van den Berg

Some of the Occupy groups that have sprouted nationwide have taken steps toward becoming nonprofit organizations -- something that would impose s everal requirements on the groups but would also provide some benefits, practitioners told Tax Analysts.

Through large protests and public encampments, the Occupy groups have attempted to raise awareness about what they consider corporate greed and incom e inequality. So far, some Occupy organizations, including those in Portland, Ore., and Atlanta, have registered as nonprofits with their appropriate state agencies. On its website, the Occupy organization in Wilmington, N.C., said it has "voted to file" f or section 501(c)(3) status.

The main advantage of tax exemption for the Occupy groups would be the ability to directly receive tax -deductible contributions, said Lloyd Mayer, a professor at the University of Notre Dame. But he isn't sure that matters to the Occupy groups.

"Given the grass-roots nature of the movement, I am not sure how much their supporters need that incentive in order to be enticed into giving," Mayer said. "It appears inconsistent with the general character of these groups for them t o seek such status and the organizational and operational restrictions that come with it."

From: Sheer Mary
Sent: Monday, January 09, 2012 3:23 PM
To: Combs Peggy L
Subject: Potential Watch List/ BOLO item Occupy Groups Applying for (c)(3)

Hi Peggy,

There was a news articles in the 12/29 listing of "In The News" on the intranet that indicated some of the "Occupy" groups may be applying for 501(c)(3) including one in N.C. that states on its website that it has v oted to apply for (c)(3) status. I

thought that this might be something worthy of keeping an eye out for due to the significant news coverage that these groups have generated and potential qualification issues.

Article: http://irweb.irs.gov/AboutIRS/Nws ctr/ExtIRSNews/ITN/29868.aspx

Thanks,
Mary

From: Combs Peggy L
Sent: Friday, January 20, 2012 6:13 PM
To: Thomas Cindy M; Bowling Steven F
Subject: RE: Potential Watch List/ BOLO item - Occupy Groups Applying for (c)(3)

Importance: Low

I don't... We wouldn't want to miss this one if it comes in so it needs to be pretty clear...

-----Original Message-----
From: Thomas Cindy M
Sent: Friday, January 20, 2012 1:10 PM
To: Bowling Steven F
Cc: Combs Peggy L
Subject: Re: Potential Watch List/ BOLO item - Occupy Groups Applying for (c)(3)

The BOLO change can wait until Monday when Stephen is back.

I don't have any suggestions. After you talk with Stephen on Monday, it might be best to ask a few managers if they have any ideas.

Peggy -- do you have any suggestions for wording?

Sent using BlackBerry

------Original Message------
From: Steve Bowling
To: Cindy M Westcott
Cc: Peggy Combs
Subject: RE: Potential Watch List/ BOLO item - Occupy Groups Applying for (c)(3)
Sent: Jan 20, 2012 12:29 PM

Cindy,

The only email that came through is yours but I agree we should work them with the advocacy cases. I think we need to update the Issue Description to capture these as well as to try and weed out the ones that we do not want in this inventory.

Currently the spreadsheet states;

"Organizations involved with political, lobbying, or advocacy for exemption

under 501(c)(3) or 501(c)(4)."

I know we don't want to use the words "tea party" or "occupy" but I'm not sure how we could weed out a simple advocacy type organization. If the BOLO can wait, I'd like to run this by Stephen when he is back on Monday to see what we can come up with (any suggestions?).

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Te SFC
Fa SFC

-----Original Message-----
From: Thomas Cindy M
Sent: Friday, January 20, 2012 11:24 AM
To: Bowling Steven F
Cc: Combs Peggy L
Subject: FW: Potential Watch List/ BOLO item - Occupy Groups Applying for (c)(3)

Steve,

Please read emails below. We should probably say these should be referred to your group (can work them with the advocacy cases). Your thoughts?

Cindy M. Thomas
---- Original Message ----
From: Combs Peggy L
Sent: Fri 1/20/12 11:15 AM
To: Thomas Cindy M
Subject: FW: Potential Watch List/ BOLO item - Occupy Groups Applying for (c)(3)

SFC 001574

From: Combs Peggy L
Sent: Friday, June 01, 2012 10:45 AM
To: Thomas Cindy M; Chumney Tyler N
Subject: RE: Revised BOLO language

Importance: Low

Cindy,

Disposition of Emerging Issue
Forward case to Group 7822. Stephen Seok is the coordinator.

OK to remove "Stephen Seok is the coordinator" when we make the change described below?

Thanks.

From: Thomas Cindy M
Sent: Friday, June 01, 2012 11:23 AM
To: Chumney Tyler N; Combs Peggy L
Subject: Revised BOLO language

Tyler/Peggy,

As promised, the revised language for the BOLO advocacy cases is below. Please let me know if you have any questions/concerns regarding this language. If not, please have the revised BOLO sent and remember to remove reference to Acorn and Occupy from the "Watch List." Thanks.

From: Paz Holly O
Sent: Friday, June 01, 2012 9:53 AM
To: Thomas Cindy M
Subject: potential revised BOLO language

Below is the wording that should be used for the Emerging Issue description for advocacy cases. We'll remove the references to Acorn and Occupy from the "Watch List" - the issues we are concerned about in those cases should be captured by the language below.

501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose

and/or excess private benefit). Note: advocacy type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria.

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 ACORN successors and Occupy groups. Once I have incorporated your suggestions I wi ll 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.

SFC 001577

From: Thomas Cindy M
Sent: Wednesday, February 22, 2012 9:35 PM
To: Paz Holly O
Subject: RE: Advocacy Cases
Attachments: EO Advocacy Cases - 02152012.doc; BOLO Spreadsheet 02212012.xls; SIDN430259035-1312.doc

Holly,

1. # advocacy cases -- Refer to Attachment 1 with numbers I sent to you on 2/15/2012. Is this acceptable or do you need numbers as of tomorrow morning?

2. All cases meeting BOLO criteria are supposed to go to full development. One of the California cases I referenced in an email sent to you a few minutes ago involving a TAS inquiry was inadvertently in status 62 (screening). This is an error and will be corrected on 2/23.

3. BOLO - Refer to Emerging Issues tab on attached BOLO spreadshe et (refer to Attachment 2).

Regarding another issue --- do you still need a timeline for Sidney Shelby County Liberty Group (EIN: SF [redacted])? The actions taken for all of the advocacy cases is virtually the same as what Peggy provided to you for the Ohio Liberty Council (EIN: SFC [redacted]) --- see below in blue. The only difference is the control date, date screened, date assigned to specialist and date Letter 1312 issued. Following are dates for Sidney Shelby County Liberty Group:

9/13/2010 - Postmark Date of Application
9/29/2010 - Case assigned to screener
10/5/2010 - Case assigned to specialist (issues identified and elevated)

Case held pending guidance

2/6/2012 - Case assigned to specialist
2/7/2012 - Letter 1312, request for additional inform ation sent to applicant with a response due date of 2/28/2012 (refer to Attachment 3).

I spoke to the advocacy project coordinator who indicated that he reviewed the letter with the specialist prior to it being sent to the applicant. He indicated that the questions posed were within the auspices of the Advocacy Organizations Guide Sheet provided by EO Technical. I reviewed the additional information and compared it to the guide. I agree the questions related to advocacy fall within the guide. There are a few general questions asking for a board member to sign application, for hardcopy prints of webpages, and for hardcopy prints of any social media. The other questions are regarding the specific details about the activities of the organization; the role of the members with the organization; details on public events; and contents of materials, speeches, forums, etc. The letter also asks whether candidate forums are conducted, whether they attempt to influence legislation, and whether they communicate with legislative bodies.

Original Message
From: Paz Holly O
Sent: Wednesday, February 22, 2012 10:04 PM
To: Thomas Cindy M
Subject: Fw:
Importance: High

Please see below. Can you get me number of advocacy cases by 11 tomorrow? Also I think all meeting bolo crieria go to full development. Is that right? How do we currently have this described on the bolo? Sorry for the rush. Steve Miller now wants to meet with Lois tomorrow at 1.

Original Message
From: Lerner Lois G
To: Zarin Roberta B
To: Paz Holly O
To: Urban Joseph J
To: Kindell Judith E
Cc: Marx Dawn R
Cc: Light Sharon P
Subject: RE: Tea Party appliation
Sent: Feb 22, 2012 7:05 PM

OK so for my afternoon meeting, I think I will also need to have numbers in the pipeline of all advocacy matters and status that is, are any getting screened or all going to full development? Also, is there any history on similarly situated organizations? Rather than email let's talk at the 10:30 meeting in the morning

Judy, not sure you are here tomorrow if you have info to share and need a call in number, let Dawn know.
Lois G. Lerner
Director of Exempt Organizations

From: Zarin Roberta B
Sent: Wednesday, February 22, 2012 3:51 PM
To: Lerner Lois G; Paz Holly O; Urban Joseph J
Cc: Marx Dawn R
Subject: Tea Party appliation

Application for exempt status (Note this article has links to two letters written by EPEO staffers)

<http://news.yahoo.com/congressional_investigations_sought_over_irs_assault_tea_party_065323989.html> Congressional investigations sought over IRS 'assault' on tea party groups

The Daily Caller via Yahoo! News On Tuesday Jamie Radtke, a Republican U.S. Senate candidate from Virginia, asked California Republican Rep. Darrell Issa to investigate what she said was unfair treatment of tea party groups by the Internal Revenue Service. Issa chairs the House Committee on Oversight and Government Reform.

http://news.yahoo.com/congressional_investigations_sought_over_irs_assault_tea party_065323989.html

http://israelmatzav.blogspot.com/2012/02/z_street_wins_one_against_obamas_ir
s.html

Bobby Zarin, Director
Communications and Liaison
Tax Exempt and G

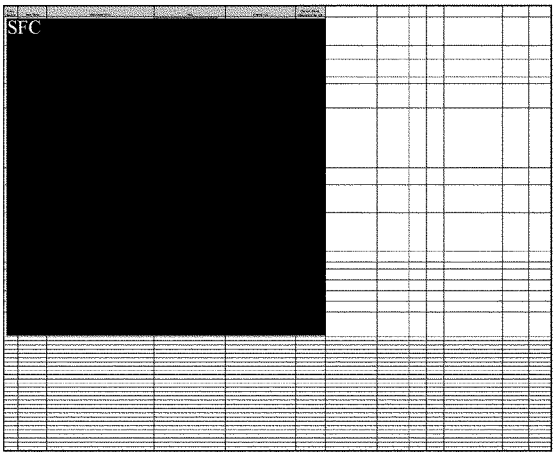
Original Message Truncated

Sent from my BlackBerry Wireless Device

SFC 001580

IRS0000013742

SFC 001581



IRS0000013743

Issue Name	Issue Description	Issue Number	Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Opened or closed)
Current Political issues	Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, Social economic reform / movement. **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.**	EI-1	x	Forward case to Group 7822. Stephen Seok is the coordinator.	Open

SFC 001583

Issue Name	Brief Issue Description	Issue Number	Coordinated Actions Taken	Current Status (Opened or closed)
SFC [redacted]				

SFC 001584

Issue Name	Watch Issue Description	Issue Number	Alerts (Year and number)	Disposition of Watch Issue	Current Status (Opened or closed)
SFC	[redacted]				

EO Advocacy Cases
Status Report

Cases:

Number of cases as of 12/16/2011:	165 (127 - 501(c)(4) and 38 501(c)(3))
Number of cases added since 12/16:	46 (13 – 501(c)(4) and 33 501(c)(3))
Number of cases assigned thus far:	119
Number of cases closed:	3 (withdrawals)
Responses received and outstanding as of 2/15/2012:	3

Control date of oldest case to be assigned: April 2011

Actions Taken:

Prior to 9/15/2011:
Coordination with EOT, Chip Hull, and EOD, Ron Bell, to determine actions necessary, etc. Two cases (1 501(c)(3), 1 501(c)(4)) sent to EOT to be worked.

09/15/2011 Excel spreadsheet with list of 162 cases identified as advocacy was sent to EOT to triage.

11/22/2011 Spreadsheet (Attachment 1) returned with comments and suggested actions, along with guidesheet (Attachment 2).

Subsequent to 11/22/2011:
New cases received in the group were re-screened to make sure they should be added to this category of cases.

11/30/2011 EOD Program Manager (Cindy Thomas) met with manager (Steve Bowling) and agent overseeing the project (Stephen Seok) to discuss steps to be taken to address this group of cases.

11/30/2011 – 12/9/2012 Team formed with representatives from each EOD group, as well as EODQA and EOT.

12/16/2011 Team meeting held to explain roles and responsibilities, case assignment process, initial case development, review, dissemination of template questions to be used as a starting point, etc.

Subsequent to 12/16/2011:
Team members requested cases, reviewed them, and sent development questions to Stephen, who reviewed for consistency, prior to issuance. Also, he maintained a file with all development questions.

2/6/2012 Team members started sending development letters without review by Stephen.

Next Steps:

2/23/2012 Meeting scheduled with subgroup to review all questions asked in development letters and to develop a complete list of template questions .

2/29/2012 Meeting scheduled to have a round table discussion with all team members to go over issues noted in case files, responses received, get input regarding list of template questions, ensure coordination with EODQA and EOT, etc.

Subsequent to 2/29/2012:
Stephen will be reviewing proposed case closures and having periodic round table discussions with team members.

OARs:

All but 1 case with an OAR has been assigned. Developmental letters for these cases were issued and copies provided to TAS. Follow up dates on the OARs w ere established with TAS. Team members were instructed to provide Stephen with all TAS - related correspondence.

Prepared: 2/15/2012

SFC 001587

From: Paz Holly O
Sent: Thursday, April 05, 2012 12:51 PM
To: Seto Michael C
Subject: FW: BOLO item - Occupy Groups Applying for (c)(3)
Attachments: BOLO Spreadsheet 02082012.xls

Here is the bolo list

From: Thomas Cindy M
Sent: Friday, February 10, 2012 6:46 PM
To: Paz Holly O
Subject: BOLO item Occupy Groups Applying for (c)(3)

Holly,

The information below is what we have for the "Occupy" groups. We added this to our "Watch List" tab on our BOLO spreadsheet. Also, our revised write up for the advocacy cases is included on the "Emerging Issues" tab. Please let me know if you have questions/concerns with what we included.

I spoke with Steve on Thursday regarding the advocacy organizations. He's getting information from Stephen regarding the number of cases we have, where we're at, etc. I hope to have this information to you next week. Thanks.

From: Combs Peggy L
Sent: Friday, January 20, 2012 11:15 AM
To: Thomas Cindy M
Subject: FW: Potential Watch List/ BOLO item Occupy Groups Applying for (c)(3)

Cindy,

Elevating for consideration to add to BOLO:

OCCUPY GROUPS WOULD FACE BURDENS, GET BENEFITS FROM TA X EXEMPT STATUS, PRACTITIONERS SAY

By David van den Berg

Some of the Occupy groups that have sprouted nationwide have taken steps toward becoming nonprofit organizations -- something that would impose several requirements on the groups but would also pro vide some benefits, practitioners told Tax Analysts.

Through large protests and public encampments, the Occupy groups have attempted to raise awareness about what they consider corporate greed and income inequality. So far, some Occupy organizations, inc luding those in Portland, Ore., and Atlanta, have registered as nonprofits with their appropriate state agencies. On its website, the Occupy organization in Wilmington, N.C., said it has "voted to file" for section 501(c)(3) status.

The main advantage of tax exemption for the Occupy groups would be the ability to directly receive tax -deductible contributions, said Lloyd Mayer, a professor at the University of Notre Dame. But he isn't sure that matters to the Occupy groups.

"Given the grass-roots nature of the movement, I am not sure how much their supporters need that incentive in order to be enticed into giving," Mayer said. "It appears inconsistent with the general character of these groups for them to seek such status and the organizational and operat ional restrictions that come with it."

From: Sheer Mary
Sent: Monday, January 09, 2012 3:23 PM
To: Combs Peggy L
Subject: Potential Watch List/ BOLO item Occupy Groups Applying for (c)(3)

Hi Peggy,

There was a news articles in the 12/29 listing of "In The News" on the intranet that indicated some of the "Occupy" groups may be applying for 501(c)(3) including one in N.C. that states on its website that it has voted to apply for (c)(3) status. I thought that this might be something worthy of keeping an eye out for due to the significant news coverage that these groups have generated and potential qualification issues.

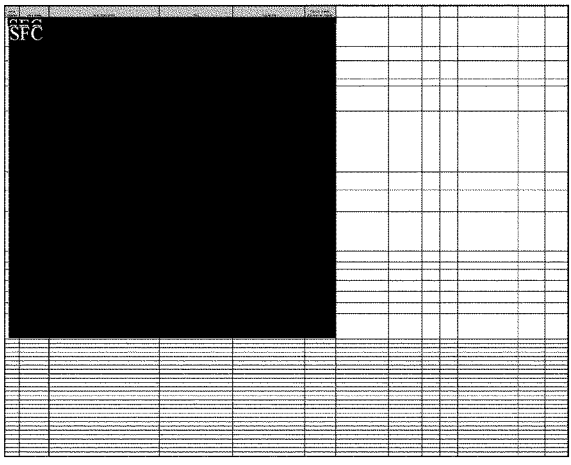
Article: http://irweb.irs.gov/AboutIRS/Nwsctr/ExtIRSNews/ITN/29868.aspx

Thanks,
Mary

SFC 001589

IRS0000013756

SFC 001590



IRS0000013757

SFC 001591

Issue Name	Issue Description	Issue Number	Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Opened or closed)
Current Political Issues	Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, Social economic reform / movement. **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.**	EI-1	x	Forward case to Group 7822. Stephen Seok is the coordinator.	Open

Issue Name	Brief Issue Description	Issue Number	Coordinated Actions Taken	Current Status (Opened or closed)
SFC [redacted]				

SFC 001593

Issue Name	Watch Issue Description	Issue Number	Alerts (Year and number)	Disposition of Watch Issue	Current Status (Opened or closed)
SFC [redacted]					

From: Thomas Cindy M
Sent: Tuesday, May 15, 2012 1:39 PM
To: Lerner Lois G; Paz Holly O
Subject: RE: process
Attachments: BOLO Spreadsheet 03262012.xls

Lois,

Attached is the latest BOLO spreadsheet that was sent to all EOD specialists/managers. If you look at the Coordinated Processing or the Watch List tab, you'll see that there are certain types of cases that need to go to designated groups. When a screener is reviewing a case, he/she needs to know this so that the case is flagged for the correct group regardless of whether the case is full development or not.

-----Original Message-----
From: Lerner Lois G
Sent: Tuesday, May 15, 2012 2:32 PM
To: Thomas Cindy M; Paz Holly O
Subject: RE: process

But why would screeners need to know what group a case goes to --don't they just send things to unassigned inventory? Or do you mean they use it to determine which types of cases have to go to full development .

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Thomas Cindy M
Sent: Tuesday, May 15, 2012 2:22 PM
To: Lerner Lois G; Paz Holly O
Subject: RE: process

No - all EOD specialists and managers use the BOLO spreadsheet. Screeners use it to determine if cases need to go to designated groups, if we are "watching for" a specific case to coordinate with EOT, EO Exam, CI, etc., and others use it because they could get information when completing research or based on informati on they receive in response to an additional information letter.

I use the BOLO too. We receive requests from various offices asking us to "watch for" certain specific cases.

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

From: Lerner Lois G
Sent: Tuesday, May 15, 2012 2:01 PM
To: Paz Holly O; Thomas Cindy M
Subject: RE: process

So, just to be sure I understand --Bolo is used ONLY after a case has been selected for full development? All staff have access to Bolo? The answer doesn't matter as much as me stating it correctly --thanks

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Paz Holly O
Sent: Tuesday, May 15, 2012 1:40 PM
To: Lerner Lois G; Thomas Cindy M
Subject: Re: process

Cindy correct me if I get any of this wrong. The list of categories of cases that have to go to full development is separate from bolo. Bolo is in addition to that list. Bolo came about to consolidate in one place watch outs that used to get sent in various emails as new things not captured by the case assignment guide came up. Bolo gets used by screeners and they do not screen those cases out. Bolo gets used by other specialists who may get the case that should have been sent from screeners to a particular group and was not or if whoever gets the case is instructed by bolo to coordinate with a particular person or group such as eot.
------Original Message------
From: Lois Lerner
To: Paz Holly O
To: Thomas Cindy M
Subject: process
Sent: May 15, 2012 10:41 AM

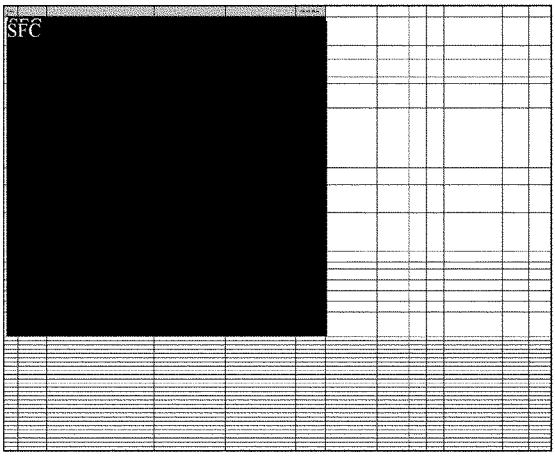
BOLO list--can you give me a better sense when it is used? I realize it has lots of parts, which might play into the process at different points. For example, we have a list of topics that must be fully developed so they get sent to full development. That is before they are sent for full development --is that part of BOLO or something different?. How is BOLO used after they are sent for full development? We need to be sure we are describing correctly --thanks

Lois G. Lerner
Director of Exempt Organizations

Sent from my BlackBerry Wireless Device

SFC 001596

SFC 001597



IRS0000013779

SFC 001598

Issue Name	Issue Description	Issue Number	Alerts (Year and number)	Disposition of Emerging Issue	Current Status (Opened or closed)
Current Political Issues	Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, Social economic reform / movement. **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.**	EI-1	x	Forward case to Group 7822. Stephen Seok is the coordinator.	Open

SFC 001599

Issue Name	Brief Issue Description	Issue Number	Coordinated Actions Taken	Current Status (Opened or closed)
SFC [redacted]		1	Forward case to Group 7829.	Open - 9/1/10
		2	Forward case to Group 7829	Open
		3	Forward case to Group 7829.	Open -8/9/10
		4	Forward case to Group 7829	Open -3/25/11
		5	Forward case to Group 7829	Open - 8/25/11

SFC 001600

Issue Name	Watch Issue Description	Issue Number	Alerts (Year and number)	Disposition of Watch Issue	Current status (Opened or closed)
SFC [redacted]		1	x	Elevate case to your manager for contact with EO Tech- Peter Holiat	Open
		2	x	Elevate case to your manager for contact with EO Tech - Chip Hull.	Open
		3	x	Forward case to Group 7830.	Open
		4	2010 - #1	Elevate case to your manager for contact with EO Tech- Matt Parrish.	Open- 5/27/10
		5	2010 - #1	Forward case to Group 7888. Denise Tamayo (coordinator). Note: the coordinator has permission to close "exclusively educational" organizations.	Open- 7-15-10
		7	2010 - #1	Elevate case to your manager for contact with area manager.	Open - 9/9/10
		9	2010- #1	Elevate case to your manager to forward to EO Technical.	Open 12/13/10
		10	2010- #1	Elevate case to your manager to forward to EO Technical.	Open - 8/6/10
		11	2011- #1	Elevate case to your manager to forward to Group 7822 for coordination with Judy Kindell or Sharon Light (EO Director's senior tech advisors).	Open - 3/29/11
		12	2011- #1	Elevate case to your manager to forward to John Shafer, Manager Group 7838.	Open - 3/29/11

SFC 001601

From: Paz Holly O
Sent: Friday, June 01, 2012 8:53 AM
To: Thomas Cindy M
Subject: potential revised BOLO language

Below is the wording that should be used for the Emerging Issue description for advocacy cases. We'll remove the references to Acorn and Occupy from the "Watch List" - the issues we are concerned about in those cases should be captured by the lang uage below.

501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit). Note: advocacy type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet these criteria.

SFC 001602

From: Kindell Judith E
Sent: Wednesday, April 25, 2012 12:31 PM
To: Paz Holly O; Light Sharon P
Subject: determs review
Attachments: Determinations Research.v.1.xls

Here is the result of Susan's and my review. We did not see any questions regarding what are book clubs reading - we did see questions regarding what books are you selling.

A. Requests Names of Donors

B. Provide a list of all issues that are important to your organization. Indicate your position regarding such issue.

C. In list of questions soliciting details about activity asked about the following: (1) the roles and activities of audience and participants other than me mbers in the activity and (2) what type of conversations and discussions did your members and participants have during the activity

D. Asks whether officer, director, etc. has run or will run for public office

E. Requests political affiliation of officer, dir ector, speakers, candidates supported, etc. or otherwise refers to relationship with identified political party -related organizations

F. Requests info re employment other than for org, including hours worked

G. Letter requests information regarding activities of another org not just relationship of other org to applicant

MEMORANDUM FOR FILE

Re: Albuquerque Tea Party, Inc.

The organization applied for recognition of exemption from federal income tax as a social welfare organization described in IRC 501(c)(4) on December 30, 2009. It was incorporated effective August 5, 2009 under the laws of the State of New Mexico. Its stated purpose is "issue education and advocacy." In its application, the organization states that all of its activities are intended to "inform and educate the community on political issues which have significant and far-reaching repercussions regarding the general prosperity and well-being of the American public." With regard to political activity, the organization states that no monies have been spent in the past on influencing 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, but that approximately 20% of its budget "will be set aside for future (political) considerations." The organization appears to be very Conservative in its outlook and activities, but is not aligned with any particular political party.

To effectuate its purposes, the organization states that it conducts educational forums (40% of its activities), advocacy training (30 % to 40% of its activities), candidate forums (20% of its activities), and event rallies (10% of its activities). The organization's budget shows that funds will be used in the same percentages for each activity.

(1) The educational forums inform the public on current "political" issues, such as how legislation will affect small businesses and private persons. At one forum, for instance, the organization stated that it believes that the public must be engaged in the debate over health care reform. These forums are planned to be held every one or two months.

(2) The advocacy training will show people how they can become more active in the "political" process (i.e., how to support particular positions) and are expected to be held every one or two months.

(3) The candidate forums will provide non-partisan access of local and state candidates for public office, where all the candidates can present their political platforms and allow the public to make informed decisions of support or non-support of said candidates. The organization's flyer states that it extends an invitation to all congressional candidates to attend in order that people can get to know them. These forums are planned for February and March in years of elections.

(4) Event rallies are non-partisan gatherings, open to the general public, to present informational events in order to educate and motivate people.

With regard to the educational forums, the organization is not promoting particular individuals for political office, but rather is promoting a conservative philosophy. This would be considered as useful information to the general public and the community within the meaning of IRC 501(c)(4). Similarly, the non-partisan

Re: Albuquerque Tea Party, Inc.

candidate forums are open to all candidates to present their views, which d oes not constitute participation in any political campaign. See Rev. Rul. 86 -95, 1986-2 C.B. 73, which amplifies Rev. Rul. 66 -256, 1956-2 C.B. 210. See also Rev. Rul. 74 -574, 1974-2 C.B. 160. The non-partisan event rallies are also not considered to be engaging in political activity as discussed in Rev. Rul. 60 -193, 1960-1 C.B. 195, as modified by Rev. Rul. 76-456, 1976-2 C.B. 151.

With regard to overt political activity, only portions of the organization's "advocacy training," appear to meet the definition under IRC 527(f)(1) to be subject to the tax on political organizations imposed under IRC 527(b) . The activity is carried on under one of the organization's various committees: the Community Outreach Team (COT). The organization's leadership approv es the annual COT plan. The particular goal of COT is to elect/retain the maximum number of conservative/moderate Democrats, Republicans, and Independents in local, state, and federal elected positions ; COT leadership creates the annual COT plan, provid es updates, and manages Group Leaders; Group Leaders create and submit annual Group plans to COT leadership , provide updates, and manage Group Members; Group Members implement approved activities. There are 18 groups under the auspices of COT , only four or five of which appear to be actively engaging in political activity by identifying and educating members regarding conservation/moderate candidates at the State and federal levels, and communicating the results of their activities to all members of the organization.

The other groups under COT are engaged in attending every School Board meeting, City Council meeting, and County Commission meeting in order to influence elected officials to vote for conservative/moderate activities/laws and vote against ultra-liberal progressive activities/laws . COT workers call, write, and email local, State, and federal elected officials to influence them to vote for conservative/moderate activities/laws and vote against ultra -liberal progressive activities/laws. This would be considered as legislative activity, an exempt IRC 501(c)(4) activity.

Although the organization states that its activities under COT are nonpartisan, values oriented education, and advocacy, its stated policy of evaluating public officials, candidates, and issues based on the degree they are consistent with the organization's values of limited government , constrained spending and taxation, and advancement of a free market economy are considered to be political in nature , which is not an IRC 501(c)(4) activity. See Rev. Rul. 67-368, 1967-2 C.B. 194.

Exemption under IRC 501(c)(4) is not precluded even when an organization engages in non-(c)(4) activities, as long as the non -(c)(4) activities are not the primary activity of the organization. As di scussed in Rev. Rul. 81-95, 1981-1 C.B. 332, although the applicant organization in this case is engaged in a substantial amount of political activity, within the meaning of Regs. 1.501(c)(3) -1(c)(3)(i), its primary activity appears to be educational and legislative. Thus, the organization is promoting social welfare within the meaning of IRC 501(c)(4) as a result. Therefore, exemption under IRC 501(c)(4) may be recognized.

Carter C. Hull
SE:T:EO:RA:T:2
January 10, 2011

SFC 001605

From: Vance Roger W
Sent: Thursday, May 17, 2012 8:54 AM
To: Beckerich Karl J
Cc: Muthert Gary A
Subject: BOLO - Occupy

The case listed below is an occupy BOLO case.

SEC [redacted]

From: Cook Janine
Sent: Friday, March 02, 2012 7:56 AM
To: Judson Victoria A
Subject: FW: Advocacy orgs

Vicki, just sharing this info with you --both letter from Hill and article on IRS processing of applications from c4s.

Other than the advocacy guide that Don/Susan are looking at (and I also shared this with them), I've haven't' heard anything from the client about what they are doing in this area. Just wanted you to have a heads up on how it's hitting the press. One thing that struck me a little by surprise in the second piece (article) below is that IRS is supposedly asking about use of twit ter/facebook. To my knowledge, we haven't done that before now and of course it could apply in many, many EO situations. Interestingly, the client asked us (Taina fielded the question) a few months ago about what our "position" was on use of blogs and we responded "we don't have one." I understand that attempts to wade into that issue in the past (over years...before my time) have not ended up going anywhere. As you can imagine, it is VERY hard to monitor and gets to VERY difficult issues regarding attri bution/free speech, etc.

1 - House Oversight Chairman Seeks Additional Information from the IRS on Tax -Exempt Sector Compliance, as Reports of IRS Questioning Grassroots Political Groups Raises New Concerns

March 1, 2012

Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Shulman:

On October 6, 2011, I wrote to you requesting information about the status of various IRS compliance efforts involving the tax-exempt sector and issues related to audits of tax -exempt organizations [for this letter, see email update 2011-166]. While awaiting a complete response to that letter, I have since heard the IRS has been questioning new tax-exempt applicants, including grassroots political entities such as Tea Party groups, about their operations and donors [for background, see email update 2012 -38]. In addition to the unanswered questions from my October 6, 2011, letter, I have additional questions relating to the IRS' oversight of applications for tax exemption for new organizations.

In particular, I am seeking additional information as it relates to the IRS review of new applications for section 501(c)(3) and (c)(4) tax-exempt status, including answers to the questions detailed below. Please provide your responses no later than March 15, 2012.

1. How many new tax -exempt organizations has the IRS recognized each year since 2008?

2. How many new applications for 501(c)(3) and (c)(4) tax -exempt status have been received by the IRS since 2008? Provide a breakdown by year and type of organization.

3. What is the IRS process for reviewing each tax -exempt status application? Is this process the same for entities applying for section 501(c)(3) and (c)(4) tax -exempt status? Please describe the process for both section 501(c)(3) and (c)(4) applications in detail.

4. Your preliminary response in my October 6, 2011, letter stated that, "if the application is substantially complete, the IRS may retain the application and request additional information as needed." How does the IRS determine that an application for tax -exempt status is "substantially complete?" Please provide guidelines or any other materials used in this process.

5. Does the IRS have standard procedu res or forms it uses to "request additional information as needed" from applicants seeking tax -exempt status? Please provide any forms and related materials used.

6. Does the IRS select applications for "follow -up" on an automated basis or is there an o ffice or individual responsible for selecting incomplete applications? Please explain and provide details on any automated system used for these purposes. If decisions are made on an individual basis, please provide the guidelines and any related materials used.

7. How many tax -exempt applications since 2008 have been selected for "follow -up"? How many entities selected for follow -up were granted tax -exempt status?

Should you have any questions regarding this request, please contact *** or *** at (202) 225-5522.

Sincerely,

/s/ Charles Boustany, Jr., MD
Chairman
Subcommittee on Oversight
Committee on Ways and Means
House of Representatives
Washington, D.C.

IRS Battling Tea Party Groups Over Tax -Exempt Status
By Alan Fram, *Huff Post Politics,* March 1, 2012

WASHINGTON -- The Internal Revenue Service is embroiled in battles with tea party and other conservative groups who claim the government is purposely frus trating their attempts to gain tax -exempt status. The fight features instances in which the IRS has asked for voluminous details about the groups' postings on social networking sites like Twitter and Facebook, information on donors and key members' relativ es, and copies of all literature they have distributed to their members, according to documents provided by some organizations.

While refusing to comment on specific cases, IRS officials said they are merely trying to gather enough information to decide whether groups qualify for the tax exemption. Most organizations are applying under section 501(c)(4) of the federal tax code, which grants tax -exempt status to certain groups as long as they are not primarily involved in activity that could influence an el ection, a determination that is up to the IRS. The tax agency would seem a natural target for tea party groups, which espouse smaller and less intrusive government and lower taxes. Yet over the years, the IRS has periodically been accused of political vend ettas by liberals and conservatives alike, usually without merit, tax experts say.

The latest dispute comes early in an election year in which the IRS is under pressure to monitor tax -exempt

groups -- like the Republican-leaning Crossroads GPS and Democratic-leaning Priorities USA -- which can shovel unlimited amounts of money to allies to influence campaigns, even while not being required to disclose their donors.

Conservatives say dozens of groups around the country have recently had similar experiences with the IRS and say its information demands are intrusive and politically motivated. They complain that the sheer size and detail of material the agency wants is designed to prevent them from achieving the tax designations they seek. "It's intimidation," said Tom Zawistowski, president of the Ohio Liberty Council, a coalition of tea party groups in the state. "Stop doing what you're doing, or we'll make your life miserable."

Authorities on the laws governing tax-exempt organizations expressed surprise at some of the IRS's requests, such as the volume of detail it is seeking and the identity of donors. But they said it is the agency's job to learn what it can to help decide whether tax-exempt status is warranted. "These tea party groups, a lot of their material makes them look and sound like a political party," said Marcus S. Owens, a lawyer who advises tax-exempt organizations and who spent a decade heading the IRS division that oversees such groups. "I think the IRS is trying to get behind the rhetoric and figure out whether they are, at their core, a political party," or a group that would qualify for tax-exempt status.

The tea party was first widely emblazoned on the public's mind for their noisy opposition to President Barack Obama's health care overhaul at congressional town hall meetings in the summer of 2009. Support from its activist members has since helped nominate and elect conservative candidates around the country, though group leaders say they are chiefly educational organizations.

They say they mostly do things like invite guests to discuss issues and teach members about the Constitution and how to request government documents under the Freedom of Information Act. Some say they occasionally endorse candidates and seek to register voters. "We're doing nothing more than what the average citizen does in getting involved," said Phil Rapp, executive director of the Richmond Tea Party in Virginia. "We're not supporting candidates; we are supporting what we see as the issues."

One group, the Kentucky 9/12 Project, said it applied for tax-exempt status in December 2010. After getting a prompt IRS acknowledgement of its application, the organization heard nothing until it got an IRS letter two weeks ago requesting more information, said the project's director, Eric Wilson. That letter, which Wilson provided to the AP, asked 30 questions, many with multiple parts, and gave the group until March 6 to respond.

Information requested included "details regarding all of your activity on Facebook and Twitter" and whether top officials' relatives serve in other organizations or plan to run for elective office. The IRS also sought the political affiliation of every person who has provided the group with educational services and minutes of every board meeting "since your creation."

"This is a modern-day witch hunt," said Wilson, whose 9/12 group and others around the country were inspired by conservative activist Glenn Beck. Other conservative organizations described similar experiences.

A January IRS letter to the Richmond Tea Party requests the names of donors, the amounts each contributed and details on how the funds were used. The Ohio Liberty Council received an IRS letter last month seeking the credentials of speakers at the group's public events. In a February letter, the IRS asked the Waco Tea Party of Texas whether its officials have a "close relationship" with any candidates for office or political parties, and was asked for events they plan this year. "The crystal ball I was issued can't predict the future," and future events will depend on factors like what Congress does this year, said Toby Marie Walker, president of the Waco group.

The IRS provided a five-paragraph written response to a reporter's questions about its actions. It noted that the

tax code allows tax-exempt status to "social welfare" groups, which are supposed to promote the common good of the community. Groups can engage in some political activities "so long as, in the aggregate, these non - exempt activities are not its primary activities, " the IRS statement said. "Career civil servants make all decisions on exemption applications in a fair, impartial manner and do so without regard to political affiliation or ideology," the agency said.

There were 139,000 groups in the U.S. with 501(c)(4) tax-exempt status in 2010, the latest year of available IRS data. More than 1,700 organizations applied for that designation in 2010 while over 1,400 were approved. Such volume means it might take months for the IRS to assign applications to agents, said Lloyd Hitoshi Mayer, a Notre Dame law professor who specializes in election and tax law.

Ever since a 2010 Supreme Court decision allowing outside groups to spend unlimited funds in elections, such organizations have been under scrutiny. Two nonpartisan c ampaign finance watchdogs called on the IRS last fall to strip some large groups of tax -exempt status, claiming they engage in so much political activity that they don't qualify for the designation. Last month, seven Democratic senators asked the IRS to in vestigate whether some groups were improperly using tax -exempt status -- they didn't name any organizations -- because those groups are "improperly engaged in a substantial or even a predominant amount of campaign activity."

SFC 001610

Subject:	Copy: (ABA) EO Discussion
Location:	IRS ROOM 3313
Start:	Thu 5/9/2013 2:00 PM
End:	Thu 5/9/2013 3:00 PM
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Wilkins William J
Required Attendees:	Wilkins William J; Miller Steven T; Cook Janine; Brown Susan D; Lerner Lois G; Corwin Erik H; Judson Victoria A; Flax Nikole C
Optional Attendees:	Blumenfeld Michael B

5/1/2013 Please note the ABA attendees.

Suzanne McDowell (Committee Chair) (Steptoe & Johnson)
Rosemary Fei (Subcommittee Co-Chair) (Adler & Colvin)
Beth Kingsley (Subcommittee Co-Chair) (Harmon, Curran, Spielberg & Eisenberg)

4/23/2013 We will update you on the ABA participants attending this meeting shortly.

REV_RUL_200... REV_RUL_2...

Attached are the pre-reads. These are Revenue Rulings from 2004 and 2007 on the issue of distinguishing issue advocacy from campaign activity. (AP)

Westlaw Delivery Summary Report for WILKINS,WILLIAM

Date/Time of Request:	Tuesday, April 23, 2013 09:36 Central
Client Identifier:	123
Database:	FTX RR
Citation Text:	Rev. Rul. 2004 6
Lines:	449
Documents:	1
Images:	0

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Rev. Rul. 2004 6, 2004 4 I.R.B. 328, 2004 1 C.B. 328, 2003 WL 23009324 (IRS RRU)

Internal Revenue Service (I.R.S.)
IRS RRU

Revenue Ruling

PUBLIC ADVOCACY; PUBLIC POLICY ISSUES

Released: December 24, 2003
Published: January 26, 2004

Section 527.--Political Organizations, *26 CFR 1.527 2: Definitions.*

(Also § 501.)

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

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

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

ISSUE

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

LAW

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

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

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

Section 1.501(c)(5) 1 requires that labor, agricul tural, or horticultural organizations have as their objects the betterment of the conditions of those en gaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occu pations.

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

Section 1.501(c)(6) 1 provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage

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in a regular business of a kind ordinarily carried on for profit. A business league's activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

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

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

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

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

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

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

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

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

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

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political campaign.

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

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

ANALYSIS OF FACTUAL SITUATIONS

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

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

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

a) The communication identifies a candidate for public office;

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

c) The communication targets voters in a particular election;

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

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

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

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

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include, but are not limited to, the following:

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

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

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

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

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

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

Each of the situations assumes that:

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

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

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

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

Under the facts and circumstances in *Situation 1*, the advertisement is not for an exempt function under § 527(e)(2). Although *N*'s advertisement identifies Senator *A*, appears shortly before an election in which Senator *A* is a candidate, and targets voters in that election, it is part of an ongoing series of substantially similar advocacy communications by *N* on the same issue during year 200x. The advertisement identifies both Senator *A* and Senator *B*, who is not a candidate for re election, as the repres

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entatives who would vote on this issue. Further more, *N*'s advertisement does not identify Senator *A* 's position on the issue, and law enforcement has not been raised as an issue distinguishing Senator *A* from any opponent. Therefore, there is nothing to indicate that Senator *A*'s candidacy should be sup ported or opposed based on this issue. Based on these facts and circumstances, the amount expended by *N* on the advertisement is not an exempt func tion expenditure under § 527(e)(2) and, therefore, is not subject to tax under § 527(f)(1).

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

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

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

Under the facts and circumstances in *Situation 3*, the advertisement is for an exempt function under § 527(e)(2).*P*'s advertisement identifies Senator *D*,

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appears shortly before an election in which Senator *D* is a candidate, and targets voters in that election. Although federal funding of hospitals has not been raised as an issue distinguishing Senator *D* from any opponent, the advertisement identifies Senator *D*'s position on the hospital funding issue as agree ing with *P*'s position, and is not part of an ongoing series of substantially similar advocacy communic ations by *P* on the same issue. Moreover, the ad vertisement does not identify any specific legisla tion and is not timed to coincide with a legislative vote or other major legislative action on the hospit al funding issue. Based on these facts and circum stances, the amount expended by *P* on the advert isement is an exempt function expenditure under § 527(e)(2) and, therefore, is subject to tax under § 527(f)(1).

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

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

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

Under the facts and circumstances in *Situation 5*, the advertisement is not for an exempt function un

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

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

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

HOLDINGS

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

DRAFTING INFORMATION

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

Rev. Rul. 2004 6, 2004 4 I.R.B. 328, 2004 1 C.B. 328, 2003 WL 23009324 (IRS RRU)

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Internal Revenue Service (I.R.S.)
IRS RRU

Revenue Ruling

EXEMPT ORGANIZATIONS; POLITICAL CAMPAIGNS

Released: June 1, 2007
Published: June 18, 2007

Section 501.--Exemption From Tax on Corporations, Certain Trusts, etc., *26 CFR 1.501(c)(3) 1: Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals.*

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

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

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

ISSUE

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

LAW

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

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

Section 1.501(c)(3) 1(c)(3)(iii) of the regulations defines an "action" organization as an organization that participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. The term "candidate for public office" is defined as an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, State, or local. The regulations further provide that activities that constitute participation or intervention in a political campaign

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on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written statements or the making of oral statements on behalf of or in opposition to such a candidate.

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

The presentation of public forums or debates is a recognized method of educating the public. See Rev. Rul. 66 256, 1966 2 C.B. 210 (nonprofit organization formed to conduct public forums at which lectures and debates on social, political, and international matters are presented qualifies for exemption from federal income tax under section 501(c)(3)). Providing a forum for candidates is not, in and of itself, prohibited political activity. See Rev. Rul. 74 574, 1974 2 C.B. 160 (organization operating a broadcast station is not participating in political campaigns on behalf of public candidates by providing reasonable amounts of air time equally available to all legally qualified candidates for election to public office in compliance with the reasonable access provisions of the Communications Act of 1934). However, a forum for candidates could be operated in a manner that would show a bias or preference for or against a particular candidate. This could be done, for example, through biased questioning procedures. On the other hand, a forum held for the purpose of educating and informing the voters, which provides fair and impartial treatment of candidates, and which does not promote or advance one candidate over another, would not constitute participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office. See Rev. Rul. 86 95, 1986 2 C.B. 73 (organization that proposes to educate voters by conducting a series of public forums in congressional districts during congressional election campaigns is not participating in a political campaign on behalf of any candidate due to the neutral form and content of its proposed forums).

ANALYSIS OF FACTUAL SITUATIONS

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

Voter Education, Voter Registration and Get Out the Vote Drives

Section 501(c)(3) organizations are permitted to conduct certain voter education activities (including the presentation of public forums and the publication of voter education guides) if they are carried out in a non partisan manner. In addition, section 501(c)(3) organizations may encourage people to participate in the electoral process through voter registration and get out the vote drives, conducted in

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a non partisan manner. On the other hand, voter education or registration activities conducted in a biased manner that favors (or opposes) one or more candidates is prohibited.

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

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

Individual Activity by Organization Leaders

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

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

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

Situation 5. Minister *C* is the minister of Church *L*, a section 501(c)(3) organization and Minister *C* is well known in the commnnity. Three weeks before the election, he attends a press conferenee at Can

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didate *V*'s campaign headquarters and states that Candidate *V* should be reelected. Minister *C* does not say he is speaking on behalf of Church *L*. His endorsement is reported on the front page of the local newspaper and he is identified in the article as the minister of Church *L*. Because Minister *C* did not make the endorsement at an official church function, in an official church publication or otherwise use the church's assets, and did not state that he was speaking as a representative of Church *L*, his actions do not constitute campaign intervention by Church *L*.

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

Candidate Appearances

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

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

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

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

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

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

Situation 7. President *E* is the president of Society *N*, a historical society that is a section 501(c)(3) organization. In the month prior to the election, President *E* invites the three Congressional candidates for the district in which Society *N* is located to address the members, one each at a regular meeting held on three successive weeks. Each candidate is given an equal opportunity to address and field

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questions on a wide variety of topics from the members. Society *N*'s publicity announcing the dates for each of the candidate's speeches and President *E*'s introduction of each candidate include no comments on their qualifications or any indication of a preference for any candidate. Society *N*'s actions do not constitute political campaign intervention.

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

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

Candidate Appearances Where Speaking or Participating as a Non Candidate

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

- Whether the individual is chosen to speak solely for reasons other than candidacy for public office;
- Whether the individual speaks only in a non candidate capacity;
- Whether either the individual or any representative of the organization makes any mention of his or her candidacy or the election;
- Whether any campaign activity occurs in connection with the candidate's attendance;
- Whether the organization maintains a nonpartisan atmosphere on the premises or at the event where the candidate is present; and
- Whether the organization clearly indicates the capacity in which the candidate is appearing and does not mention the individual's political candidacy or the upcoming election in the communications announcing the candidate's attendance at the event.

*Situation 10.*Historical society *P* is a section 501(c)(3) organization. Society *P* is located in the state capital. President *G* is the president of Society *P* and customarily acknowledges the presence of any public officials present during meetings. During the state gubernatorial race, Lieutenant Governor *Y*, a candidate, attends a meeting of the historical society. President *G* acknowledges the Lieutenant Governor's presence in his customary manner, saying, "We are happy to have joining us this evening Lieutenant Governor *Y*. " President *G* makes no reference in his welcome to the Lieuten

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ant Governor's candidacy or the election. Society *P* has not engaged in political campaign intervention as a result of President *G*'s actions.

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

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

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

Issue Advocacy vs. Political Campaign Intervention

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

Key factors in determining whether a communica tion results in political campaign intervention in clude the following:

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

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

Situation 14. University *O*, a section 501(c)(3) organization, prepares and finances a full page newspaper advertisement that is published in several large circulation newspapers in State *V* shortly before an election in which Senator *C* is a candidate for nomination in a party primary. Senator *C* represents State *V* in the United States Senate. The advertisement states that S. 24, a pending bill in the United States Senate, would provide additional opportunities for State *V* residents to attend college, but Senator *C* has opposed similar measures in the past. The advertisement ends with the statement "Call or write Senator *C* to tell him to vote for S. 24."Educational issues have not been raised as an issue distinguishing Senator *C* from any opponent. S. 24 is scheduled for a vote in the United States Senate before the election, soon after the date that the advertisement is published in the newspapers. Even though the advertisement appears shortly before the election and identifies Senator *C*'s position on the issue as contrary to *O*'s position, University *O* has not violated the political campaign intervention prohibition because the advertisement does not mention the election or the candidacy of Senator *C*, education issues have not been raised as distinguishing Senator *C* from any opponent, and the timing of the advertisement and the identification of Senator *C* are directly related to the specifically identified legislation University *O* is supporting and appears immediately before the United States Senate is scheduled to vote on that particular legislation. The candidate identified, Senator *C*, is an officeholder who is in a position to vote on the legislation.

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

Situation 16. Candidate *A* and Candidate *B* are candidates for the state senate in District *W* of State *X*. The issue of State *X* funding for a new mass transit project in District *W* is a prominent issue in the campaign. Both candidates have spoken out on the issue. Candidate *A* supports funding the new mass transit project. Candidate *B* opposes the project and supports State *X* funding for highway improvements instead. *P* is the executive director of *C*, a

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

Business Activity

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

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

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

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

Web Sites

The Internet has become a widely used communications tool. Section 501(c)(3) organizations use their own web sites to disseminate statements and information. They also routinely link their web sites to web sites maintained by other organizations as a way of providing additional information that the organizations believe is useful or relevant to the public.

A web site is a form of communication. If an organization posts something on its web site that favors or opposes a candidate for public office, the organ

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ization will be treated the same as if it distributed printed material, oral statements or broadcasts that favored or opposed a candidate.

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

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

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

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

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

HOLDINGS

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

DRAFTING INFORMATION

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

Rev. Rul. 2007 41, 2007 25 I.R.B. 1421, 2007 1 C.B. 1421, 2007 WL 1576989 (IRS RRU)

END OF DOCUMENT

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From: Cook Janine
Sent: Wednesday, May 11, 2011 5:51 PM
To: Marks Nancy J
Subject: FW: NY Times Inbound E&G Deadline today

Categories: NUUU

Just fyi
-----Original Message-----
From: Cook Janine
Sent: Wednesday, May 11, 2011 6:51 PM
To: Lerner Lois G
Subject: RE: NY Times Inbound E&G Deadline today

Lois, I can tell you that Don and Susan weren't aware of this until sometime last week when CC:PSI reached out to them. We did a little checking and the only thing we know of was that a quick email came into CC:TEGE field from CC:SBSE field back in march to find out if there was some (c)(4) project with this case. Our field counsel checked around with colleagues and the EO Exam client (I don't know who in particular) and found nothing about a project. Nothing after that to my knowledge.

-----Original Message-----
From: Lerner Lois G [mailto:Lois.G.Lerner@irs.gov]
Sent: Wednesday, May 11, 2011 3:32 PM
To: Downing Nanette M; Cook Janine
Cc: Urban Joseph J
Subject: FW: NY Times Inbound E&G Deadline today

Not pointing fingers--just wanted you to know. Both our staff knew about the 501(c)(4) issue, but apparently neither side notified us it was working it's way through the system.

Lois G. Lerner
Director, Exempt Organizations

-----Original Message-----
From: Downing Nanette M
Sent: Wednesday, May 11, 2011 2:25 PM
To: Lerner Lois G
Cc: Urban Joseph J; Kindell Judith E
Subject: RE: NY Times Inbound E&G Deadline today

Thanks and I will get more info.

It was Freedom Watch under exam but I will get more info on the exam.

Counsel was Susan Brown and Don Spellman.

Let me get back to you with the other questions and then you can help me through this. Thanks!

-----Original Message-----
From: Lerner Lois G
Sent: Wednesday, May 11, 2011 1:20 PM
To: Downing Nanette M
Cc: Urban Joseph J; Kindell Judith E
Subject: RE: NY Times Inbound E&G Deadline today

That's a problem that your senior managers don't know that there are very high profile issues with c4s. With everything that went on in the press about this and that she, in part icular--who manages Vinnie on the political issues --should have known. I think Joanne dropped the ball on this one --TEGE Counsel reports up their chain --not ours. Was it area Counsel or DC Counsel? I think we need to know more about this c4 audit --who was being audited--why did this come up as an issue if we were looking at the org?
How has it been resolved. . We also need to talk about how, going forward, we ensure that all our sr managers are aware of all highly visible hot button issues. Our job is t o report up to our bosses on anything that might end up on the front page of the NYTimes. We probably should talk.

Lois G. Lerner
Director, Exempt Organizations

-----Original Message-----
From: Downing Nanette M
Sent: Wednesday, May 11, 2011 11:38 AM
To: Lerner Lois G
Cc: Urban Joseph J; Kindell Judith E
Subject: RE: NY Times Inbound E&G Deadline today

I am struggling with this and what to tell them in the future. The fact that we submit referrals all the time o utside of TEGE would not necessarily warrant a discussion up the chain. And both the Area Manager and Front Line manager were aware that the referral was submitted and that E&G contacted us. This was Joanne Dorling and she was not even aware that c 4's were a sensitive issue and since TEGE Counsel was involved I think that gave her more comfort level.

So with all this said, I am struggling with what to tell them to do in the future. Is this just a snafu or should we do something different in the future?

-----Original Message-----
From: Lerner Lois G
Sent: Wednesday, May 11, 2011 10:32 AM
To: Downing Nanette M
Cc: Urban Joseph J; Kindell Judith E
Subject: RE: NY Times Inbound E&G Deadline today

That's fine, but perhaps the agent should have told the ma nager once this went outside TEGE

Lois G. Lerner
Director, Exempt Organizations

-----Original Message-----
From: Downing Nanette M
Sent: Wednesday, May 11, 2011 11:19 AM
To: Lerner Lois G
Cc: Urban Joseph J; Kindell Judith E
Subject: RE: NY Times Inbound E&G Deadline today

I am piecing this together.

The agent did an exam on a 501 c 4. The organization had a significant contribution so a referral was submitted to E&G. I guess the referral was initially rejected by their Cou nsel but subsequently they reached out to the agent to ask questions regarding what he saw during the exam. According to the agent, he participated in a few conference calls with E&G folks and some TEGE Counsel folks. He was under the impression that E&G was developing a memo to be presented up above on this issue.

Let me know if you want to chat.

-----Original Message-----
From: Lerner Lois G
Sent: Tuesday, May 10, 2011 3:51 PM
To: Downing Nanette M
Subject: Fw: NY Times Inbound E&G Deadline today

Please read this string. This has created a huge deal NY Times article and IRS and Treasury in an uproar. Can we find out from our agent what his version is? This may be something we need to provide guidance to staff on.
Looks like agent went directly acros s with no discussion up the chain. Let me know please Lois G. Lerner ----------
---- Sent from my BlackBerry Wireless Handheld

------Original Message------
From: Babb Anita M
To: Lois Call in Number
Subject: RE: NY Times Inbound E&G Deadline to day
Sent: May 10, 2011 9:57 AM

Charles Walker contacted our PSP Shop Anita M. Babb Chief, Estate and Gift Tax Program From: Lerner Lois G Sent: Tuesday, May 10, 2011 9:55 AM
To: Babb Anita M Subject: Re: NY Times Inbound E&G Deadline today Yes. I assume it was one of my employees Lois G. Lerner---------- Sent from my BlackBerry Wireless Handheld From: Babb Anita M Sent: Tuesday, May 10, 2011 08:06 AM To: Lern er Lois G Subject: RE: NY Times Inbound E&G Deadline today Lois, I can get this information if you like.

Is there a reason for asking? Anita M. Babb Chief, Estate and Gift Tax Program From: Lerner Lois G Sent: Monday, May 09, 2011 5:14 PM To:
Miller Thomas S; Maccani Elcy J Cc: Guntow Janis; Babb Anita M; Imhoff John H Jr; Sciaroni Patricia L Subject: RE: NY Times Inbound E&G Deadline today Do you know who the TEGE employee was? Lois G. Lerner Director, Exempt Organizations From: Miller Thomas S Sent: Monday, May 09, 2011 4:31 PM To: Maccani Elcy J Cc: Guntow Janis; Babb Anita M; Imhoff John H Jr; Sciaroni Patricia L Subject: FW: NY Times Inbound E&G Deadline today Elcy, Here is the brief and concise response from E&G. Tom Miller SB/SE Communications Cincinnati IRS Center

SFC

From: Sciaroni Patricia L Sent: Monday, May 09, 2011 4:25 PM To: Guntow Janis; Babb Anita M; Miller Thomas S; Imhoff John H Jr Subject: RE: NY Times Inbound E&G Deadline today In early November 2010, the Estate and Gift Tax Program distributed referral procedures to TE/GE. E&G was subsequently contacted by a TE/GE employee regarding donations under IRC §501(c)(4) to determine if transfers made to such organizations are eligible for the gift tax charitable deduction.

For purposes of this initial contact from TE/GE, we determined that the transfers warranted further review. The IRS has taken the position, via several revenue rulings, that contributions to 501(c)(4) organizations for social welfare pur poses are subject to the gift tax. Notwithstanding this position, the area of law is less settled when the organization is involved in political activities. As a result, there are many legal theories that have been developed by practitioners to attack the validity of the IRS position, especially in such cases.

We believe the facts of each contribution warrant review to ascertain compliance with gift tax laws. We previously contacted Chief Counsel for advice regarding the gift tax consequences to 501(c)(4) organizations and are currently awaiting their guidance. Once received, these examinations will resume or be discontinued.

From: Guntow Janis Sent: Monday, May 09, 2011 2:25 PM To: Babb Anita M; Miller Thomas S Cc: Sciaroni Patricia L Subject: RE: NY Times Inbound E&G Deadline today Anita/Patty, Thank you Tom, As you can see from the email below our E&G folks are working on it -- we will keep you updated. Janis Guntow SB/SE Specialty Programs Senior Operations Advisor Desk SFC
Cell: SFC From: Babb Anita M Sent: Monday, May 09,
2011 3:14 PM To: Guntow Janis Cc: Sciaroni Patricia L Subject: RE: NY Times Inbound E&G Deadline today we are working on it. This was some work that came from TEGE as unfiled gifts. David Fogel was involved. I am getting a call together now Anita M. Babb Chief, Estate and Gift Tax Program
From: Guntow Janis Sent: Monday, May 09, 2011 2:53 PM To: Babb Anita M Cc:
Sciaroni Patricia L Subject: FW: NY Times Inbound E&G Deadline today
Importance: High Anita/Patty, Please see below and respond ASAP. From:
Miller Thomas S Sent: Monday, May 09, 2011 2:31 PM To: Guntow Janis Cc:
Brown Ginny L; Maccani Elcy J; James Bernard Subject: FW: NY Times Inbound E&G Deadline today Importance: High Hi Janis, Media contact from NYTimes on Gift Taxes ... we need to respond today. Here is the basic question, with a little more background info (including a redacted IRS notice) in the email
below: Do you know if there is a program within SBSE looking for gift tax returns t hat omitted including gifts to 501(c)(4)s? Tom Miller SB/SE Communications Cincinnati IRS Center

SFC

From: Maccani Elcy J Sent: Monday, May 09, 2011 2:23 PM To: Brown Ginny L; Miller Thomas S Subject: FW: NY Times Inbound E&G Deadline today Importance:
High Ginny and Tom, This is a biggy since it's the NY Times (and Tax Notes Today probably), even if we don't want to say anything MR needs some sort of response ASAP. At a recent ABA Tax Section this came up: Practitioners have seen in recent months (see redacted letter below) evidence of IRS enforcement efforts in an area previously not subject to IRS scrutiny.
Apparently this is an effort directed by the Estate and Gift Tax function at the IRS, not the EO

SFC 001634

From: Cook Janine
Sent: Thursday, June 14, 2012 5:31 PM
To: Spellmann Don R; Brown Susan D; Marshall David L
Subject: Fw: 501(c)(4)s - From the Nonprofit Law Prof Blog

Fyi
Sent by my Blackberry

From: Ruth.Madrid [redacted]
To: Judson Victoria A; Cook Janine; Lerner Lois G; Marks Nancy J
Sent: Thu Jun 14 16:09:57 2012
Subject: 501(c)(4)s From the Nonprofit Law Prof Blog

Don't know who in your organizations is keeping tabs on c4s, but since we mentioned potentially addressing them (off -plan) in 2013, I've got my radar up and this seemed interesting…

Bad News for Political 501(c)(4)s: 4th Circuit Upholds "Major Purpose" Test for Political Committees
In a case with potentially major ramifications for politically active section 501(c)(4) o rganizations, the U.S. Court of Appeals for the Fourth Circuit has upheld the Federal Election Commission's "major purpose" test for determining whether an organization is a political committee or PAC and so subject to extensive disclosure requirements. As described in the opinion, under the major purpose test "the Commission
first considers a group's political activities, such as spending on a particular electoral or issue -advocacy campaign, and then it evaluates an organization's 'major purpose,' as reve aled by that group's public statements, fundraising appeals, government filings, and organizational documents" (citations omitted). The FEC's summary of the litigation details the challenge made in this case:

A group or association that crosses the $1,00 0 contribution or expenditure threshold will only be deemed a political committee if its "major purpose" is to engage in federal campaign activity. [The plaintiff] claims that the FEC set forth an enforcement policy regarding PAC status in a policy stateme nt and that this enforcement policy is "based on an ad hoc, case-by-case, analysis of vague and impermissible factors applied to undefined facts derived through broad -ranging, intrusive, and burdensome investigations . . . that, in themselves, can often sh ut down an organization, without adequate bright lines to protect issue advocacy in this core First Amendment area." [The plaintiff] asks the court to find this "enforcement policy" unconstitutionally vague and overbroad and in excess of the FEC's statuto ry authority.

In a unanimous opinion, the court concluded that the FEC's current major purpose test is "a sensible approach to determining whether an organization qualifies for PAC status. And more importantly the Commission's multi -factor major-purpose test is consistent with Supreme Court precedent and does not unlawfully deter protected speech." In doing so, the court chose to apply the less stringent "exacting scrutiny" standard instead of the "strict scrutiny" standard becaus e, in the wake of Citizens United, political committee status only imposes disclosure and organizational requirements but no other restrictions. While the plaintiff here (The Real Truth About Abortion, Inc., formerly known as The Real Truth About Obama, Inc.) is a section 527 organization for federal tax purposes, the same test would apply to other types of politically active organizations, including section 501(c)(4) entities.

Hat Tip: Election Law Blog

LHM

SFC 001635

M. Ruth M. Madrigal
Office of Tax Policy
U.S. Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, DC 20220

SFC [redacted] (direct)
SFC [redacted]

SFC 001636

From: Rosenbaum Monice L
Sent: Thursday, September 30, 2010 10:18 AM
To: Griffin Kenneth M
Subject: FW: EO Tax Journal 2010-139

Ken,
You may already be a subscriber to Mr. Streckfus's journal, but below is his brief summary of the DC Bar lunch meeting. He hopes a transcript will be available soon. Monice

From: paul streckfu [SFC]
Sent: Thursday, September 30, 2010 11:07 AM
To: paul streckfus
Subject: EO Tax Journal 2010 139

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

Email Update 2010-139 (Thursday, September 30, 2010)
Copyright 2010 Paul Streckfus

Two events occurred yesterday at about the same time. One was the release of a letter (reprinted below) by the Chairman of th e Senate Finance Committee, Senator Max Baucus. The other w as a panel discussion titled "Political Activities of Exempt Organizations This Election Cycle" sponsored by the D.C. Bar, from which I hope to have a transcript in the near future.

After reading Senator Baucus' letter and accompanying news release, my s ense is that Senator Baucus should have been at the D.C. Bar discussion since he is concerned that political campaigns and individuals are manipulating 501(c)(4), (5), and (6) organi zations to advance their own political agenda, and he wants the IRS to loo k into this situation.

At the D.C. Bar discussion, Marc Owens of Caplin & Drysdale, Washington, explained that there is little that the IRS can do o n a current, real time basis to regulate (c)(4)s for two reasons. First, a new (c)(4) does not have to appl y for recognition of exemption. Second, a new (c)(4) formed this year would not have to file a Form 990 until next year at the earliest and the IRS would pro bably not do a substantive review of the filed Form 990 until 2012 at the earliest. By then, Owens joked, the winners are in office, and the losers are in another career.

At the same time that the IRS can do little to regulate new (c)(4)s, it is not even looking at existing (c)(4)s. According to Owens, the IRS has little interest in regulating exempt organizations beyond (c)(3)s. The IRS has "effectively abandoned the field" at a time of heightened political activity by all exempt organizations, including (c)(3)s. Owens added that "we seem to have a haphazard I RS enforcement system now breaking down co mpletely." This results in a corrosive effect on the integrity of exempt organizations in general and a stimulus to evasion of their responsibilities by organizations and their tax advisors.

Karl Sandstrom of Perkins Coie, Washington, was equally negativ e. According to Sandstrom, the IRS is "a poor vehicle to regulate political activity," in that this is not their focus or interest. In defense of the IRS, he did say Congress was also guilty in foisting upon the IRS regulation of political activity, using section 527 as an example. At the same time, Sandstrom did not see an active IRS as an answer to current concerns. Section 501(c)(4) organizations are just the current vehicle *du jour*. If (c)(4)s are shut down, Sandstrom said many other vehicles remain.

My guess: I doubt if we'll see much of Owens' and Sandstrom's views in the IRS' report to Senator Baucus and the Finance Committee.

* * * * * * * * *

Senate Committee on Finance News Release

SFC 001637

For Immediate Release
September 29, 2010

Contact: Scott Mulhauser/Erin Shields
(202) 224 4515

Baucus Calls On IRS to Investigate Use of Tax -Exempt Groups for Political Activity

Finance Chairman works to ensure special interests don't use tax -exempt groups to influence communities, spend secr et donations

Washington, DC Senate Finance Committee Chairman Max Baucus (D Mont.) today sent a letter to IRS Commissioner Doug Shulman requesting an investigation into the use of tax exempt groups for political advocacy. Baucus asked for the investigat ion after recent media reports uncovered instances of political activity by nonprofit organizations secretly backed by individuals adva ncing personal interests and organizations supporting political campaigns. Under the tax code, political campaign activit y cannot be the main purpose of a tax exempt organization and limits exist on political campaign activities in which these organizations can participate. Tax exempt organizations also cannot serve private interests. Baucus expressed serious concern that if political groups are able to take advantage of tax exempt organizations, these groups could curtail transparency in America's elections because nonprofit organizations do not have to disclose any information regarding their donors.

"Political campaigns and powerful individuals should not he ahle to use tax -exempt organizations as political pawns to serve their own special interests. The tax exemption given to nonprofit organizations comes with a responsibility to serve the public interest and Congress has an obligation to exercise the vigorous oversight necessary to ensure they do," said Baucus. "When political campaigns and individuals manipulate tax -exempt organizations to advance their own political agenda, they are able to raise and spend money without disclosing a dime, deceive the public and manipulate the entire political system. Special interests hiding behind the cloak of independent nonprofits threatens the transparency our democracy deserves and does a disservice to fair, honest and open electio us."

Baucus asked Shulman to review major 501(c)(4), (c)(5) and (c)(6) organizations involved in political campaign activity. He a sked the Commissioner to determine if these organizations are operating for the organization's intended tax exempt purpose, t o ensure that political activity is not the organization's primary activity and to determine if they are acting as conduits for major donor s advancing their own private interests regarding legislation or political campaigns, or are providing major donors w ith excess benefits. Baucus instructed Shulman to produce a report for the Committee on the agency's findings as quickly as possible. Baucus' full letter to Commissioner Shulman follows here.

September 28, 2010

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

Via Electronic Transmission

Dear Commissioner Shulman:

The Senate Finance Committee has jurisdiction over revenue matters, and the Committee is responsible for conducting o versight of the administration of the federal tax system, including matters involving tax exempt organizations. The Committee has focused extensively over the past decade on whether tax exempt groups have been used for lobbying or other financial or politi cal gain.

The central question examined by the Committee has been whether certain charitable or social welfare organizations qualify fo r the tax exempt status provided under the Internal Revenue Code.

Recent media reports on various 501(c)(4) organizatio ns engaged in political activity have raised serious questions about whether such organizations are operating in compliance with the Internal Revenue Code.

The law requires that political campaign activity by a 501(c)(4), (c)(5) or (c)(6) entity must not be the primary purpose of the organization.

If it is determined the primary purpose of the 501(c)(4), (c)(5) and (c)(6) organization is political campaign activity the t ax exemption for that nonprofit can be terminated.

Even if political campaign activit y is not the primary purpose of a 501(c)(4), (c)(5), and (c)(6) organization, it must notify its members of the portion of dues paid due to political activity or pay a proxy tax under Section 6033(e).

Also, tax exempt organizations and their donors must not engage in privatc inurement or excess benefit transactions. These rules prevent private individuals or groups from using tax exempt organizations to benefit their private interests or to profit from the tax exempt organization's activ ities.

A September 23 New York Times article entitled "Hidden Under a Tax Exempt Cloak, Private Dollars Flow" described the activities of the organization Americans for Job Security. An Alaska Public Office Commission investigation revealed that AJS, orga nized as an entity to promote social welfare under 501(c)(6), fought development in Alaska at the behest of a "local financier who paid f or most of the referendum campaign." The Commission report said that "Americans for Job Security has no other purpose o ther than to cover money trails all over the country." The article also noted that "membership dues and assessments ... plunged to zero before r ising to $12.2 million for the presidential race."

A September 16 Time Magazine article examined the activities of Washington D.C. based 501(c)(4) groups planning a "$300 million … spending blitz" in the 2010 elections. The article describes a group transforming itself into a nonprofit under 501(c)(4) o f the tax code, ensuring that they would not have to "publicall y disclose any information about its donors."

These media reports raise a basic question: Is the tax code being used to eliminate transparency in the funding of our electi ons elections that are the constitutional bedrock of our democracy? They also rai se concerns about whether the tax benefits of nonprofits are being used to advance private interests.

With hundreds of millions of dollars being spent in election contests by tax exempt entities, it is time to take a fresh look at current practices and how they comport with the Internal Revenue Code's rules for nonprofits.

I request that you and your agency survey major 501(c)(4), (c)(5) and (c)(6) organizations involved in political campaign act ivity to examine whether they are operated for the organizat ion's intended tax exempt purpose and to ensure that political campaign activity is not the organization's primary activity. Specifically you should examine if these political activities reach a primary purpos e level the standard imposed by the federal tax code and if they do not, whether the organization is complying with the notice or proxy tax requirements of Section 6033(e). I also request that you or your agency survey major 501(c)(4), (c)(5), and (c)(6) organizati ons to determine whether they ar e acting as conduits for major donors advancing their own private interests regarding legislation or political campaigns, or are providing major donors with excess benefits.

Possible violation of tax laws should be identified as you conduct this study.

Please report back to the Finance Committee as soon as possible with your findings and recommended actions regarding this matt er.

Based on your report I plan to ask the Committee to open its own investigation and/or to take appropriate legislative action.

Sincerely,

Max Baucus, Chairman
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510 6200

02/21/2012 10:47 SFC AMIGOS!AMA!SWP SFCg01688e5

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

Department of the Treasury

Date: February 7, 2012

Pass the Balanced Budget Amendment, Inc.
8700 E. Pinnacle Peak Road, Suite 222
Scottsdale, AZ 84050

Employer identification Number:
SFC
Person to Contact – Group #:
Joseph R Herr - 7821
ID# SFC S
Contact Telephone Numbers:
SFC Phone
SFC Fax
Response Due Date:
February 28, 2012

Dear Sir or Madam:

We need more information before we can complete our consideration of your application for exemption. Please provide the information requested on the enclosed Information Request by the response due date shown above. Your response must be signed by an authorized person or an officer whose name is listed on your application. Also, the information you submit should be accompanied by the following declaration:

> *Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information, and such facts are true, correct, and complete.*

If we approve your application for exemption, we will be required by law to make the application and the information that you submit in response to this letter available for public inspection. Please ensure that your response doesn't include unnecessary personal identifying information, such as bank account numbers or Social Security numbers, that could result in identity theft or other adverse consequences if publicly disclosed. If you have any questions about the public inspection of your application or other documents, please call the person whose name and telephone number are shown above.

To facilitate processing of your application, please attach a copy of this letter to your response and all correspondence related to your application. This will enable us to quickly and accurately associate the additional documents with your case file. Also, please note the following important response submission information:

- Please don't fax and mail your response. Faxing and mailing your response will result in unnecessary delays in processing your application. Each piece of correspondence submitted (whether fax or mail) must be processed, assigned, and reviewed by an EO Determinations specialist.
- Please don't fax your response multiple times. Faxing your response multiple times will delay the processing of your application for the reasons noted above.

Pass the Balanced Budget Amendment, Inc.
27-4027681

- Please don't call to verify receipt of your response without allowing for adequate processing time. It takes a minimum of three workdays to process your faxed or mailed response from the day it is received.

If we don't hear from you by the response due date shown above, we will assume you no longer want us to consider your application for exemption and will close your case. As a result, the Internal Revenue Service will treat you as a taxable entity. If we receive the information after the response due date, we may ask you to send us a new application.

We have sent a copy of this letter to your representative as indicated in Form 2848, Power of Attorney and Declaration of Representative.

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

Sincerely yours,

Joseph R Herr
Exempt Organizations Specialist

Enclosure: Information Request

Letter 1312 (Rev. 05-2011)

Pass the Balanced Budget Amendment, Inc.
27-4027661

Additional Information Requested:

1. The Articles of Incorporation you provided for Pass the Balance Budget Amendment, Inc. do not show proof that they have been filed with the State of Arizona. Since you are a corporation, you must submit a complete copy of your Articles of Incorporation and any amendments thereto that show evidence that they have been filed with and approved by the State in which you are incorporated.

   If a stamped copy of your Articles of Incorporation was not returned to your organization at the time the Articles of Incorporation were filed, you would need to contact your state's Secretary of State office to receive a copy.

2. The Articles of Dissolution you provided for Balanced Budget Amendment Now!, Inc. do not show proof that they have been filed with the State of Arizona. If a stamped copy of your Articles of Dissolution was not returned to your organization at the time the Articles of Incorporation were filed, you would need to contact your state's Secretary of State office to receive a copy.

3. Please clarify whether your organization plans to use a fictitious name. If so, what name does your organization plan to use? Has your organization registered the factitious name with the state for the corporation, Pass the Balanced Budget Amendment, Inc.? If so, provide proof to that effect.

4. Regarding the Andrew Jackson Legacy Scholarship, please provide the following information:
   a. Describe in detail the criteria used in selecting scholarship recipients. Provide a copy of the application.
   b. Describe how you advertise and promote the availability of the scholarship.
   c. Describe the qualifications of your scholarship selection committee.
   d. Are members of the selection committee or their relatives eligible to apply for scholarships? If so, please describe the procedures you follow to ensure an unbiased selection.
   e. Indicate the approximate number of scholarships awarded annually.
   f. Give the approximate number of individuals eligible to apply annually.
   g. Describe the procedures you follow to monitor scholarship funds.
   h. Describe the procedures you follow if you discover a misuse of scholarship funds.

5. Please describe the Consulting Agreement with Kristin Hueter & Associates in further detail. Comment on the following items:
   a. Does anyone associated with your organization have any type of association with the consulting company or anyone associated with the consulting company?
   b. What were the considerations for selecting the consultant? How did your organization go about choosing the consultant?
   c. Are the fees calculated on gross receipts or net of expenses? Please explain.
   d. Is the 15% commission in addition to the $3,000 monthly retainer? Please explain.
   e. Is there a floor or ceiling on the amount of total compensation? Please explain.
   f. Does the consultant collect receipt and then remit them to your organization? Please explain.

Pass the Balanced Budget Amendment, Inc.
27-4027661

6. You provided a copy of your organization's sub-lease agreement. Please provide a copy of the original lease to which your organization's lease was subordinated. What is the relationship between the original landlord and Charles R. Warren, Jr., dba Silver Bullet, LLC?

7. Please describe the relationship between your organization and Silver Bullet, LLC in further detail. List and describe any relationships between your organization and Silver Bullet, LLC. Does your organization share office space with Silver Bullet, LLC? Please explain.

8. Please provide a hardcopy printout of your organization's website.

9. Does your organization promote or publicize itself using any Internet social media such as Facebook? If so, please list the social media outlets and provide hardcopy printouts of those outlets.

10. 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 relationships.
    c. Do you work with those organizations regularly? Describe the nature of the contacts.
    d. List shared employees, volunteers, resources, office space, etc. with the organizations.
    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.

11. Provide the following information for all the public events conducted or planned to be conducted by your organization:
    a. The time, location, and content schedule of each event
    b. Identify and provide copies of handouts to the audience
    c. Identify workshop materials that instructors will use
    d. The names and credentials of the instructors
    e. If speeches or forums were or will be conducted at 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.

12. 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.

13. 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.

14. 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.

15. 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. New media activity may include the following:
    a. Press releases
    b. Interviews with news media
    c. Letters to the editor
    d. Op-ed pieces

16. Your organization's web page refers to National Leadership, Executive Leadership, and a National Advisory Committee. Please describe these items in further detail. What is their role within your organization? How are the individuals listed related to your organization? Are there any agreements regarding the relationship with these groups or individuals? If so, provide copies of the agreements.

PLEASE DIRECT ALL CORRESPONDENCE REGARDING YOUR CASE TO:

US Mail:

Internal Revenue Service
Exempt Organizations
P. O. Box 2508
Cincinnati, OH 45201
Attn: Joseph R Herr
Room 4514
Group 7821

Street Address for Delivery Service:

Internal Revenue Service
Exempt Organizations
550 Main St, Federal Bldg.
Cincinnati, OH 45202
Attn: Joseph R Herr
Room 4514
Group 7821

Fact sheet—630pm

Introduction:

Law in the Area

An organization is described in section 501(c)(3) of the tax code if it is organized and operated for religious, charitable, educational and certain other specified purposes.

An organization is described in section 501(c)(4) if it is operated exclusively for the promotion of social welfare.

There are specific rules relating to exemption and political campaign intervention. Organizations described in section 501(c)(3) may not engage in such activity. Social welfare organizations described in section 501(c)(4) may engage in a limited amount of political campaign activity. Note that there are no bright-line tests for what constitutes political campaign intervention or whether an organization is primarily engaged in social welfare activities.

The applications for exemption (Form 1023 for recognition under 501(c)(3); Form 1024 for recognition under 501(c)(4)) contain questions about such activity as does the Form 990, the annual report filed by these organizations.

Determination letter process

Section 501(c)(3) organizations must apply to be recognized for tax exempt status by the IRS. Although the tax law allows section 501(c)(4) organizations to operate as tax-exempt without applying for IRS recognition of their status, most apply. Once an organization does apply for recognition, EO must ensure the organization meets the applicable legal requirements before granting recognition.

All applications for tax exempt status are sent to the IRS Exempt Organization offices in Cincinnati. A group of experienced revenue agents screens all EO Determination Letter applications before the applications are assigned to other revenue agents for review. Based on that screening, a case may be handled in one of the following ways:

(1) Cases resolved on screening—if the application clearly meets the requirements for exempt status on its face and all necessary documents are provided, the case is forwarded from screening to a closing unit which issues a favorable letter.
(2) Cases with minor omissions—if the application clearly meets the requirements for exempt status but the file lacks some required documentation (for example the articles of incorporation are not executed) then the case is forwarded to a unit which will contact the

organization by letter to complete the file. Once the file is completed, the unit will issue a favorable determination.

(3) Cases that cannot be resolved favorably without further development—if the application leaves open questions as to the adequacy and scope of the exempt purposes, the presence of private benefit, or the presence of other activities inconsistent with exempt status, then the case is forwarded for full development to a Revenue Agent who will work with the taxpayer to resolve the questions raised and to ascertain whether the organization qualifies.

(4) Cases in category 3 that present novel issues or particularly complex fact patterns are sometimes handled on a coordinated basis by a particular group of agents in order to ensure proper development of the issues and consistency in handling (e.g. credit counseling cases, down payment assistance cases, advocacy cases, etc.).

(5) In either categories 3 or 4 assistance from career specialists in the Headquarters office of Exempt Organizations may be sought.

Trend line of applications for 501(c)(4) status

The IRS has seen a steep increase in the number of applications for section 501(c)(4) status and there are indications of a large increase in political campaign activity by social welfare organizations.

Between FY2008 and 2012, the number of applications for 501(c)(4) status more than doubled.

	FY2008	FY2009	FY2010	FY2011	FY2012	% Chg
501(c)(4) applications received	1,631	1,751	1,735	2,265	3,357	+105%

Not all exempt organizations must file the annual Form 990, only those with gross receipts of more than $200,000 or total assets greater than $500,000. Within this population, IRS has seen a growth in reported political campaign activity since 2008.

	TY2008	TY2009	**TY2010**	TY2011	% Chg TY08-10
§501(c)(4) organizations filing F990	**8,962**	9,133	**11,486**	9,444	28%
Number of those returns reporting political campaign activity (PCA)	**107**	93	**196**	121	83%
Reported PCA expenditures of organizations with revenues of $10 million or more ($M)	**$17.3**	$1.1	**$46.7**	$6.0	170%

Federal electoral cycles in **bold**.

Based on historic filing patterns, TY11 data are ~90% complete.

Between the 2008 and 2010 electoral cycles, the number of §501(c)(4) organizations reporting political campaign activity nearly doubled, outpacing the overall growth in the §501(c)(4) population. At the same time, the value of campaign expenditures by large §501(c)(4) organizations nearly tripled..

While Tax Year 2012 Form 990 filings are due beginning this week, Federal Election Commission data from 2012 electoral cycle are available. Although the definitions of reportable spending are different, a

preliminary analysis of FEC data indicates another significant increase in spending in the most recent electoral cycle. The same large §501(c)(4) organizations that reported PCA to IRS in 2010 also doubled their levels of campaign expenditures reported to the FEC between 2010 and 2012. (Note that this reflects an increase in expenditures among the population of filers identified from 2010 F990 data. It will not reflect *additional* organizations that may have undertaken political campaign activity in 2012.)

Centralization of Advocacy Cases

Early in 2010, a 501(c)(4) application from a Tea Party organization indicated its intention to influence elections as part of its activities. This led a group manager in the Cincinnati office to take the following actions in February and March of 2010: handle this type of application as an emerging issue, and that screeners look for and identify similar cases in order to ensure appropriate and consistent handling. The Cincinnati office had people try to identify and coordinate cases raising the issue of political activity using verbal and email reminders to look for cases involving the Tea Party, Patriots, 9/12 and other 501(c)(4) applications involving names suggestive of political activity. See Appendix A for the iterations of the lists that were used, along with relevant timelines. An increasing number of cases were found. The list is adopted as a method to replace the ad hoc email approach previously used to identify cases requiring coordination. On that initial list one of the categories was listed as "various local organizations in the Tea Party movement . . . applying for exemption under 501(c)(3) or 501(c)(4). See

In June 2011, concerns about the progress, identification and handling of these cases led to conversations among senior staff culminating in a briefing of the EO Director at the end of June. The EO Director instructed that the list should be revised immediately to use criteria focused on whether (c)(4) or (c)(3) applicants were involved with political, lobbying, or advocacy activities, and that headquarters should work on facilitating the resolution of the now over 100 cases.

Late in 2011, efforts to facilitate case processing were slow. A new team was formed in Cincinnati to begin developing and resolving the cases with assistance from Headquarters specialists.

In January of 2012, without any executive knowledge, staff in Cincinnati updated the list of centralization criteria out of concern that the criteria were over broad and pulling in too many cases. The new criteria read "political action type organizations involved in limiting/expanding Government, educating on the Constitution and Bill of Rights, social economic reform/movement." Headquarters in Exempt Organizations was not informed.

In January through February 2012, the centralized team started issuing development letters to the applicants using the standard response time provided in the manual (21 days) and asking for voluminous information from some applicants, including in some cases web information and donors. Note that these letters went to organizations representing the full political spectrum.

Increasing public concern (news articles/letters from Congressional) was being expressed about the singling out of certain types of organizations, the nature of the questions in the development letters and the short turnaround time given to respond.

At the end of February the Director EO stopped the issuance of additional information letter requests pending new guidance to the Determinations unit. At the same time, in light of the public nature of the discussion of the letters, the Deputy Commissioner, Services and Enforcement became aware that cases were being centralized in this area. In early March, after consultation with the Deputy Commissioner, a letter was sent to organizations with a pending development letter giving them a sixty day extension and allowing flexibilities on what information to provide.

At the end of March, the Deputy Commissioner Services and Enforcement requested that the Senior Technical Advisor (STA) to the Acting Commissioner (TEGE) conduct a review of what had happened with respect to determination letter inventory in this area and report back on the review and on recommendations for how to address any issues. At the same time, TIGTA indicated that they were going to review this area.

The review by the STA was initiated by going to Cincinnati with a team of specialists to interview people about the process to date and to conduct a review of a broad cross section of the files and of the development letters issued.

On May 3, 2012, the STA reported back to the Deputy Commissioner, Services and Enforcement and to the Acting Commissioner TEGE identifying significant concerns in the case handling including:

(1) Use of inappropriate criteria in the emails and then the list used to identify the cases that should go to the advocacy case group;
(2) Use of development letters that included troubling questions;
(3) Delays in resolution of applications; and
(4) A failure to provide the agents with the training and the tools they needed in order to handle this inventory appropriately and on a timely basis.

The review did not identify:

(1) Any evidence of improper influence on the IRS from any party external to the Service.
(2) Any evidence of partisan motivation or behavior by any IRS employee.

Note that May 3, 2012, was the first date that the Deputy Commissioner had knowledge that a list with inappropriate names was being utilized by the Cincinnati Office. [Shortly thereafter, the Commissioner was made aware of the situation.]

Corrective Actions Taken

On May 3, 2012, the STA recommended that training be conducted for a cadre of experienced agents including quality review staff and that it be followed by having a joint team of technical specialists from headquarters and agents go through the inventory together to group the cases into four categories: (1) cases that could be closed on their merits with the information in the file; (2) cases that required focused development; (3) cases that needed significant development; and (4) cases that presented significant concerns and might well conclude as adverse determinations. This process was designed both to enhance training, experience, and consistency while also moving the inventory forward to resolution as swiftly as possible. This approach was approved and implemented.

Procedures were put in place to advise organizations that they generally did not need to provide donor information and that donor information that had been received in response to development letters was neither utilized nor retained. [when was this?]

In addition, having learned in April of 2012 that the centralization criteria had changed again in January, the Director EO Rulings & Agreements directed changes to the BOLO criteria and issued a memorandum requiring Director R&A approval for any listing to centralize determination applications. [This approach was concurred in by the Deputy Commissioner on May 3, 2012.]

The Numbers and Demographics

Through May 9, IRS identified 472 applications for exemption for review of potential advocacy issues (including 301 §501(c)(4) applications). The balance of applicants are for section 501(c)(3) status. To date, 176 applications have been approved (136 of which §501(c)(4) applications). There have been 37 withdrawals, inclusive of both §501(c)(3) and (4) organizations.

Of the cases reviewed by TIGTA, only one-third have a name listed for centralization. y of those have been approved. Moreover, while it is impossible based on name alone to determine with specificity the political alignment of all organizations, in their totality it is clear that they span the entire political spectrum.

Of the approximately 300 section 501(c)(4) advocacy cases noted in the TIGTA report, more than 120 have been approved and nearly 30 have withdrawn. The difference in numbers is due to the point in time when TIGTA did its work.

Consistent Treatment for Determination Letter cases

I need help here.
There are certain protections against any adverse action in a determination letter case. 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.
[anything in this case—partner with specialist from dc—mandatory review for all or just adverse?]

IRS Analysis of this Matter

The Internal Revenue Service is dedicated to reviewing applications for tax-exempt status in an impartial manner.

Similar to our approach in other areas (e.g., credit counseling, down payment assistance organizations, etc.), EO sought to centralize work and assign cases to designated employees in an effort to promote consistent treatment of applications. Given what was happening in the community in terms of the number of organizations and concerns on campaign spending, centralizing advocacy cases for review in the determination letter process made sense. The way it was done did not. It was inappropriate but there has been no finding of political motivation.

It should be noted that the vast majority of entities that were centralized would still have been centralized on a less narrow, more appropriate, centralization listing. Organization names did not play a role in the

SFC 001649

From: Lerner Lois G
Sent: Wednesday, February 20, 2013 1:11 PM
To: Kevin Kennedy [redacted]
Subject: FW: 029 DTR G-4, Lawsuit Seeks to Force Churches to File Forms 990 as Evangelical Council Objects

Another interesting case about my work--coming out of your great state.

Lois G. Lerner
Director of Exempt Organizations

Daily Tax Report

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Federal Tax & Accounting

Tuesday, February 12, 2013

Exempt Organizations: Lawsuit Seeks to Force Churches to File Forms 990 as Evangelical Council Objects

By Diane Freda

Freedom From Religion's latest lawsuit against the Internal Revenue Service argues that Form 990 filing requirements for nonprofits other than churches constitute preferential treatment for churches -a stance that the Evangelical Council for Financial Accountability opposed Feb. 11.

The lawsuit (Freedom From Religion Foundation Inc. v. Miller, W.D. Wis., No. 3:12-cv-00946-slc, filed 12/27/12)argues that existing church exemptions from IRS filing requirements vio late the Establishment Clause of the First Amendment and equal protection principles under the Fifth Amendment. The complaint, filed Dec. 27, alleges the exemptions discriminate against nonprofit organizations other than churches.

In December, the Evangelical Council recommended in a report to Sen. Charles Grassley (R -Iowa) that IRS never require religious organizations to file a Form 990 information return.

The plaintiffs, however, said they are tax -exempt 501(c)(3) nonprofit orga nizations that must file "detailed, intrusive, and expensive" annual reports to maintain their tax -exempt status, while such reports are not required for churches and certain other affiliated religious organizations in order to remain tax -exempt.

Freedom From Religion and one of its local chapters asked the federal district court to not only find the exemptions unconstitutional, but to enjoin IRS from allowing churches the exemptions in the future.

Under current law, and ever since Congress required annua l federal information returns for nonprofit organizations in 1943, churches and certain other church -related organizations have been statutorily exempt from having to file for initial recognition of tax-exempt status with IRS, as well as the annual informa tion returns necessary to maintain tax exemption, the Evangelical Council said in a statement.

Excessive Entanglement Cited.

"The U.S. Supreme Court has ruled that the First Amendment's Establishment Clause prohibits 'excessiv e entanglement'between the church and the government," it said.

"The Court has ruled that 'detailed monitoring and close administrative contact'
are elements of excessive entanglement," ECFA said. Requiring churches to file detailed information returns su ch as the Form 990 would raise serious constitutional questions, would not be in the best interests of the free exercise of religion in America, and would create a significant burden on both the religious sector and the federal government, the group said.

The issue of whether churches should have to file Forms 990 was recently considered by the Commission on Accountability and Policy for Religious Organizations and panels of nonprofit, religious sector and legal experts in a December 2012 report to Grassle y (175 DTR G-9, 9/9/11).

In January 2011, Grassley asked ECFA, an accreditation agency that helps Christian nonprofit organizations with financial accountability, to lead an effort to provide input on key policy issues related to financial accountability, after some religious organizations were perceived by the public to have been spending money
lavishly(06 DTR G-1, 1/10/11).

The latest lawsuit comes after two other Freedom From Religion complaints were filed against IRS in the past six months;one challenging the constitutionality of a clergy housing exclusion and another seeking to compel IRS to enforce the campaign prohibition against churches involved in electioneering activities (90 DTR K -2, 5/10/11).

IRS is expected to file its response to the latest Freedom From Religion complaint by the end of February.

Text of the complaint is in TaxCore.

029 DTR G-4, 2013, 2013 WL 494965 (04 National/Federal)

END OF DOCUMENT

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SFC 001651

From: Lerner Lois G
Sent: Thursday, March 21, 2013 4:08 PM
To: Paterson Troy D TIGTA; Paz Holly O; Marx Dawn R
Cc: Kutz Gregory D TIGTA; Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: RE: Audit # 201210022 - Pre-Discussion Draft Report

Holly and I have gone over the report and will try and incorporate our concerns into one document and get it to you by Monday. We also have some overall things we'd like to mention. Do you want to look at the comments first or should we just put some tim e on the calendar for Mon to have the chat?

Lois G. Lerner
Director of Exempt Organizations

From: Paterson Troy D TIGT [redacted]
Sent: Monday, March 18, 2013 3:32 PM
To: Lerner Lois G; Paz Holly O; Marx Dawn R
Cc: Kutz Gregory D TIGTA; Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: Audit # 201210022 Pre Discussion Draft Report

Lois and Holly,

Good afternoon. As mentioned previously, I am providing a copy of our report regarding applications to you while it is still in the process of being quality reviewed. I wanted to provide an early version so that you can have a little extra time to consider the issues in the report. I suspect that we will complete quality review by this time next week. Therefore, if you have any concerns that you would like us to consider before we issue the discussion draft, could you please provide them to us by **COB Monday March 25th**? If you wish, we can also schedule a meeting to discuss. Our first priority is any concerns you may have with the facts in the report, but we also will consider any other concerns that you may have.

As always, if you have any questions or comments, please let me know.

Troy
Phone (Tuesday): [redacted]
Phone (Monday, Wednesday-Friday): [redacted]

From: Waddell Jon M
Sent: Wednesday, January 19, 2011 2:10 PM
To: Bowling Steven F; Bell Ronald D
Subject: FW: ACORN Successor

From: Pomerantz Edward J
Sent: Wednesday, January 19, 2011 3:07 PM
To: Waddell Jon M
Subject: FW: ACORN Successor

From: Waddell Jon M
Sent: Friday, November 26, 2010 1:12 PM
To: Pomerantz Edward J
Subject: FW: ACORN Successor

Ed

See me on this on Monday.

thanks

From: Paz Holly O
Sent: Friday, November 26, 2010 1:09 PM
To: Thomas Cindy M
Cc: Camarillo Sharon L; Waddell Jon M
Subject: RE: ACORN Successor

Cindy,

I apologize for the delay - I thought I had already responded but, in going through emails today, I realized I had not. Please work with Chip Hull on these cases.

Thanks,

Holly

From: Thomas Cindy M
Sent: Sunday, October 24, 2010 10:29 PM
To: Paz Holly O
Cc: Camarillo Sharon L; Waddell Jon M
Subject: FW: ACORN Successor
Importance: High

SFC 001653

Holly,

Do you have someone who can work with Jon Waddell and specialists in his group on ACORN related cases?

From: Camarillo Sharon L
Sent: Thursday, October 14, 2010 3:45 PM
To: Thomas Cindy M
Cc: Waddell Jon M
Subject: FW: ACORN Successor
Importance: High

Cindy: Please forward this request for technical assistance to EOT. I already asked Jon to get the IDRS information needed to determine whether or not there are open exams on these taxpayers, but he still needs some hel p from EOT to insure that we are on the right track and asking appropriate questions on these cases.

Thank you

From: Waddell Jon M
Sent: Thursday, October 14, 2010 11:25 AM
To: Camarillo Sharon L
Subject: FW: ACORN Successor
Importance: Low

Sharon,

I'm elevating some new developments in our Acorn -related cases as a request for technical assistance from EO Technical. Below, Ed has outlined some facts from the two Acorn -Related applications currently assigned to him. Both applications are based out o [redacted] and share common officers. One applicant is applying for c(3) and the other for c(4). Both are affiliated with a [redacted] Chapter of Acorn that appears not to be exempt but yet currently selected for an examination.

The concerning issue regarding Ed's c(4) applicant is that is has an Asset Purchase Agreement with th [redacted] Acorn Chapter. Th [redacted] chapter is selling its membership info to the c(4) applicant and this information includes members' bank account information. There is no indication in the file that members have agreed to have their bank accounts charged by the 501(c)(4) applicant. Additionally, the membership list numbers in the thousands ---- thus many individuals could be impacted.

I think it would be useful to have a TLS in EO Tech work with a few agents in TAG (notably Ed Pomerantz and Tom Kallman) concerning the development of th ese cases and how they would go about addressing the issue of the member bank account access. Ultimately, I think the cases can remain in Cincinnati; however, it would be constructive to have some of our ideas bounced off some folks from EO Tech. Additionally, we would also need some assistance trying to determine if th [redacted] Chapter is marked for exam. If so, there could be additional impact in making any type of ruling on these cases.

Note: Tom Kallman also has a Acorn -related case from [redacted]; however, these factors aren't present in his case. It still would be useful, however, for him to participate

thanks

From: Pomerantz Edward J
Sent: Thursday, October 14, 2010 1:52 PM
To: Waddell Jon M

SFC 001654

Subject: ACORN Successor
Importance: Low

SFC) is applying for exemption under 501(c)(4).

A related organization SFC) is applying for exemption under 501(c)(3).

The two organizations have the same president SFC , who was on the board o SFC , and secretary of the ACORN statewide bo ard. The two organizations also share staff, facilities, and office equipment.

There is an agreement in the file for the (c)(4) applicant to purchase certain assets from th SFC , a non -profi SFC corporatiion SFC). I can find no record that this organization is exempt. BMFOLO shows a current Status Code of 41 and a prior Status Code of 40, indicating that they filed Form 990 but no determination letter has been issued, and they did not reply to a solicitation for an application. They appear to be related to ACORN SFC), SFC corporation that is exempt under section 501(c)(3). SFC is the president of both organizations. AMDIS indicates that th SFC corporation has been selected for an exam.

The asset purchase agreement includes all computers, desks, chairs, file cabinets, organizing records, manuals and training materials located i SFC a for a token price of $100. In addition, the agreement provides for the sale of hte names and email addresses of ACORN members and authority to withdraw membership dues from their bank accounts. ACORN agreed to transfer member bank account information in electronic format to the buyer's bank. There is no indication that ACORN members agreed to become members o SFC , or that they authorized bank charges by that organization.

SFC 001655

From: Bell Ronald D
Sent: Monday, July 11, 2011 6:03 PM
To: Bowling Steven F; Waddell Jon M
Cc: Esrig Bonnie A
Subject: FW: Elevated BOLO List Issue
Attachments: Ivy.gif

Steve,

We need a new disposition of watch issue for ACORN related orgs. I included Jon in this email because I believe he is the Mgr Chip Hull references below and he previously had ACORN orgs in the TAG group. I will wait on the update of the BOLO list until we have a new disposition/ EO Tech contact person. Thanks.

Ron

From: Esrig Bonnie A
Sent: Monday, July 11, 2011 6:38 PM
To: Bowling Steven F; Bell Ronald D
Subject: FW: Elevated BOLO List Issue

FYI

Bonnie A. Esrig
Manager, EO Determinations Area 1
Phone/vms: SFC
Cell phone: SFC

From: Melahn Brenda
Sent: Monday, July 11, 2011 4:29 PM
To: Esrig Bonnie A
Subject: FW: Elevated BOLO List Issue

Please pass onto Steve/Ron Bell to update the BOLO list.

From: Angner William J
Sent: Monday, July 11, 2011 3:44 PM
To: Melahn Brenda
Subject: Elevated BOLO List Issue

Please elevate issue below about BOLO list.

Bill Angner
Mgr Group 7827
SE:T:EO:RA:D:2

SFC 001656

SFC [redacted] *phone*
SFC [redacted] *fax*

From: Conley Melissa A
Sent: Monday, July 11, 2011 3:36 PM
To: Angner William J
Subject: BOLO List Issue

Good afternoon, Bill:

I am working a case that has a board member who is also serving on the board of an ACORN organization. Per the instructions on the BOLO list and your instruction, I called Chip Hull in EO Technical for guidance in developing the case. Mr. Hull informed me that he should not be on a list as contact person for ACORN related organizations. While he previously provided guidance to a Determ manager re: ACORN successors, his manager informed him that he should not be doing research for our cases. Mr. Hull requested that his name be removed from the BOLO list as a contact person.

Thank you,

Melissa

Melissa A. Conley
Internal Revenue Agent
Exempt Organizations
Group 7827
SFC [redacted]

SFC 001657

From: Thomas Cindy M
Sent: Thursday, July 15, 2010 7:21 PM
To: Choi Robert S
Cc: Neuhart Paige; Grodnitzky Steven
Subject: FW: Potential Successor to Acorn

Rob,

It appears as though we have another case that may be a potential successor to Acorn. Refer to Jon's email below. We placed the other case in suspense pending guidance from the Washington Office and are doing so with this case.

If you have questions, please let me know. Thanks.

From: Waddell Jon M
Sent: Thursday, July 15, 2010 2:41 PM
To: Camarillo Sharon L; Thomas Cindy M
Subject:
Importance: Low

Sharon and Cindy,

I'm forwarding this on as an alert on the Successor to Acorn issue. Screening has spotted another potential Successor to Acorn and has forwarded the case to me in my group's unassigned #. This particular applicant is applying as a 501(c) (3) as opposed to the previous one which applied under 501(c)(4). The following are the particulars of this new application:

1. Name: **New York Communities Organizing Fund**

2. POA's: **Same as previous c(4) applicant**

3. Address: **Same as previous c(4) applicant**

4. Officers: **Different than c(4) applicant. On the initial review, all officers appear to be different**

5. Description of Activities: **Research issues of importance to low and moderated income communities such as fair housing, education, and environmental justice**.

6. Relationship to Acorn: **There is no specific mention of ACORN in the application. The organization describes itself as "growing out of all-volunteer advisory committee consisting long time established community activists, members of the banking and financial industry, and directors and officers of private foundations ". However, it appears to me, that there is substantial linkage due to the common address as w ell as very similar activities and missions.**

Overall, I would suggest taking the same approach as we did with the 501(c)(4) applicant and updating the case to Status 37 and keeping it in TAG to await guidance from EO Tech.

thanks

From: Choi Robert S
Sent: Friday, July 16, 2010 12:53 PM
To: Thomas Cindy M
Cc: Neuhart Paige; Grodnitzky Steven; Choi Robert S
Subject: RE: Potential Successor to Acorn

Check-in with me next week re this case. We may be moving forward on developing these applications ---7428 clock continues to run.

From: Thomas Cindy M
Sent: Thursday, July 15, 2010 8:21 PM
To: Choi Robert S
Cc: Neuhart Paige; Grodnitzky Steven
Subject: FW: Potential Successor to Acorn

Rob,

It appears as though we have another case that may be a potential successor to Acorn. Refer to Jon's email below. We placed the other case in suspense pending guidance from the Washington Office and are doing so with this case.

If you have questions, please let me know. Thanks.

From: Waddell Jon M
Sent: Thursday, July 15, 2010 2:41 PM
To: Camarillo Sharon L; Thomas Cindy M
Subject:
Importance: Low

Sharon and Cindy,

I'm forwarding this on as an alert on the Successor to Acorn issue. Screening has spotted another potential Successor to Acorn and has forwarded the case to me in my group's unassigned #. This particular applicant is applying as a 501(c) (3) as opposed to the previous one which applied under 501(c)(4). The following are the particulars of this new application:

1. Name: **New York Communities Organizing Fund**

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Overall, I would suggest taking the same approach as we did with the 501(c)(4) applicant and updating the case to Status 37 and keeping it in TAG to await guidance from EO Tech.

thanks

SFC 001660

From: Melahn Brenda
Sent: Tuesday, June 08, 2010 1:33 PM
To: Angner William J; Bibb Kenneth B; Brandes James A; Combs Peggy L; Fierro Gerardo; Herr Joseph R; Jefferson-White Beverly J; Lewis Jovonnie; Werner Connie M
Subject: FW: High Profile orgs.

Importance: High

Read and heed any suspectd link with ACORN should be elevated to me thanks!
Brenda

From: Grodnitzky Steven
Sent: Tuesday, June 08, 2010 2:03 PM
To: Thomas Cindy M; Abner Donna J
Cc: Melahn Brenda; Grodnitzky Steven; Waddell Jon M
Subject: High Profile orgs.

Greetings,

Just want to make sure we are all on the same page as to the ACORN -related cases. We should not be developing or resolving them at this point. I had spoken to Rob about a successor to one of the ACORN orgs. i [redacted] and he mentioned that some activity is going on in the TEGE Commissioner's office with respect to ACORN and to hold off.

Also, there is another case [redacted], which is in Donna's shop for re view. In that case, ACORN is a member of the organization, contributes money, appoints a member of the board, and the principal was a high ranking official with ACORN in the midwest. I recommended that the case be put on hold til we hear further from Rob .

Thanks.

Steve

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

SFC 001661

From: Bell Ronald D
Sent: Sunday, May 13, 2012 7:47 PM
To: Hull Carter C
Cc: Chumney Tyler N
Subject: ACORN Successor org's

Hi Chip,

Ive got a case that I believe is an acorn successor org. I googled the name of the org and that is where several websites (such as th SFC) indicate that it is an acorn successor. The BOLO list states to contact you.

The name of the case is : SFC EIN: SFC

It is located i SFC SF and incorporated i SFC

The teds case # is eo SFC .

Please advise how you want to process this ca se. Thanks.

Ron Bell

SFC 001662

From: Waddell Jon M
Sent: Wednesday, April 03, 2013 7:44 AM
To: Lahey Victoria
Subject: FW: Sensitive Cases

Vicki

Please see the info below as an update. Please continue to hold the one Acorn -related case until there is resolution

thanks

From: Thomas Cindy M
Sent: Wednesday, April 03, 2013 8:29 AM
To: Bowling Steven F; Waddell Jon M
Subject: FW: Sensitive Cases

Jon/Steve - Please read Holly's email directly below regarding status of:

1. SEC [redacted]. (EIN SEC [redacted]) --- assigned to Ed Pomerantz, and
2. SEC [redacted] (EIN: SEC [redacted]) --- assigned to April Garrett.

Jon - Holly is reaching out to Nan Downing regarding the case assigned to Vicki Lahey's group.

From: Paz Holly O
Sent: Tuesday, April 02, 2013 4:19 PM
To: Thomas Cindy M
Cc: Seto Michael C; Light Sharon P; Richardson Virginia G
Subject: FW: Sensitive Case

Cindy,

These cases are still going back and forth between the initiator and reviewer. I have asked Mike to get these cases to Virginia ASAP for a fast track review so we can reach a decision.

Holly

From: Paz Holly O
Sent: Thursday, March 28, 2013 3:34 PM
To: Thomas Cindy M
Cc: Fish David L
Subject: RE: Sensitive Case

Yes, I have reached out to Mike about those and FIRE. Will get back to you as soon as I hear from him.

From: Thomas Cindy M
Sent: Thursday, March 28, 2013 3:18 PM

SFC 001663

To: Paz Holly O
Cc: Fish David L
Subject: RE: Sensitive Case

Thanks. Could you also have someone let us know the status of the 2 proposed denial letters:

1. SFC [redacted]. (EIN SFC [redacted]), and
2. SFC [redacted] (EIN: SFC [redacted])

From: Paz Holly O
Sent: Thursday, March 28, 2013 2:58 PM
To: Thomas Cindy M; Fish David L
Subject: RE: Sensitive Case

I will reach out to Nan Downing about this case and get back to you. Thanks for bringing it to our attention.

From: Thomas Cindy M
Sent: Tuesday, March 26, 2013 11:54 PM
To: Fish David L; Paz Holly O
Subject: FW: Sensitive Case

Please read Jon's email below and let me know how you'd like for us to handle this. Thanks.

From: Waddell Jon M
Sent: Tuesday, March 26, 2013 4:45 PM
To: Thomas Cindy M
Subject: FW: Sensitive Case

Cindy

I'm elevating a case identified in Vicki's group related to the political advocacy area. While the development issues within Vicki's group are straightforward, any type of ruling on this case could be impactful. Below is the background on the Acorn-related cases:

1. Acorn-related cases were previously reflected on the BOLO and subsequently folded into the political advocacy category over a year ago.
2. Currently, we have two proposed denials under review in D.C. involving Acorn -related cases. One is assigned to Ed Pomerantz and the other to April Garrett
3. These cases contain the same characteristics as other identified political advocacy cases as the applications contain instances of partisan political activity and excessive legislative and mobilization activities preclud ing approval under c(3).

Note: In reviewing this case with Vicki, the officers and addresses were similar to other Acorn applications I've seen in the past. The officer in this application was one of the original founders of Acorn. Lastly, per Vicki's research, the organization that submitted the Form 8940 also appears to be under audit which adds to the potential sensitivity. I've instructed Vicki to hold off on any further action on the case.

thanks

From: Lahey Victoria
Sent: Tuesday, March 26, 2013 3:44 PM

SFC 001664

To: Waddell Jon M
Subject: Sensitive Case

Jon,

We received a Form 8940 requesting a determination of public charity status for the advance ruling period. The case is straight forward, but is highly sensitive. The name of the organization i [redacted], EI [redacted]. BMFOLI has an AIM indicator for MFT 67, tax years 200912 and 200910. I contacted Tyler and he indicated I should refer the case to you for review. Please advise is this case should be worked if there is an open audit in EO Exam?

Let me know if you have any questions.

Vicki Lahey
Manager, Group 7829
SE:T:EO:RA:D:2
[redacted] *(Office)*
[redacted] *(Fax)*
E-mail [redacted].

SFC 001665

From: Spellmann Don R
Sent: Friday, February 24, 2012 11:06 AM
To: Cook Janine
Subject: Draft of Advocacy Org Guide Sheet
Attachments: Advocacy Org Guidesheet 11-3-2011.doc

Janine,

Just FYI, I advised Lois not to distribute this today, and she is perfectly fine with that. David and I gave it a quick read. It's nowhere near ready for prime time. It's a good start, but needs corrections, additions, changes all over. The law in particular needs fixing. The development questions are good, but not complete.

We'll get a working group together with EO to work on this. Please let me know if you have questions/concerns,etc.

Don

From: Paz Holly O [SFC]
Sent: Friday, February 24, 2012 11:09 AM
To: Spellmann Don R
Cc: Lerner Lois G; Kindell Judith E
Subject: FW: Draft of Advocacy Org Guide Sheet

Don,

Here is the document for review.

Thanks,

Holly

From: Goehausen Hilary
Sent: Monday, November 21, 2011 9:45 AM
To: Ardoin Elizabeth A; Elliot Moore Donna
Cc: Seto Michael C
Subject: Draft of Advocacy Org Guide Sheet

Hi Liz and Donna,

Attached please find a draft c opy of the guidesheet we have been putting together on advocacy organizations. I hope you find it helpful for your cases.

Thanks,
Hilary

Hilary Goehausen
Tax Law Specialist
Exempt Organizations
Technical Group 1
SFC
Washington, D.C. 20224
p SFC

f: [redacted]
[redacted]

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 legislati ve 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, nominat ion, 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

(i.e. legislative activity)	Must Not Be Substantial	Unlimited Amount If In Furtherance of Exempt Purposes	
Engage in general public advocacy not related to legislation or the election of candidates	YES; Permitted As An Educational Activity	YES; Unlimited Amount If In Furtherance of Exempt Purposes	LIMITED

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?

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- Does the organization publish or distribute materials or conduct other communications that are prepared by or reviewed b y 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 spe eches given by the candidate(s)?
- Does the organization, or has it ever, conducted voter education activiti es, 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 ind irectly 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.	Is there a "candidate" for "public office?" This is an individual who: • Offers himself, or • Is proposed by others • As a contestant for elective public office, whether national, state, or local public office. 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? 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.		
B.	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: • The position was created by statute • The position is continuous • The position is not contractual • The position is for a fixed term of office • The office requires an oath of office		
C.	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?		
	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		

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	to a candidate for public office?		
	Does the organization encourage individuals to vote for or against a particular candidate? 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.		
	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.? • Are such references coupled with reasonably overt indications that the organization supports or opposes a particular candidate or candidates in an election? • 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?		
	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.	**Personal Endorsements:** 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: • Do the organization leader's statements appear in a publication that is not an official publication of the organization? • Is the ad or publication paid for by the individual himself or herself, and not by the organization? • Is the organization leader's title and affiliation with the organization used for identification purposes only, and not to		

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	indicate support by the organization?		
E.	**Candidate Forums:** 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: • 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? • Has the organization indicated support for or opposition to a candidate (e.g., such as when the candidate is introduced)? • Does the organization invite only candidates who share the same position as the organization to participate? • Does the organization provide an equal opportunity for all candidates to participate? • Does the organization provide equal amounts of time for each candidate to answer questions and express their views? • Are questions prepared and presented by a nonpartisan, independent panel or moderator? • Does the moderator comment on questions or otherwise make comments that imply approval or disapproval of a candidate? • 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? • Do the topics discussed cover a broad range of issues that are of interest to the public? • Are the candidates asked to agree or disagree with positions, agendas, platforms, or statements of the organization, indicating prohibited campaign intervention?		
F.	**Candidate Appearances:** 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: • Was the candidate invited to speak at the organization's event in his or her capacity as a political candidate? • 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		

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	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.) • 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)? • Did any political fundraising occur?		
G.	Did the candidate appear or speak at an organization event in a **non-candidate capacity?** (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: • Is the candidate publicly recognized by the organization or a representative of the organization during the event as a candidate for public office? • 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? • 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. • Has any campaign activity occurred in connection with the candidate's attendance?		
H.	**Voter Guides:** 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: • Are incumbents identified as candidates for re-election? • Are incumbents' positions compared to the positions of other candidates or the organization's position in a biased manner? • Is the voting guide distributed close in time to an election? • 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?		

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	• Is the voting guide widely distributed among the electorate during an election campaign as opposed to the organization's membership? • Does the voting guide include only the voting records of candidates for office? • 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? • Does the voting guide contain editorial comments by the organization? • Does the voting guide contain express or implied approval or disapproval of a candidate's voting record?		
I.	**Candidate Questionnaires**: 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: • Does the candidate questionnaire contain editorial comments by the organization? • Does the candidate questionnaire include only issues of importance to the organization itself and not to the general public? • Does the questionnaire contain express or implied approval or disapproval of candidate responses?		

Section II: Lobbying

The following factors are indicative of lobbying (i.e. legislative activities):

		Yes	No
A.	Is the organization attempting to influence legislation or a legislative proposal? • 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. • Lobbying does not include attempts to influence (1) regulations or (2) administrative matters.		
B.	Is there "action" being taken with reference to the legislation? • Action includes introduction, amendment, enactment, defeat, or repeal by legislative bodies or the public.		

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C.	Does the organization engage in "direct lobbying?" • Is the organization trying to influence legislation by directly contacting members or employees of a legislative body? • Does the organization communicate with government officials or employees who can affect legislation? • Do the communications refer to specific legislation? • Do the communications reflect the organization's specific views on legislation? • Does the organization advocate a position on a specific act, bill, or resolution?		
D.	Does the organization engage in "indirect" or "grassroots" lobbying: • Does the organization attempt to influence legislation by influencing the public's opinion on specific legislation? • Does the communication refer to specific legislation? • Does the communication reflect a view or position on the legislation? • 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?		

Section III: General Advocacy

The following are indicators of general advocacy:

		Yes	No
A.	• 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? • Is the organization attempting to influence non-legislative governing bodies (e.g., the executive branch, regulators)? • 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.)		
B.	Does the organization engage in "educational" activities? (See Rev. Proc. 86-43). The term "educational" relates to: • The instruction or training of an individual for the purpose of		

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	improving or developing his capabilities, or • The instruction of the public on subjects useful to the individual and beneficial to the community.		
	Is the organization advocating a particular position or viewpoint ? If "Yes" to the following, the activity may qualify as permissible educational activity: • Does the organization present a sufficiently full and fair exposition of the pertinent facts that aid the listener or reader in the learning process? • Does the organization provide a factual background for the viewpoint or position being advocated ?		
C.	The organization's presentations should avoid the following factors in order to be considered educational: • Do the organization's presentations avoid expressing conclusions more on the basis of strong emotional feelings than of objective evaluations? • Does the organization avoid presenting viewpoints or positions unsupported by facts and this is a significant portion of the organization's communications? • Does the organization avoid presenting facts purporting to support its viewpoints or position made in a distorted manner?. • Does the organization avoid making substantial use of inflammatory and/or disparaging terms?		

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From: Cook Janine
Sent: Wednesday, March 07, 2012 7:03 PM
To: Wilkins William J; Corwin Erik H
Cc: Judson Victoria A
Subject: Heads up on Draft Guide Sheet for advocacy organizations

Categories: NUUU

Bill and Erik

Just an awareness item for you on something that Steve Miller is talking about with EO on Friday. As you may be aware, over the past year EO has received an uptick in applications for c3 or c4 status from entities that will advocating for positions/issues and in some cases candidates. General issue advocacy may be fine, but depending on which status is at issue, lobbying may need to be limited and intervention in political campaigns may be forbidden altogether or limited.

EO prepared a guide sheet that it had provided to its Determinations function for use in processing the applications, principally those requesting c4 status but also c5 (labor orgs) and c6 (business leagues) status. Last week, EO Director Lois Lerner was in a meeting on the Hill and I s talking again with folks from SFC this Thursday. As I understand it, they are asking questions about how the IRS is processing these applications because the IRS folks involved are asking a lot of detailed questions, taking too long, etc. The Hill want ed to see the guide sheet that is in use and also wants it released publicly.

EO shared it with us last week to see if it was ready then to share with the Hill and our reaction was no (a good start, but it needed corrections, additions, deletions change in structure, etc). Our folks worked quickly in the limited time given to restructure it a bit, taking out a few questions that weren't supported by guidance already, adding legal authorities, etc. EO is looking at the revised version and I believe will share with Nikole and Steve to get their take. We'll be talking with them again in the next few days to further improve the document.

We'll keep you posted on general developments, but in the meantime, we've attached the latest draft in case you wante d to glance through it. But in any event, wanted you to be aware of this sensitive matter and how the IRS is approaching it. Will provide any update at our biweekly on Friday.

Janine

Guide Sheet Counsel Comment...

SFC 001680

Counsel Comments
03-07-12

Guide Sheet for Political Campaign Intervention and Influencing Legislation Activities

OVERVIEW

Many different types of organizations exempt under § 501(c) engage in limited activities to intervene in political campaigns or attempt to influence legisla tion, in compliance with the applicable tax laws. Identifying and distinguishing political campaign intervention and attempts to influence legislation and quantifying them to determine an organization's initial and continuing qualification for exemption c an be difficult and complex, particularly for organizations that have multiple purposes and activities. The determination is based on all the facts and circumstances and requires extensive case development and careful legal analysis.

This guide sheet aids examination agents and determination specialists by listing specific types of activities that may be used for political campaign intervention or influencing legislation. It lists the pertinent facts to develop in the determination and examination process. It also lists published guidance (including revenue rulings) that illustrate how to analyze these facts to determine whether an activity's purpose is political campaign intervention or influencing legislation. Finally, it contains an appendix of various legal limitations on an organization's political campaign and legislative activities and definitions of terms in the Code and other legal authorities.

Questions on case development and applicable law should be directed to Exempt Organizations Technical [Names, Emails, Phone Numbers]

Section I: Possible Political Campaign Intervention Activities

The following activities should be carefully developed and reviewed to determine if they are being used for political campaign intervention purposes.

		Yes	No
A.	**Voter Guides:** Determine if the organization prepares and distributes information on the positions of candidates for public office. Factual Development: • Does the document only present current elected officials (for example, U.S. Senators)? • Does the document only present the voting record of current elected officials on specific legislation? • Does the document list all candidates for the public office? • Does the document only list candidates from a particular party?		

	• Does the document state the candidates' position on issues? • Does the document state the position of all the listed candidates? • If not, does it only list the positions of candidates who are members of one political party? • Does the document indicate which of the listed candidates support (or oppose) the organization's position? • Does the document rank or score the candidates? • Does the document contain a wide variety of issues? • Does the document describe the issues in clear and neutral terms, without indicating a preferred or favored position? • Does the organization distribute (or otherwise make available) the document within 90 days of an election? • Does the organization limit distribution of the document to a specific group (for example, its membership)? • Does the organization make the document widely available throughout the candidates' election district? • Does the organization target the distribution of the document to a select group (e.g., registered voters of one party)? • Does the organization target the distribution of the document to a specific area within the voting district? • Does the organization distribute the document as part of a fundraising activity? • Does the document state the organization's position on the issues? • Does the organization send a questionnaire to the candidates requesting their views? • Does the organization send the questionnaire to all candidates for the public office? • Does the questionnaire describe the issues in clear and neutral terms, without indicating a preferred or favored position? Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421 • Rev. Rul. 80-282, 1980-2 C.B. 178 • Rev. Rul. 78-248, 1978-1 C.B. 154		
B.	**Candidate Forums:** Determine if the organization conducts forums in which candidates for public office appear. Factual Development • Did the organization provide an equal opportunity to participate to		

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	political candidates seeking the same office? • Does the organization operate the forum in a manner indicating bias or preference for one candidate or candid ates over others? ? • Does the organization indicate support for or opposition to a candidate (e.g., such as when the candidate is introduced)? • Does the organization invite only candidates who share the same position as the organization to participate? • Does the organization provide an equal opportunity for all candidates to participate? • Does the organization provide equal amounts of time for each candidate to answer questions and express their views on each of the issues discussed? • Does a nonpartisan, independent panel or moderator prepare and present the questions? • Does the moderator comment on questions or otherwise make comments that imply approval or disapproval of a candidate? • 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? • Do the topics discussed cover a broad range of issues that the candidates would address if elected to the office sought and that are of broad interest to the public? • Are the candidates asked to agree or disagree with positions, agendas, platforms, or statements of the organization ? Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421 • Rev. Rul. 86-95, 1986-2 C.B. 73 • Rev. Rul. 74-574, 1974-2 C.B. 160 • Rev. Rul. 66-256, 1966-2 C.B. 210		
C.	**Candidate Appearances:** Determine whether a candidate spoke at an official function of the organization in his or her personal capacity or as a political candidate. Factual Development • Was the candidate invited to speak at the organization's event in his or her capacity as, or because he or she is, a political candidate? • Did the organization indicate support for or opposition to the candidate (including during candidate introductions, communications concerning the candidate's attendance, and any		

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	materials distributed during the event)? • Did the candidate appear or speak at an organization event in a personal, business or other non-candidate capacity? • Is the candidate publicly recognized by the organiza tion or a representative of the organization during the event as a candidate for public office? • Did the organization clearly indicate the capacity in which the candidate is appearing? • Does the organization mention the individual's political candidacy or the upcoming election in any communications announcing the candidate's attendance at the event? • Is the individual chosen to speak solely for reasons other than his or her candidacy, such as the individual's status as a public figure aside from being a politi cal 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? • Did any fundraising for the candidate o ccur at the event? Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421 • Rev. Rul. 66-256, 1966-2 C.B. 210		
D.	**Communications Activity** Determine whether the organization publishes and/or distributes statements (oral or written) that support or oppos e one or more candidates for public office. Factual Development • Does the statement identify a candidate by name or by other means (e.g., showing a photograph of a candidate, or referring to a candidate's political party affiliation or other distinctive features of a candidate's platform or biography)? • Does the statement express approval or disapproval for one or more candidates' positions and/or actions? • Is the statement published or distributed in a way to target voters in a particular election? • Is the statement delivered close in time to the election? • Is the timing of the statement related to a non-electoral event (such as a scheduled vote on specific legislation, in the case of a candidate who is an office holder)? • Is the statement about an issue that has been raised as an issue distinguishing candidates for a given office?		

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	• Is the statement part of an ongoing series of communications by the organization on the same issue? • Has the organization expressed support for or opposition to a candidate on its website or through links to another website? • Does the organization make contributions to, or solicit contributions on behalf of, a candidate or political organization? Legal References: • Treas. Reg. § 1.501(c)(3)-1(c)(3) • Rev. Rul. 2007-41, 2007-1 C.B. 1421 • Rev. Rul. 2004-6, 2004-1 C.B. 328		
E.	**Endorsements by Organization Leaders** Determine whether the organization's leaders, acting in an official capacity, have made oral or written statements in support of or in opposition to a candidate for public office. Factual Development • Has a leader of the organization expressed support for or opposition to a candidate for public office? • Did the leader's statements appear in an official publication of the organization? • Did the leader make the statements at an official function of the organization? • Did the leader's statement appear in a publication that is not an official publication of the organization? • Did the organization pay the costs of the ad or publication? • Did the individual pay the costs of the ad or publication? • Did the individual state that his or her comments were personal and not intended to represent the views of the organization? Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421		
F.	**Business Activities** Determine whether the organization conducts business activities that support or oppose particular political candidates. Factual Development		

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	• Does the organization sell or rent mailing lists? • Does the organization lease office space? • Does the organization accept paid political advertising? • Is the good, service, or facility available to candidates in the same election on an equal basis? • Is the good, service, or facility available only to candidates and not to the general public? • Are the fees charged to candidates at the organization's customary and usual rates? • Is the business activity conducted only for a particular candidate? • Is the business activity an ongoing activity of the organization? Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421		

Section II: Possible Influencing Legislation Activities

The following activities should be carefully developed and reviewed to determine if they constitute attempts to influence legislation.

A.	**Communications with the General Public on Legislative Issues** Determine whether the organization is attempting to influence legislation through communications with the general public. Factual Development • Does the organization refer to specific legislation in communications with the general public? • Does the communication reflect a view or position on the legislation? • Does the communication provide a factual background for the stated view or position? • Does the communication make available the results of "nonpartisan analysis, study, or research"? • Is the communication part of a series of communications? • Does the communication identify one or more legislators who will vote on the specific legislation? • Does the communication identify the legislator(s) as: ○ opposing the view or position reflected in the communication?		

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	○ being undecided with respect to the legislation? ○ being the recipient's representative in the legislature? ○ being a member of the legislative committee or subcommittee that will consider the legislation? • Does the communication state that the recipient should contact a legislator or an employee of a legislative body? • Does the communication provide contact information (such as the address, telephone number, or email address) of a legislator or an employee of a legislative body? • Does the communication provide a petition, tear-off postcard, or other form for the recipient to communicate with a legislator or employee of a legislative body? • Does the communication state that the recipient should contact any other government official about the specific legislation? • Is the communication a paid advertisement that appears in the mass media (including TV and radio)? Legal references • Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) • Treas. Reg. § 56.4911-2 • Treas. Reg. 53.4945-2		
B.	**Communications with Government Officials on Legislative Issues** Determine whether the organization is attempting to influence legislation through communications with government officials. Factual Development • Does the organization refer to specific legislation in communications with any member or employee of a legislative body? • Does the organization refer to specific legislation in communications with any other government official or employee who may participate in the formulation of legislation? • Does the communication reflect a view on the legislation? • Does the communication provide a factual background for the stated view or position? • Does the communication make available the results of "nonpartisan analysis, study, or research"? • Is the communication in response to a request for technical assistance from a governmental body, committee, or a subdivision? • Does the communication relate to a possible legislative action		

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	that might affect the organization's existence, its powers and duties, its tax-exempt status, or the deductibility of contributions to it? Legal references • Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) • Treas. Reg. § 56.4911-2 • Treas. Reg. § 53.4945-2		

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APPENDIX

I. LIMITATIONS ON POLITICAL CAMPAIGN INTERVENTION AND ATTEMPTING TO INFLUENCE LEGISLATION

A. Section 501(c)(3) Organizations

I.R.C. § 501(c)(3)

"Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, . . . or educational purposes, . . . no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

Treas. Reg. § 1.501(c)(3)-1(c)(3)

"An organization is not operated exclusively for one or more exempt purposes" if:

(i) "a substantial part of its activities is attempting to influence legislation by propaganda or otherwise;"

(ii) "it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office"; or

(iii) "(a) Its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and (b) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public."

B. Section 501(c)(4) Social Welfare Organizations

I.R.C. § 501(c)(4)

"Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare."

Treas. Reg. § 1.501(c)(4)-1(a)(2)

"An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements."

"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."

Treas. Reg. § 1.501(c)(3)-1(c)(3)

An organization:

(i) "a substantial part of its activities is attempting to influence legislation by propaganda or otherwise;" or

(ii) "(a) Its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and (b) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public,"

". . . may nevertheless qualify for exemption as a social welfare organization under § 501(c)(4) if it meets the requirements set out in paragraph (a) of § 1.501(c)(4)-1."

Rev. Rul. 81-95,1981-1 C.B. 332

"[T]he regulations do not impose a complete ban on [political campaign] activities for section 501(c)(4) organizations."

"An organization may carry on lawful political activi ties and remain exempt under section 501(c)(4) as long as it is primarily engaged in activities that promote social welfare."

C. Section 501(c)(5) Labor, Agricultural and Horticultural Organizations

Treas. Reg. § 1.501(c)(5)-1

"Have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations."

D. Section 501(c)(6) Business Leagues and Chambers of Co mmerce

Treas. Reg. § 1.501(c)(6)-1

"A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for pr ofit. It is an organization of the same general class as a chamber of commerce or board of trade."

E. Certain Other Limitations and Special Rules Applicable to Certain Exempt Organizations

I.R.C. § 527(f) Tax on Exempt Organizations

Imposes a tax on organizations that are exempt under § 501(c) and that expend amounts for an "exempt function," which is defined in § 527(e)(2) to mean "t he function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice -Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed. "

Rev. Rul. 2004-6, 2004-1 C.B. 328

Presents a number of factual situations to illustrate when organizations exempt under §§ 501(c)(4), (5) and (6) are subject to tax under § 527(f) on their expenditures for § 527(e)(2) exempt (political organization) function activities. Discusses factors that tend to show whether an advocacy communication on public policy issues for a § 527(e)(2) (political organization) is an exempt function.

I.R.C. § 162(e) Lobbying and Political Expenditures

Generally denies a deduction for amounts paid or incurred to influence legislation, intervene in political campaigns, and conduct certain lobbying activities.

I.R.C. § 6033(e) Reporting of Lobbying and Political Expenditures

Requires organizations exempt from tax under § 501, other than § 501(c)(3) organizations, to report their total expenditures for lobbying or political expenses for which § 162(e)(1) denies a deduction.

II. DEFINITIONS

A. POLITICAL CAMPAIGN INTERVENTION

Treas. Reg. § 1.501(c)(3)-1(c)(3)(iii)

"Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such a candidate."

"The term candidate for public office means an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, State, or local."

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Rev. Rul. 67-71, 1967-1 C.B. 125

"[T]he organization's activity in evaluating the qualifications of all potential candidates and then selecting and supporting a particular slate constitutes participation in a political campaign on behalf of particular candidates, even tho ugh its process of selection may have been completely objective and unbiased and was intended primarily to educate and inform the public about the candidates."

Rev Rul. 67-368, 1967-2 C.B. 194

"Comparative rating of candidates, even though on a nonpartis an basis, is participation or intervention on behalf of those candidates favorably rated and in opposition to those less favorably rated."

Rev. Rul. 74-574, 1974-2 C.B. 160

"The broadcasting station, by reason of its disclaimers [about individual candidates and their positions] and the presentation of equal opportunities for all bona fide legally qualified candidates for the same elective public office to express their views, is not participating or intervening on behalf of or in opposition to any candida te for public office."

Rev. Rul. 86-95, 1986-2 C.B. 73

Organization that proposes to educate voters by conducting a series of public forums in congressional districts during congressional election campaigns is not participating in a political campaign on behalf of any candidate due to the neutral form and content of its proposed forums.

B. ATTEMPTING TO INFLUENCE LEGISLATION

Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii)

"[A]n organization will be regarded as attempting to influence legislation if the organization: (a) Contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or (b) Advocates the adoption or rejection of legislation."

"The term legislation . . . includes action b y the Congress, by any State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure."

Haswell v. United States, 500 F.2d 1133, 1144 (Cl. Ct. 1974)

"The part of [organization's] operations involved in the advocacy of the interests of railroad passenger consumers on legislative matters does not consist of activities which qualify as nonpartisan analysis, study, or research. . . [It] was partisan on this issue, and

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the materials submitted in support of its position were not the full and fair objective expositions that would enable the public or an individual to reach an independent conclusion."

Treas. Reg. § 56.4911-2(c)(1)

Generally excludes from the definition of lobbying communications "nonpartisan analysis, study, or research," which is defined in Treas. Reg. § 56.4911-2(c)(1)(ii) to mean "an independent and objective exposition of a particular subject matter, including any activity that is 'educational' within the meaning of § 1.501(c)(3)-1(d)(3). Thus, 'nonpartisan analysis, study, or research' may advocate a particular position or viewpoint so long as there is a sufficiently full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion. The mere presentation of unsupported opinion, however, does not qualify as 'nonpartisan analysis, study, or research.'" See Treas. Reg. § 1.501(c)(3)-1(c)(iv).

III. DETERMINING WHETHER POLITICAL CAMPAIGN INTERVENTION OR INFLUENCING LEGISLATION ACTIVITIES FURTHER SUBSTANTIAL NON-EXEMPT PURPOSES

Haswell v. United States, 500 F.2d 1133, 1142, 1147 (Cl. Ct. 1974)

"The political efforts of an organization must be balanced in the context of the objectives and circumstances of the organization to determine whether a substantial part of its activities is to influence, or is an attempt to influence, legislation. A percentage test to determine whether the activities are substantial is not appropriate. Such a t est obscures the complexity of balancing the organization's activities in relation to its objectives and circumstances in the context of the totality of the organization."

"Distribution of expenditures is only one measure of the substantiality of [organiz ation's] political activities."

Seasongood v. Commissioner, 227 F.2d 907, 909, 912 (6th Cir. 1955)

"[T]he so-called 'political activities' of the [organization] were not in relation to all of its other activities substantial, within the meaning of the se ction," where it involved no expenditures, employed no individuals for this work, and dedicated less than 5% of its time and effort.

Rev Rul. 68-45, 1968-1 C.B. 259

"The fact that the organization's principal source of income is from the conduct of bingo games with the general public does not mean that the games are also its primary activity. All facts and circumstances are taken into account in determining an organization's primary activity." (social welfare organization)

Better Business Bureau v. United States, 326 U.S. 279, 283 (1945)

"[T]he presence of a single non-[exempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly [exempt] purposes."

Courts have applied this holding to the meaning of exclusively under § 501(c)(3) (*e.g., IHC Health Plans, Inc. v. Commissioner*, 325 F.3d 1188, 1194 (10th Cir. 2003); *St. David's Health Care System v. United States*, 349 F.3d 232, 237 (5th Cir. 2003)); and § 501(c)(4) (*e.g., Commissioner v. Lake Forest*, 305 F.2d 814, 820 (4th Cir. 1962); *Contracting Plumbers v. United States*, 488 F.2d 684, 686 (2d Cir. 1973)).

I.R.C. § 501(h)

Provides an election for certain § 501(c)(3) organizations described in § 170(b)(1)(A) or § 509(a)(2)-(3) to apply an expenditure test to determine whether a substantial part of their activities are attempting to influence legislation.

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SFC 001694

From: Cook Janine
Sent: Wednesday, March 21, 2012 2:31 PM
To: Judson Victoria A; Lerner Lois G
Subject: FW: Updated guidesheet--set up time to discuss?
Attachments: Guide Sheet 3-21-12 clean.doc; Guide Sheet 3-21-12.doc

Importance: High

Vicki and Lois,

I thought we might want to discuss the direction of the guide sheets. The team is putting in a lot of time working on drafts and before they keep fine-tuning, I thought we'd better ensure the current structure will work.

The quick recap is that Don/Susan/David sent back two weeks ago a more neutral checksheet with lists of questions to ask to do factual development, with references to public sources for the relevance of the facts, and an appendix of relevant legal provisions. Lois, you expressed your strong preference for something that would be more helpful to those working the applications --an understandable goal--and the team has been working on that model for a week or two.

We talked Friday about the latest draft. I think it is helpful that the draft separates the checksheets and guides the agents to only ask the questions they think they need to. What I didn't realize on Friday (I was calling from home) was that there were changes in the checksheets to put the questions into categories so that "yes" all went a particular way in the analysis. I apologize that I didn't focus on that then or raise a question about it. Other than a 2004 RR that did this with some situations in the context of c4s, c5s, and c6s and 5 27(f), I don't believe we've done this before (e.g., say what facts tends to show political campaing intervention). The concner is that this guidesheet would then be charting a new course in a few places, even if a helpful one, in a very sensitive area. If nothing else, we'd expect we'd need to involve Treasury if we were doing something more than just giving the agents questions to ask and stating what has already been said in guidance somewhere else. (The draft also has a substantial lead-in now with definitions to apply across the board for c3/4/5/6s. I'm not clear on which pieces of that could be going beyond current guidance but there may be some vulnerability to challenge there as well.)

SHould we set up a time to discuss just us? Don't want to discourage your team that has been working hard on this. Lois, I know you've had some discussions with STeve and I think were giong to share the revised doc with Nikole at some point. Have you talked with them further? It might be helpful to get their reaction before the team spends more time finetuning the current draft. Happy to arrange time to talk. Thanks ladies.

Janine

From: Lowe Justi [SFC [redacted]]
Sent: Wednesday, March 21, 2012 11:07 AM
To: Lowe Justin; Brown Susan D; Spellmann Don R; Marshall David L
Cc: Kindell Judith E; Megosh Andy; Goehausen Hilary
Subject: RE: Updated guidesheet
Importance: High

Okay, attached are clean and redline versions of the latest guidesheet, reflecting comments from yesterday's meeting.

From: Lowe Justin
Sent: Monday, March 19, 2012 10:48 AM

SFC 001695

To: Brown Susan D; Spellmann Don R; Marshall David L
Cc: Kindell Judith E; Megosh Andy; Goehausen Hilary
Subject: Updated guidesheet

Attached is a guidesheet reflecting the changes we discussed at the meeting on Friday. I've begun going through and sourcing all of the language, but haven't finished yet: I wanted to get this over to you in time to look it over for the meet ing this afternoon.

SFC 001696

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Guide Sheet for Reviewing Advocacy Organization Applications

OVERVIEW

Many different types of exempt organizations, consistent with their exempt purposes, engage in advocacy activities, including advocating positions on public policy issues, attempting to influence legislation, or intervening in political campaigns.

This guide sheet sets forth the different rules governing these activities that are applicable to 501(c)(3), (c)(4), (c)(5), and (c)(6) organizations and provides tools for determining whether these activities impact an organization's initial and continuing qualification for exemption. This task can be challenging and complex, particularly for organizations that have multiple purposes and activities, because the permitted activities vary by subsection and identifying them, distinguishing between them, and determining the extent of the activities can be difficult. Therefore, these determinations are based on all the facts and circumstances and require extensive case development and careful legal analysis.

This guide sheet is intended to aid in making the determination, but because of the complex nature of these issues it is not possible to list all of the factors that may need to be evaluated in a particular case. Questions on case development and applicable law should be directed to Exempt Organizations Technical.

Note that in addition to satisfying the statutory exemption requirements regarding advocacy activities, organizations must also satisfy the general requirements for exemption.

This guide sheet contains the following sections:

1. Definitions of "political campaign intervention" and "attempts to influence legislation"
2. Restrictions on these activities by 501(c)(3), (c)(4), (c)(5), and (c)(6) organizations
3. Specific types of activities that may be used for political campaign intervention or influencing legislation
4. Separate checksheets for each activity outlining the pertinent facts to develop when analyzing these activities, and lists of published guidance (including revenue rulings) that illustrate how to analyze these facts to determine whether an activity's purpose is political campaign intervention or influencing legislation. These checksheets are only to be used when there is an indication in the application file that the organization engages or intends to engage in the activity.
5. An appendix of various legal limitations on an organization's political campaign and legislative activities and definitions of terms in the Code and other legal authorities.

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PART 1: DEFINITIONS

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 candi date for public office.

2) **Attempts to influence legislation ("lobbying")**:

An organization attempts to influence legislation if the organization:

- Contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, suppor ting, or opposing legislation; or
- Advocates the adoption or rejection of legislation.

The term "legislation" includes action by the Congress, by any State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.

PART 2: RESTRICTIONS ON POLITICAL CAMPAIGN INTERVENTION AND LOBBYING BY ORGANIZATION TYPE

1) **IRC 501(c)(3) organizations:**

- Organizations described in 501(c)(3) are organized and operated exclusiv ely 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 .
- May not engage in a substantial amount of lobbying.
- May not engage in any political campaign intervention.

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.
- An organization meets this requirement if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.
- May engage in any amount of lobbying if it furthers their specific exempt purposes.

- May engage in limited political campaign intervention. Political campaign intervention does not promote social welfare. Because a (c)(4) must be primarily promoting social welfare; political campaign intervention, along with all other activities that do not promote social welfare, cannot make up an organization's primary activities.

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.
- May engage in any amount of lobbying if it furthers their specific exempt purposes.
- May 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.
- May not regularly conduct a trade or business for profit.
- May engage in any amount of lobbying if it furthers their specific exempt purposes.
- May 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 an organization's primary activities.

PART 3: SPECIFIC ACTIVITIES

Possible Political Campaign Intervention Activities

Some political campaign intervention activities are clear, such as financial contributions to a candidate or political organization or donating the use of an organization's assets (mailing lists, volunteers, etc.) However, some activities require more factual development to make a determination.

Below are some specific activities that could constitute political campaign intervention. However, depending upon the way they are conducted, these activities may also constitute activities that further exempt purposes, rather than political campaign intervention. Therefore, if an organization conducts them, all of the relevant facts and circumstances should be gathered.

While the information below involves only one type of activity, the organization's activities as a whole must be taken into account. In the case of an organization that combines one or more types of activity, the interaction among the activities may affect the determination of whether or not the organization has engaged in political campaign intervention or lobbying.

For example, websites and other social media are communications and should be taken into account. Examples of how to approach this issue are contained in Revenue Ruling 2007-41.

Review the descriptions of the following activities. If the application indicates that the organization will conduct one or more of the activities, consult the appropriat e checksheet.

Voter Guides

- A number of exempt organizations publish voter guides. In some instances, these publications contain the voting records of incumbent legislators and are distributed to educate voters. In other instances, the publications consis t of candidate questionnaires containing the responses of various candidates to a particular office to a variety of questions posed by the organization. While there are other types of voter guides, voting records and candidate questionnaires have been spec ifically addressed in precedential guidance.
- Does the application indicate that the organization publishes or distributes voter guides? If so, consult **Checksheet 1: Voter Guide**
- for assistance in developing the relev ant facts.

Candidate Forums

- Exempt organizations might conduct candidate forums where several candidates for public office are invited to speak.
- Does the application indicate that the organization conducts forums in which candidates for public office appear? If so, consult **Checksheet 2: Candidate Forums**
- for assistance in developing the relevant facts.

Other Candidate Appearances

- An organization might invite political candidates to speak at its events , either in their capacity as candidates or in their individual capacity (not as a candidate). Candidates might also appear without an invitation at organization events that are open to the public.
- Does the application indicate that candidates for public office have appeared at the organization's events? If so, consult **Checksheet 3: Other Candidate Appearances** for assistance in developing the relevant facts.

Issue Advocacy

- Various exempt organizations may take positions on publ ic policy issues, including issues with respect to candidates or specific elections .

- Does the application indicate that the organization takes positions on public policy issues with respect to candidates or specific elections ? If so, consult **Checksheet 4: Advocacy** for assistance in developing the relevant facts. See also, Rev. Proc. 86-43.

Political Campaign Activity by Organization Leaders

- The political campaign intervention restrictions are not intended to restrict free expression on political matters by leaders of organizations speaking for themselves, as individuals. Nor are leaders prohibited from speaking about important issues of public policy.
- Does the application indicate that organization leaders may have supported or opposed candidates for public office on behalf of the organization? If so, consult **Checksheet 5: Political Campaign Activity by Organization Leaders**
- for assistance in developing the relevant facts.

Business Activities

- The question of whether an activity constitutes participation or intervention in a political campaign may arise in the context of a business activity of the organization, such as selling or renting of mailing lists, the leasing of office space, or the acceptance of paid political advertising.
- Does the application indicate that organization conducts business activities with candidates? If so, consult **Checksheet 6: Business Activities** for assistance in developing the relevant facts.

Possible Attempts to Influence Legislation – Section 501(c)(3) Organizations Only

Below are two activities that could constitute attempts to influence legislation. If an organization conducts them, all of the relevant facts and circumstances should be gathered.

Review the descriptions of the following activities. If the application indicates that the organization will conduct one or more of the activities, consult the appropriate checksheet.

Communications with the General Public on Legislative Issues

- Does the application indicate that the organization communicates with the general public on legislative issues? If so, consult **Checksheet 7: Communications with the General Public on Legislative Issues**

for assistance in developing the relevant facts.

Communications with Governmental Officials on Legislative Issues

- Does the application indicate that the organization communicates with the government officials on legislative issues? If so, consult **Checksheet 8: Communications with Government Officials on Legislative Issues**
- for assistance in developing the relevant facts.

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Checksheet 1: Voter Guide

Although commonly referred to as voter guides, these activities may or may not constitute political campaign intervention. In some cases, activities described as voter guides may in fact be in support of the legislative activities of the organization. In other situations, voter guides may be published to encourage participation in the electoral process. However, there are voter guides that constitute participation or intervention in a political campaign on behalf or in opposition to a candidate for public office. The following question s address the factors considered

If the organization's application indicates that it will be publishing or distributing voter guides, the following factors should be considered with respect to voting records and candidate questionnaires. Similar facts and circumstances should be considered when determining whether other types of "voter guides" constitute political campaign intervention.

All of the factors listed below are consistent with the published guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of the information distributed and, based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Does the voter guide state the candidates' position on issues? • Does the organization limit distribution of the voter guide to a specific group (for example, its membership)? • Does the organization make the voter guide widely available throughout the candidates' election district? • Does the organization send a questionnaire to the candidates requesting their views?		
	Factors Tending to Indicate Activity is not Political Campaign Intervention: • Does the voter guide only present current elected officials (for example, U.S. Senators)? • Does the voter guide only present the voting record of current elected officials on specific legislation? • Does the voter guide list all candidates for the public office? • Does the voter guide contain a wide variety of issues? • Does the voter guide describe the issues in clear and neutral terms, without indicating a preferred or favored position?		

	• If it uses a candidate questionnaire, does the organization send the candidate questionnaire to all candidates for the public office? • Does the candidate questionnaire describe the issues in clear and neutral terms, without indicating a preferred or favored position? • Are the questions posed provided to the candidates identical to those included in the voter guide? • Are the candidates given a reasonable amount of time to respond to the questions? • If the candidates are given limited choices for an answer to a question (e.g. yes/no, support/oppose), are the candidates also given a reasonable opportunity to explain their positions in their own words and are those explanation included in the voter guide? • Are the answers in the voter guide those provided by the candidates in response to the questions, unedited, and appearing in close proximity to the question to which they respond?		
	Factors Tending to Indicate Activity is Political Campaign Intervention: • Does the voter guide only list candidates from a particular party? • Does the voter guide only list the positions of candidates who are members of one political party? • Does the voter guide indicate which of the listed candidates support (or oppose) the organization's position? • Does the voter guide rank or score the candidates? • Does the organization distribute (or otherwise make available) the voter guide shortly before an election? • Does the organization target the distribution of the voter guide to a select group (e.g., registered voters of one party)? • Does the organization target the distribution of the voter guide to a specific area within the voting district? • Does the voter guide state the organization's position on the issues? • Does the voter guide provide information about where to find the organization's position on the issues?		
	Legal References • Rev. Rul. 80-282, 1980-2 C.B. 178 • Rev. Rul. 78-248, 1978-1 C.B. 154 See also • FS 2006-17, pp 9-10		

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Checksheet 2: Candidate Forums

The presentation of public forums or debates is a recognized method of educating the public and is not, in and of itself, prohibited political activity. However, a forum for candidates could be operated in a manner that would show a bias or preference for or against a particular candidate.

If the organization's application indicates that it has or will be conducting candidate forums, the following factors should be considered with respect to this issue.

All of the factors listed below are consistent with the published guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of the materials used during the forums and used by the organization to publicize the appearance, both before or after it occurred. Based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Do the candidates appear at the same event or at separate events?		
	Factors Tending to Indicate Activity is not Political Campaign Intervention: • Did the organization provide an equal opportunity to participate to all legally qualified candidates seeking the same office? • Does the organization provide equal time for each candidate to answer questions or express their views on each of the issues discussed? • Does a nonpartisan, independent panel or moderator prepare the questions? • Does a nonpartisan, independent panel or moderator present the questions? • Does the organization make statements that the views expressed are those of the candidates and not of the organization, or that the organization does not endorse any candidate or viewpoint? • Do the topics discussed cover a broad range of the issues that the candidates would address if elected to the office sought and that are of broad interest to the public?		
	Factors Tending to Indicate Activity is Political Campaign Intervention:		

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	• Does the organization invite only candidates who share the same position as the organization to participate? • Does the organization indicate support for or opposition to a candidate (e.g., such as when the candidate is introduced)? • Does the moderator comment on questions or otherwise make comments that imply approval or disapproval of a candidate? • Are the candidates asked to agree or disagree with positions, agendas, platforms, or statements of the organization? • Does the organization impose any minimum requirements for participation in forums featuring multiple candidates?		
	Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421 • Rev. Rul. 86-95, 1986-2 C.B. 73 • Rev. Rul. 74-574, 1974-2 C.B. 160 • Rev. Rul. 66-256, 1966-2 C.B. 210		

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Checksheet 3: Other Candidate Appearances

Candidate appearances may or may not constitute political campaign intervention. In some cases, the candidate may be appearing in a non-candidate role, for example as a private citizen or a current public officeholder. However, there are candidate appearances that constitute political campaign intervention.

If the organization's application indicates that candidates have or may appear at the organization's events, the following factors should be considered.

All of the factors listed below are consistent with the published guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of the materials used during the appearance and used by the organization to publicize the appearance, before or after it occurred. Based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Did the organization clearly indicate the capacity in which the individual is appearing?		
	Factors Tending to Indicate Activity is not Political Campaig n Intervention: • Does the organization choose the individual to speak solely for reasons other than his or her candidacy, such as the individual's status as a public figure aside from being a political candidate, the individual currently holds or previousl y held a public office, is considered an expert in a non-political field, is a celebrity, has led a distinguished military, legal or public service career, *etc.*? • Did the individual appear or speak at an organization event in that personal, business or othe r non-candidate capacity?		
	Factors Tending to Indicate Activity is Political Campaign Intervention: • Was the individual invited to appear at the organization's event because he or she is a political candidate? • Did the organization indicate support for or opposition to the individual's candidacy (including during introductions, communications concerning the individual's attendance, and any		

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	materials distributed during the event)? • Did any political fundraising occur at the event? • Is the individual publicly recognized as a candidate for office by the organization? • Does the organization mention the individual's political candidacy or the upcoming election in any communications announcing the individual's attendance at the event?		
	Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Situations 7-9) • Rev. Rul. 66-256, 1966-2 C.B. 210		

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Checksheet 4: Issue Advocacy

Various exempt organizations may take positions on public policy issues, including issues of relevance in an election for public office. However, in some circumstances these may constitute political campaign intervention.

If the organization's application indicates that it takes positions on public policy issues related to specific candidates or specific elections , the following factors should be considered.

All of the factors listed below are consistent with the published guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of statements published or distributed with respect to one or more candidates for public office or specific elections and, based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Does the statement identify one or more candidates by name or by other means (e.g., showing a photograph of a candidate, or referring to a candidate's political party affiliation or other distinctive features of a candidate's platform or biography)?		
	Factors Tending to Indicate Activity is not Political Campaign Intervention: • When identified, the candidate is identified because of relevance to a specific upcoming non-electoral event. • Is the timing of the statement related to a non-electoral event (such as a scheduled vote on specific legislation, in the case of a candidate who is an office holder)? • Is the statement part of an ongoing series of communications by the organization on the same issue? • Are the viewpoints in the communication supported by facts? • Are the facts that purport to support the viewpoints or positions undistorted? • Does the communication refrain from using inflammatory or disparaging terms? • Is the approach used in the communication aimed at developing an understanding on the part of the intended audience or		

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	readership by considering their background or training in the subject matter?		
	Factors Tending to Indicate Activity is Political Campaign Intervention: • Does the statement reference voting in an upcoming election? • Does the statement identify a candidate's position on a particular public policy issue? • Does the statement express approval or disapproval for one or more candidates' positions or actions? • Is the statement published or distributed in a way to target voters in a particular election? • Is the statement delivered close in time to the election? • Is the statement about an issue that has been raised as an issue distinguishing candidates for a given office? • Has the organization expressed support for or opposition to a candidate on its website or through links to another website? • Does the organization make contributions to, or solicit contributions on behalf of, a candidate or political organization? • Does a significant portion of the communication consist of the organization's viewpoints or positions unsupported by facts? • Are the facts that purport to support the viewpoints o r positions distorted? • Does the communication make substantial use of inflammatory and disparaging terms and express conclusions more on the basis of strong emotional feelings than of objective evaluations • Is the approach used in the communication not aime d at developing an understanding on the part of the intended audience or readership because it does not consider their background or training in the subject matter.		
	Legal References • Treas. Reg. § 1.501(c)(3)-1(c)(3) • Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Situations 14-16, 19-21)) • Rev. Rul. 2004-6, 2004-1 C.B. 328		

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Checksheet 5: Political Campaign Activity by Organization Leaders

Restrictions on political campaign intervention by tax-exempt organizations do not extend to individuals acting in their individual capacity. However, depending upon the facts and circumstances, an organization leader supporting or opposing a candidate could constitute the organization's support or opposition and therefore political campaign intervention.

If an organization's application indicates that its leaders have supported or opposed candidates for public office, the following factors should be considered.

All of the factors listed below are consistent with the published guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of the organization's leaders' oral or written statements with respect to one or more candidates for public office the statements and, based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Has a leader of the organization expressed support for or opposition to a candidate for public office?		
	Factors Tending to Indicate Activity is not Political Campaign Intervention: • Did the leader's statement appear in a publication that is not an official publication of the organization? • If the statement was not in an organization publication or at an organization function, does the statement contain a disclaimer that the individual's comments were personal and not intended to represent the views of the organization?		
	Factors Tending to Indicate Activity is Political Campaign Intervention: • Did the leader's statement appear in an official publication of the organization? • Did the leader make the statement at an official function of the organization?		
	Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Situations 3-6)		

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Checksheet 6: Business Activities

Organizations might conduct various business activities . In some circumstances these could constitute political campaign intervention.

If an organization's application indicates that it may engage in business activities with respect to candidates or elections, the following factors should be considered.

All of the factors listed below are consistent with the publishe d guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of business agreements with respect to candidates or elections and, based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Does the organization sell or rent mailing lists? • Does the organization lease office space? • Does the organization accept paid advertising?		
	Factor Tending to Indicate Activity is not Political Campaign Intervention: • Is the business activity an ongoing activity of the organization? • Is the good, service, or facility available to the general public on the same terms? • Is the good, service, or facility available to candidates in the same election on an equal basis?		
	Factors Tending to Indicate Activity is Political Campaign Intervention: • Does the organization accept paid political advertising? • Is the good, service, or facility available only to candidates and not to the general public? • Are the fees charged to candidates different than the organization's customary and usual rates? • Is the business activity conducted only for a particular candidate?		
	Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Situations 17-18)		

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Checksheet 7: Communications with the General Public on Legislative Issues

If an organization's application indicates that it will communicate with the general public on legislative issues, the following factors should be considered.

All of the factors listed below are consistent with the published guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of the communications on legislative issues and, based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Does the communication provide a factual background for a stated view or position on specific legislation? • Is the communication a paid advertisement that appears in the mass media (including TV and radio)?		
	Factors Tending to Indicate Activity is an Attempt to Influence Legislation: • Does the organization refer to specific legislation in communications with the general public? • Does the communication reflect a view or position on the legislation? • Is the communication part of a series of communications? • Does the communication identify one or more legislators who will vote on the specific legislation? • Does the communication identify the legislator(s) as: o opposing the view or position reflected in the communication? o being undecided with respect to the legislation? o being the recipient's representative in the legislature? o being a member of the legislative committee or subcommittee that will consider the legislation? • Does the communication state that the recipient should contact a legislator or an employee of a legislative body? • If yes, does the communication advise the recipient what to tell the legislator or employee they contact?		

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	• Does the communication provide contact information (such as the address, telephone number, or email address) of a legislator or an employee of a legislative body? • Does the communication provide a petition, tear-off postcard, or other form for the recipient to communicate with a legislator or employee of a legislative body? • Does the communication state that the recipient should contact any other government official about the specific legi slation?		
	Factor Tending to Indicate Activity is not an attempt to influence legislation: • Does the communication make available the results of "nonpartisan analysis, study, or research"?		
	Legal references • Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) • Treas. Reg. § 56.4911-2 • Treas. Reg. 53.4945-2 • Rev. Rul. 62-71, 1962-1 C.B. 85 • Rev. Rul. 64-195, 1964-2 C. B. 138 • Rev. Rul. 68-656, 1968—2 C.B. 216 • Rev. Rul. 70-79, 1970-1 C.B. 127 • Rev. Rul. 70-449, 1970-2 C.B. 111 •		

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Checksheet 8: Communications with Government Officials on Legislative Issues

If an organization's application indicates that it will communicate with government officials on legislative issues, the following factors should be considered.

All of the factors listed below are consistent with the published guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of the communications on legislative issues and, based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Does the communication provide a factual background for a stated view or position on specific legislation?		
	Factors Tending to Indicate Activity is an Attempt to Influence Legislation: • Does the organization refer to specific legislation in communications with any member or employee of a legislative body? • Does the organization refer to specific legislation in communications with any other government official or employee who may participate in the formulation of legislation? • Does the communication reflect a view on the legislation?		
	Factor Tending to Indicate Activity is not an attempt to influence legislation: • Does the communication qualify as the results of "nonpartisan analysis, study, or research"? • Is the communication in response to a request for technical assistance from a governmental body, committee, or a subdivision? • Is the communication related to a possible legislative action that might affect the organization's existence, its powers and duties, its tax-exempt status, or the deductibility of contributions to it?		
	Legal references: • Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) • Treas. Reg. § 56.4911-2 • Treas. Reg. 53.4945-2		

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	• Rev. Rul. 62-71, 1962-1 C.B. 85 • Rev. Rul. 64-195, 1964-2 C. B. 138 • Rev. Rul. 68-656, 1968—2 C.B. 216 • Rev. Rul. 70-79, 1970-1 C.B. 127 • Rev. Rul. 70-449, 1970-2 C.B. 111		

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APPENDIX

I. LIMITATIONS ON POLITICAL CAMPAIGN INTERVENTION AND ATTEMPTING TO INFLUENCE LEGISLATION

A. Section 501(c)(3) Organizations

I.R.C. § 501(c)(3)

"Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, . . . or educational purposes, . . . no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

Treas. Reg. § 1.501(c)(3)-1(c)(3)

"An organization is not operated exclusively for one or more exempt purposes" if:

(i) "a substantial part of its activities is attempting to influence legislation by propaganda or otherwise;"

(ii) "it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office"; or

(iii) "(a) Its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and (b) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public."

B. Section 501(c)(4) Social Welfare Organizations

I.R.C. § 501(c)(4)

"Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare."

Treas. Reg. § 1.501(c)(4)-1(a)(2)

"An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements."

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"The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to an y candidate for public office."

Treas. Reg. § 1.501(c)(3)-1(c)(3)

An organization:

(i) "a substantial part of its activities is attempting to influence legislation by propaganda or otherwise;" or

(ii) "(a) Its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and (b) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public,"

". . . may nevertheless qualify for exemption as a social welfare organization under § 501(c)(4) if it meets the requirements set out in para graph (a) of § 1.501(c)(4)-1."

Rev. Rul. 81-95,1981-1 C.B. 332

"[T]he regulations do not impose a complete ban on [political campaign] activities for section 501(c)(4) organizations."

"An organization may carry on lawful political activities and remain exempt under section 501(c)(4) as long as it is primarily engaged in activities that promote social welfare."

C. Section 501(c)(5) Labor, Agricultural and Horticultural Organizations

Treas. Reg. § 1.501(c)(5)-1

"Have as their objects the betterment of th e conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations. "

D. Section 501(c)(6) Business Leagues and Chambers of Commerce

Treas. Reg. § 1.501(c)(6)-1

"A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an o rganization of the same general class as a chamber of commerce or board of trade. "

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E. Certain Other Limitations and Special Rules Applicable to Certain Exempt Organizations

I.R.C. § 527(f) Tax on Exempt Organizations

Imposes a tax on organizations that are exempt under § 501(c) and that expend amounts for an "exempt function," which is defined in § 527(e)(2) to mean "t he function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed. "

Rev. Rul. 2004-6, 2004-1 C.B. 328

Presents a number of factual situations to illustrate when organizations exempt under §§ 501(c)(4), (5) and (6) are subject to tax under § 527(f) on their expenditures for § 527(e)(2) exempt (political organization) function activities. Discusses factors that tend to show whether an advocacy communication on public policy issues for a § 527(e)(2) (political organization) is an exempt function.

I.R.C. § 162(e) Lobbying and Political Expenditures

Generally denies a deduction for amounts paid or in curred to influence legislation, intervene in political campaigns, and conduct certain lobbying activities.

I.R.C. § 6033(e) Reporting of Lobbying and Political Expenditures

Requires organizations exempt from tax under § 501, other than § 501(c)(3) organizations, to report their total expenditures for lobbying or political expenses for which § 162(e)(1) denies a deduction.

II. DEFINITIONS

A. POLITICAL CAMPAIGN INTERVENTION

Treas. Reg. § 1.501(c)(3)-1(c)(3)(iii)

"Activities which constitute participa tion or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such a candidate."

"The term candidate for public office means an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, State, or local."

Rev. Rul. 67-71, 1967-1 C.B. 125

"[T]he organization's activity in evaluating the qualifications of all potential candidates and then selecting and supporting a particular slate constitutes participation in a political campaign on behalf of particular candidates, even though its process of selection may have been completely objective and unbiased and was intended primarily to educate and inform the public about the candidates."

Rev Rul. 67-368, 1967-2 C.B. 194

"Comparative rating of candidates, even though on a nonpartisan basis, is par ticipation or intervention on behalf of those candidates favorably rated and in opposition to those less favorably rated."

Rev. Rul. 74-574, 1974-2 C.B. 160

"The broadcasting station, by reason of its disclaimers [about individual candidates and their positions] and the presentation of equal opportunities for all bona fide legally qualified candidates for the same elective public office to express their views, is not participating or intervening on behalf of or in opposition to any candidate for public of fice."

Rev. Rul. 86-95, 1986-2 C.B. 73

Organization that proposes to educate voters by conducting a series of public forums in congressional districts during congressional election campaigns is not participating in a political campaign on behalf of any candidate due to the neutral form and content of its proposed forums.

Rev. Rul. 2007-41, 2007-1 C.B. 1421, analyzes 21 situations to determine whether the organization described in each has intervened in a political campaign.

B. ATTEMPTING TO INFLUENCE LEGISLATION

Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii)

"[A]n organization will be regarded as attempting to influence legislation if the organization: (a) Contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or (b) Advocates the adoption or rejection of legislation."

"The term legislation . . . includes action by the Congress, by any State legislature, by any local council or similar governing body, or by the public in a re ferendum, initiative, constitutional amendment, or similar procedure."

Haswell v. United States, 500 F.2d 1133, 1144 (Cl. Ct. 1974)

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"The part of [organization's] operations involved in the advocacy of the interests of railroad passenger consumers on legi slative matters does not consist of activities which qualify as nonpartisan analysis, study, or research. . . [It] was partisan on this issue, and the materials submitted in support of its position were not the full and fair objective expositions that would enable the public or an individual to reach an independent conclusion."

Treas. Reg. § 56.4911-2(c)(1)

Generally excludes from the definition of lobbying communication s "nonpartisan analysis, study, or research," which is defined in Treas. Reg. § 56.4911-2(c)(1)(ii) to mean "an independent and objective exposition of a particular subject matter, including any activity that is 'educational' within the meaning of § 1.501(c)(3) -1(d)(3). Thus, 'nonpartisan analysis, study, or research' may advocate a parti cular position or viewpoint so long as there is a sufficiently full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion. The mere presentation of unsupported opinion, however, does not qualify as 'nonpartisan analysis, study, or research.'" See Treas. Reg. § 1.501(c)(3)-1(c)(iv).

III. DETERMINING WHETHER ACTIVITIES FURTHERING NON-EXEMPT PURPOSES ARE SIGNIFICANT ENOUGH TO PREVENT EXEMPTION

Haswell v. United States, 500 F.2d 1133, 1142, 1147 (Cl. Ct. 1974)

"The political efforts of an organization must be balanced in the context of the objectives and circumstances of the organization to determine whether a substantial part of its activities is to influence, or is an attempt to inf luence, legislation. A percentage test to determine whether the activities are substantial is not appropriate. Such a test obscures the complexity of balancing the organization's activities in relation to its objectives and circumstances in the context of the totality of the organization."

"Distribution of expenditures is only one measure of the substantiality of [organization's] political activities."

Seasongood v. Commissioner, 227 F.2d 907, 909, 912 (6th Cir. 1955)

"[T]he so-called 'political activities' of the [organization] were not in relation to all of its other activities substantial, within the meaning of the section," where it involved no expenditures, employed no individuals for this work, and dedicated less than 5% of its time and effort.

Rev Rul. 68-45, 1968-1 C.B. 259

"The fact that the organization's principal source of income is from the conduct of bingo games with the general public does not mean that the games are also its primary activity.

All facts and circumstances are taken into ac count in determining an organization's primary activity." (social welfare organization)

I.R.C. § 501(h)

Provides an election for certain § 501(c)(3) organizations described in § 170(b)(1)(A) or § 509(a)(2)-(3) to apply an expenditure test to determine wh ether a substantial part of their activities are attempting to influence legislation.

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Guide Sheet for Reviewing Advocacy Organization Applications

OVERVIEW

Many different types of exempt organizations, consistent with their exempt purposes, engage in advocacy activities, including advocating positions on public policy issues, attempting to influence legislation, or intervening in political campaigns.

This guide sheet sets forth the different rules governing these activities that are applicable to 501(c)(3), (c)(4), (c)(5), and (c)(6) organizations and provides tools for determining whether these activities impact an organization's initial and continuing qualification for exemption. This task can be challenging and complex, particularly for organizations that have multiple purposes and activities, because the permitted activities vary by subsection and identifying them, distinguishing between them, and determining the extent of the activities can be difficult. Therefore, these determinations are based on all the facts and circumstances and require extensive case development and careful legal analysis.

This guide sheet is intended to aid in making the determination, but because of the complex nature of these issues it is not possible to list all of the factors that may need to be evaluated in a particular case. Questions on case development and applicable law should be directed to Exempt Organizations Technical.

Note that in addition to satisfying the statutory exemption requirements regarding advocacy activities, organizations must also satisfy the general requirements for exemption.

This guide sheet contains the following sections:

1. Definitions of "political campaign intervention" and "attempts to influence legislation"
2. Restrictions on these activities by 501(c)(3), (c)(4), (c)(5), and (c)(6) organizations
3. Specific types of activities that may be used for political campaign intervention or influencing legislation
4. Separate checksheets for each activity outlining the pertinent facts to develop when analyzing these activities, and lists of published guidance (including revenue rulings) that illustrate how to analyze these facts to determine whether an activity's purpose is political campaign intervention or influencing legislation. These checksheets are only to be used when there is an indication in the application file that the organization engages or intends to engage in the activity.
5. An appendix of various legal limitations on an organization's political campaign and legislative activities and definitions of terms in the Code and other legal authorities.

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PART 1: DEFINITIONS

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.

2) **Attempts to influence legislation ("lobbying"):**

An organization attempts to influence legislation if the organization:

- Contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or
- Advocates the adoption or rejection of legislation.

The term "legislation" includes action by the Congress, by any State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.

PART 2: RESTRICTIONS ON POLITICAL CAMPAIGN INTERVENTION AND LOBBYING BY ORGANIZATION TYPE

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 .
- May not engage in a substantial amount of lobbying.
- May not engage in any political campaign intervention.

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.
- An organization meets this requirement if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.
- May engage in any amount of lobbying if it furthers their specific exempt purposes.

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- May engage in limited political campaign intervention. Political campaign intervention does not promote social welfare. Because a (c)(4) must be primarily promoting social welfare; political campaign intervention, along with all other activities that do not promote social welfare, cannot make up an organization's primary activities.

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.
- May engage in any amount of lobbying if it furthers their specific exempt purposes.
- May 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.
- May not regularly conduct a trade or business for profit.
- May engage in any amount of lobbying if it furthers their specific exempt purposes.
- May 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 an organization's primary activities.

PART 3: SPECIFIC ACTIVITIES

Possible Political Campaign Intervention Activities
Some political campaign intervention activities are clear, such as financial contributions to a candidate or political organization or donating the use of an organization's assets (mailing lists, volunteers, etc.) However, some activities require more factual development to make a determination.

Below are some specific activities that could constitute political campaign intervention. However, depending upon the way they are conducted, these activities may also constitute activities that further exempt purposes, rather than political campaign intervention. Therefore, if an organization conducts them, all of the relevant facts and circumstances should be gathered.

While the information below involves only one type of activity, the organization 's activities as a whole must be taken into account. In the case of an organization that combines one or more types of activity, the interaction among the activities may affect the determination of whether or not the organization has engaged in political campaign intervention or lobbying.

For example, websites and other social media are communications and should be taken into account. Examples of how to approach this issue are contained in Revenue Ruling 2007-41.

Review the descriptions of the following activities. If the appli cation indicates that the organization will conduct one or more of the activities, consult the appropriate checksheet.

Voter Guides

- A number of exempt organizations publish voter guides. In some instances, these publications contain the voting records of incumbent legislators and are distributed to educate voters. In other instances, the publications consist of candidate questionnaires containing the responses of various candidates to a particular office to a variety of questions posed by the organization. While there are other types of voter guides, voting records and candidate questionnaires have been specifically addressed in precedential guidance.
- Does the application indicate that the organization publishes or distributes voter guides? If so, consult **Checksheet 1: Voter Guide**
- for assistance in developing the relevant facts.

Candidate Forums

- Exempt organizations might conduct candidate forums where several candidates for public office are invited to speak.
- Does the application indicate that the organization conducts forums in which candidates for public office appear? If so, consult **Checksheet 2: Candidate Forums**
- for assistance in developing the relevant facts.

Other Candidate Appearances

- An organization might invite political candidates to speak at its events , either in their capacity as candidates or in their individual capacity (not as a candidate). Candidates might also appear without an invitation at organization events that are open to the public.
- Does the application indicate that candidates for public office have appeared at the organization's events? If so, consult **Checksheet 3: Other Candidate Appearances** for assistance in developing the relevant facts.

Issue Advocacy

- Various exempt organizations may take positions on public policy issues, including issues with respect to candidates or specific elections .

- Does the application indicate that the organization takes positions on public policy issues with respect to candidates or specific elections? If so, consult **Checksheet 4: Advocacy** for assistance in developing the relevant facts. See also, Rev. Proc. 86-43.

Political Campaign Activity by Organization Leaders

- The political campaign intervention restrictions are not intended to restrict free expression on political matters by leaders of organizations speaking for themselves, as individuals. Nor are leaders prohibited from speaking about important issues of public policy.
- Does the application indicate that organization leaders may have supported or opposed candidates for public office on behalf of the organization? If so, consult **Checksheet 5: Political Campaign Activity by Organization Leaders**
- for assistance in developing the relevant facts.

Business Activities

- The question of whether an activity constitutes participation or intervention in a political campaign may arise in the context of a business activity of the organization, such as selling or renting of mailing lists, the le asing of office space, or the acceptance of paid political advertising.
- Does the application indicate that organization conducts business activities with candidates? If so, consult **Checksheet 6: Business Activities** for assistance in developing the relevant facts.

Possible Attempts to Influence Legislation – Section 501(c)(3) Organizations Only

Below are two activities that could constitute attempts to influence legislation. If an organization conducts them, all of the rele vant facts and circumstances should be gathered.

Review the descriptions of the following activities. If the application indicates that the organization will conduct one or more of the activities, consult the appropriate checksheet.

Communications with the General Public on Legislative Issues

- Does the application indicate that the organization communicates with the general public on legislative issues? If so, consult **Checksheet 7: Communications with the General Public on Legislative Issues**

for assistance in developing the relevant facts.

Communications with Governmental Officials on Legislative Issues

- Does the application indicate that the organization communicates with the government officials on legislative issues? If so, consult **Checksheet 8: Communications with Government Officials on Legislative Issues**
- for assistance in developing the relevant facts.

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Checksheet 1: Voter Guide

Although commonly referred to as voter guides, these activities may or may not constitute political campaign intervention. In some cases, activities described as voter guides may in fact be in support of the legislative activities of the organization. In other situations, voter guides may be published to encourage participation in the electoral process. However, there are voter guides that constitute participation or intervention in a political campaign on behalf or in opposition to a candidate for public office. The following questions address the factors considered

If the organization's application indicates that it will be publishing or distributing voter guides, the following factors should be considered with respect to voting records and candidate questionnaires. Similar facts and circumstances should be considered when determining whether other types of "voter guides" constitute political campaign intervention.

All of the factors listed below are consistent with the published guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of the information distributed and, based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Does the voter guide state the candidates' position on issues? • Does the organization limit distribution of the voter guide to a specific group (for example, its membership)? • Does the organization make the voter guide widely available throughout the candidates' election district? • Does the organization send a questionnaire to the candidates requesting their views?		
	Factors Tending to Indicate Activity is not Political Campaign Intervention: • Does the voter guide only present current elected officials (for example, U.S. Senators)? • Does the voter guide only present the voting record of current elected officials on specific legislation? • Does the voter guide list all candidates for the public office? • Does the voter guide contain a wide variety of issues? • Does the voter guide describe the issues in clear and neutral terms, without indicating a preferred or favored position?		

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	• If it uses a candidate questionnaire, does the organization send the candidate questionnaire to all candidates for the public office? • Does the candidate questionnaire describe the issues in clear and neutral terms, without indicating a preferred or favored position? • Are the questions posed provided to the candidates identical to those included in the voter guide? • Are the candidates given a reasonable amount of time to respond to the questions? • If the candidates are given limited choices for an answer to a question (e.g. yes/no, support/oppose), are the candidates also given a reasonable opportunity to explain their positions in their own words and are those explanation included in the voter guide? • Are the answers in the voter guide those provided by the candidates in response to the questions, unedited, and appearing in close proximity to the question to which they respond?		
	Factors Tending to Indicate Activity is Political Campaign Intervention: • Does the voter guide only list candidates from a particular party? • Does the voter guide only list the positions of candidates who are members of one political party? • Does the voter guide indicate which of the listed candidates support (or oppose) the organization's position? • Does the voter guide rank or score the candidates? • Does the organization distribute (or otherwise make available) the voter guide shortly before an election? • Does the organization target the distribution of the voter guide to a select group (e.g., registered voters of one party)? • Does the organization target the distribution of the voter guide to a specific area within the voting district? • Does the voter guide state the organization's position on the issues? • Does the voter guide provide information about where to find the organization's position on the issues?		
	Legal References • Rev. Rul. 80-282, 1980-2 C.B. 178 • Rev. Rul. 78-248, 1978-1 C.B. 154 See also • FS 2006-17, pp 9-10		

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Checksheet 2: Candidate Forums

The presentation of public forums or debates is a recognized method of educating the public and is not, in and of itself, prohibited political activity. However, a forum for candidates could be operated in a manner that would show a bias or preference for or against a particular candidate.

If the organization's application indicates that it has or will be conducting candidate forums, the following factors should be considered with respect to this issue.

All of the factors listed below are consistent with the published guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of the materials used during the forums and used by the organization to publicize the appearance, both before or after it occurred. Based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Do the candidates appear at the same event or at separate events?		
	Factors Tending to Indicate Activity is not Political Campaign Intervention: • Did the organization provide an equal opportunity to participate to all legally qualified candidates seeking the same office? • Does the organization provide equal time for each candidate to answer questions or express their views on each of the issues discussed? • Does a nonpartisan, independent panel or moderator prepare the questions? • Does a nonpartisan, independent panel or moderator present the questions? • Does the organization make statements that the vie ws expressed are those of the candidates and not of the organization, or that the organization does not endorse any candidate or viewpoint? • Do the topics discussed cover a broad range of the issues that the candidates would address if elected to the office sought and that are of broad interest to the public?		
	Factors Tending to Indicate Activity is Political Ca mpaign Intervention:		

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	• Does the organization invite only candidates who share the same position as the organization to participate? • Does the organization indicate support for or opposition to a candidate (e.g., such as when the candidate is introduced)? • Does the moderator comment on questions or otherwise make comments that imply approval or disapproval of a candidate? • Are the candidates asked to agree or disagree with positions, agendas, platforms, or statements of the organization? • Does the organization impose any minimum requirements for participation in forums featuring multiple candidates?		
	Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421 • Rev. Rul. 86-95, 1986-2 C.B. 73 • Rev. Rul. 74-574, 1974-2 C.B. 160 • Rev. Rul. 66-256, 1966-2 C.B. 210		

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Checksheet 3: Other Candidate Appearances

Candidate appearances may or may not constitute political campaign intervention. In some cases, the candidate may be appearing in a non-candidate role, for example as a private citizen or a current public officeholder. However, there are candidate appearances that constitute political campaign intervention.

If the organization's application indicates that candidates have or may appear at the organization's events, the following factors should be considered.

All of the factors listed below are consistent with the published guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of the materials used during the appearance and used by the organization to publicize the appearance, before or after it occurred. Based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Did the organization clearly indicate the capacity in which the individual is appearing?		
	Factors Tending to Indicate Activity is not Political Campaign Intervention: • Does the organization choose the individual to speak solely for reasons other than his or her candidacy, such as the individual's 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, has led a distinguished military, legal or public service career, *etc.*? • Did the individual appear or speak at an organization event in that personal, business or other non-candidate capacity?		
	Factors Tending to Indicate Activity is Political Campaign Intervention: • Was the individual invited to appear at the organization's event because he or she is a political candidate? • Did the organization indicate support for or opposition to the individual's candidacy (including during introductions, communications concerning the individual's attendance, and any		

	materials distributed during the event)? • Did any political fundraising occur at the event? • Is the individual publicly recognized as a candidate for office by the organization? • Does the organization mention the individual's political candidacy or the upcoming election in any communications announcing the individual's attendance at the event?		
	Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Situations 7-9) • Rev. Rul. 66-256, 1966-2 C.B. 210		

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Checksheet 4: Issue Advocacy

Various exempt organizations may take positions on public policy issues, including issues of relevance in an election for public office. However, in some circumstances these may constitute political campaign intervention.

If the organization's application indicates that it takes positions on public policy issues related to specific candidates or specific elections, the following factors should be considered.

All of the factors listed below are consistent with the published guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of statements published or distributed with respect to one or more candidates for public office or specific elections and, based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Does the statement identify one or more candidates by name or by other means (e.g., showing a photograph of a candidate, or referring to a candidate's political party affiliation or other distinctive features of a candidate's platform or biography)?		
	Factors Tending to Indicate Activity is not Political Campaign Intervention: • When identified, the candidate is identified because of relevance to a specific upcoming non-electoral event. • Is the timing of the statement related to a non-electoral event (such as a scheduled vote on specific legislation, in the case of a candidate who is an office holder)? • Is the statement part of an ongoing series of communications by the organization on the same issue? • Are the viewpoints in the communication supported by facts? • Are the facts that purport to support the viewpoints or positions undistorted? • Does the communication refrain from using inflammatory or disparaging terms? • Is the approach used in the communication aimed at developing an understanding on the part of the intended audience or		

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	readership by considering their background or training in the subject matter?		
	Factors Tending to Indicate Activity is Political Campaign Inter vention: • Does the statement reference voting in an upcoming election? • Does the statement identify a candidate's position on a particular public policy issue? • Does the statement express approval or disapproval for one or more candidates' positions or act ions? • Is the statement published or distributed in a way to target voters in a particular election? • Is the statement delivered close in time to the election? • Is the statement about an issue that has been raised as an issue distinguishing candidates for a given office? • Has the organization expressed support for or opposition to a candidate on its website or through links to another website? • Does the organization make contributions to, or solicit contributions on behalf of, a candidate or political organiza tion? • Does a significant portion of the communication consist of the organization's viewpoints or positions unsupported by facts? • Are the facts that purport to support the viewpoints or positions distorted? • Does the communication make substantial use of inflammatory and disparaging terms and express conclusions more on the basis of strong emotional feelings than of objective evaluations • Is the approach used in the communication not aimed at developing an understanding on the part of the intended audience or readership because it does not consider their background or training in the subject matter.		
	Legal References • Treas. Reg. § 1.501(c)(3)-1(c)(3) • Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Situations 14-16, 19-21)) • Rev. Rul. 2004-6, 2004-1 C.B. 328		

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Checksheet 5: Political Campaign Activity by Organization Leaders

Restrictions on political campaign intervention by tax-exempt organizations do not extend to individuals acting in their individual capacity. However, depending upon the facts and circumstances, an organization leader supporting or opposing a candidate could constitute the organization's support or opposition and therefore political campaign intervention.

If an organization's application indicates that its leaders have supported or opposed candidates for public office, the following factors should be considered.

All of the factors listed below are consistent with the published guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of the organization's leaders' oral or written statements with respect to one or more candidates for public office the statements and, based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Has a leader of the organization expressed support for or opposition to a candidate for public office?		
	Factors Tending to Indicate Activity is not Political Campaign Intervention: • Did the leader's statement appear in a publication that is not an official publication of the organization? • If the statement was not in an organization publication or at an organization function, does the statement contain a disclaimer that the individual's comments were personal and not intended to represent the views of the organization?		
	Factors Tending to Indicate Activity is Political Campaign Intervention: • Did the leader's statement appear in an official publication of the organization? • Did the leader make the statement at an official function of the organization?		
	Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Situations 3-6)		

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Checksheet 6: Business Activities

Organizations might conduct various business activities . In some circumstances these could constitute political campaign intervention.

If an organization's application indicates that it may engage in business activities with respect to candidates or elections, the following factors should be considered.

All of the factors listed below are consistent with the published guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of business agreements with respect to candidates or elections and, based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Does the organization sell or rent mailing lists? • Does the organization lease office space? • Does the organization accept paid advertising?		
	Factor Tending to Indicate Activity is not Political Campaign Intervention: • Is the business activity an ongoing activity of the organization? • Is the good, service, or facility available to the general public on the same terms? • Is the good, service, or facility available to candidates in the same election on an equal basis?		
	Factors Tending to Indicate Activity is Political Campaign Intervention: • Does the organization accept paid political advertising? • Is the good, service, or facility available only to candidates and not to the general public? • Are the fees charged to candidates different than the organization's customary and usual rates? • Is the business activity conducted only for a particular candidate?		
	Legal References • Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Situations 17-18)		

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Checksheet 7: Communications with the General Public on Legislative Issues

If an organization's application indicates that it will communicate with the general public on legislative issues, the following factors should be considered.

All of the factors listed below are consistent with the published guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of the communications on legislative issues and, based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Does the communication provide a factual background for a stated view or position on specific legislation? • Is the communication a paid advertisement that appears in the mass media (including TV and radio)?		
	Factors Tending to Indicate Activity is an Attempt to Influence Legislation: • Does the organization refer to specific legislation in communications with the general public? • Does the communication reflect a view or position on the legislation? • Is the communication part of a series of communications? • Does the communication identify one or more legislators who will vote on the specific legislation? • Does the communication identify the legislator(s) as: o opposing the view or position reflected in the communication? o being undecided with respect to the legislation? o being the recipient's representative in the legislature? o being a member of the legislative committee or subcommittee that will consider the legislation? • Does the communication state that the recipient should contact a legislator or an employee of a legislative body? • If yes, does the communication advise the recipient what to tell the legislator or employee they contact?		

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	• Does the communication provide contact information (such as the address, telephone number, or email address) of a legislator or an employee of a legislative body? • Does the communication provide a petition, tear-off postcard, or other form for the recipient to communicate with a legislator or employee of a legislative body? • Does the communication state that the recipient should contact any other government official about the specific legislation?		
	Factor Tending to Indicate Activity is not an attempt to influence legislation: • Does the communication make available the results of "nonpartisan analysis, study, or research"?		
	Legal references • Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) • Treas. Reg. § 56.4911-2 • Treas. Reg. 53.4945-2 • Rev. Rul. 62-71, 1962-1 C.B. 85 • Rev. Rul. 64-195, 1964-2 C. B. 138 • Rev. Rul. 68-656, 1968—2 C.B. 216 • Rev. Rul. 70-79, 1970-1 C.B. 127 • Rev. Rul. 70-449, 1970-2 C.B. 111 •		

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Checksheet 8: Communications with Government Officials on Legislative Issues

If an organization's application indicates that it will communicate with government officials on legislative issues, the following factors should be considered.

All of the factors listed below are consistent with the published guidance items listed at the end of the section and in the appendix. These issues are dependent upon all of the facts and circumstances. No one factor is determinative and there may be other factors to consider in a particular case.

		Yes	No
	Obtain copies of the communications on legislative issues and, based on the copies or through questions, develop the following facts (and any other relevant ones).		
	General Facts • Does the communication provide a factual background for a stated view or position on specific legislation?		
	Factors Tending to Indicate Activity is an Attempt to Influence Legislation: • Does the organization refer to specific legislation in communications with any member or employee of a legislative body? • Does the organization refer to specific legislation in communications with any other government official or employee who may participate in the formulation of legislation? • Does the communication reflect a view on the legislation?		
	Factor Tending to Indicate Activity is not an attempt to influence legislation: • Does the communication qualify as the results of "nonpartisan analysis, study, or research"? • Is the communication in response to a request for technical assistance from a governmental body, committee, or a subdivision? • Is the communication related to a possible legislative action that might affect the organization's existence, its powers and duties, its tax-exempt status, or the deductibility of contributions to it?		
	Legal references: • Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) • Treas. Reg. § 56.4911-2 • Treas. Reg. 53.4945-2		

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	• Rev. Rul. 62-71, 1962-1 C.B. 85 • Rev. Rul. 64-195, 1964-2 C. B. 138 • Rev. Rul. 68-656, 1968—2 C.B. 216 • Rev. Rul. 70-79, 1970-1 C.B. 127 • Rev. Rul. 70-449, 1970-2 C.B. 111		

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APPENDIX

I. LIMITATIONS ON POLITICAL CAMPAIGN INTERVENTION AND ATTEMPTING TO INFLUENCE LEGISLATION

A. Section 501(c)(3) Organizations

I.R.C. § 501(c)(3)

"Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, . . . or educational purposes, . . . no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

Treas. Reg. § 1.501(c)(3)-1(c)(3)

"An organization is not operated exclusively for one or more exempt purposes" if:

(i) "a substantial part of its activities is attempting to influence legislation by propaganda or otherwise;"

(ii) "it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office"; or

(iii) "(a) Its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and (b) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public."

B. Section 501(c)(4) Social Welfare Organizations

I.R.C. § 501(c)(4)

"Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare."

Treas. Reg. § 1.501(c)(4)-1(a)(2)

"An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements."

"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."

Treas. Reg. § 1.501(c)(3)-1(c)(3)

An organization:

(i) "a substantial part of its activities is attempting to influence legislation by propaganda or otherwise;" or

(ii) "(a) Its main or primary objective or objectives (as distinguished from its incidental or secondary objectives) may be attained only by legislation or a defeat of proposed legislation; and (b) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public,"

". . . may nevertheless qualify for exemption as a social welfare organization under § 501(c)(4) if it meets the requirements set out in pa ragraph (a) of § 1.501(c)(4)-1."

Rev. Rul. 81-95,1981-1 C.B. 332

"[T]he regulations do not impose a complete ban on [political campaign] activities for section 501(c)(4) organizations."

"An organization may carry on lawful political activities and remai n exempt under section 501(c)(4) as long as it is primarily engaged in activities that promote social welfare."

C. Section 501(c)(5) Labor, Agricultural and Horticultural Organizations

Treas. Reg. § 1.501(c)(5)-1

"Have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations."

D. Section 501(c)(6) Business Leagues and Chambers of Commerce

Treas. Reg. § 1.501(c)(6)-1

"A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade."

E. Certain Other Limitations and Special Rules Applicable to Certain Exempt Organizations

I.R.C. § 527(f) Tax on Exempt Organizations

Imposes a tax on organizations that are exempt under § 501(c) and that expend amounts for an "exempt function," which is defined in § 527(e)(2) to mean "the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed."

Rev. Rul. 2004-6, 2004-1 C.B. 328

Presents a number of factual situations to illustrate when organizations exempt under §§ 501(c)(4), (5) and (6) are subject to tax under § 527(f) on their expenditures for § 527(e)(2) exempt (political organization) function activities. Discusses factors that tend to show whether an advocacy communication on public policy issues for a § 527(e)(2) (political organization) is an exempt function.

I.R.C. § 162(e) Lobbying and Political Expenditures

Generally denies a deduction for amounts paid or incurred to influence legislation, intervene in political campaigns, and conduct certain lobbying activities.

I.R.C. § 6033(e) Reporting of Lobbying and Political Expenditures

Requires organizations exempt from tax under § 501, other than § 501(c)(3) organizations, to report their total expenditures for lobbying or political expenses for which § 162(e)(1) denies a deduction.

II. DEFINITIONS

A. POLITICAL CAMPAIGN INTERVENTION

Treas. Reg. § 1.501(c)(3)-1(c)(3)(iii)

"Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such a candidate."

"The term candidate for public office means an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, State, or local."

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Rev. Rul. 67-71, 1967-1 C.B. 125

"[T]he organization's activity in evaluating the qualifications of all potential candidates and then selecting and supporting a particular slate constitutes participation in a political campaign on behalf of particular candidates, even though its proces s of selection may have been completely objective and unbiased and was intended primarily to educate and inform the public about the candidates."

Rev Rul. 67-368, 1967-2 C.B. 194

"Comparative rating of candidates, even though on a nonpartisan basis, is p articipation or intervention on behalf of those candidates favorably rated and in opposition to those less favorably rated."

Rev. Rul. 74-574, 1974-2 C.B. 160

"The broadcasting station, by reason of its disclaimers [about individual candidates and their positions] and the presentation of equal opportunities for all bona fide legally qualified candidates for the same elective public office to express their views, is not participating or intervening on behalf of or in opposition to any candidate for public office."

Rev. Rul. 86-95, 1986-2 C.B. 73

Organization that proposes to educate voters by conducting a series of public forums in congressional districts during congressional election campaigns is not participating in a political campaign on behalf of any candidate due to the neutral form and content of its proposed forums.

Rev. Rul. 2007-41, 2007-1 C.B. 1421, analyzes 21 situations to determine whether the organization described in each has intervened in a political campaign.

B. ATTEMPTING TO INFLUENCE LEGISLATION

Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii)

"[A]n organization will be regarded as attempting to influence legislation if the organization: (a) Contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or (b) Advocates the adoption or rejection of legislation."

"The term legislation . . . includes action by the Congress, by any State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure."

Haswell v. United States, 500 F.2d 1133, 1144 (Cl. Ct. 1974)

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"The part of [organization's] operations involved in the advocacy of the interests of railroad passenger consumers on legislative matters does not consist of activities which qualify as nonpartisan analysis, study, or research. . . [It] was partisan on this issue, and the materials submitted in support of its position were not the full and fair objective expositions that would enable the public or an individual to reach an independent conclusion."

Treas. Reg. § 56.4911-2(c)(1)

Generally excludes from the definition of lobbying communications "nonpartisan analysis, study, or research," which is defined in Treas. Reg. § 56.4911-2(c)(1)(ii) to mean "an independent and objective exposition of a particular subject matter, including any activity that is 'educational' within the meaning of § 1.501(c)(3)-1(d)(3). Thus, 'nonpartisan analysis, study, or research' may advocate a particular position or viewpoint so long as there is a sufficiently full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion. The mere presentation of unsupported opinion, however, does not qualify as 'nonpartisan analysis, study, or research.'" See Treas. Reg. § 1.501(c)(3)-1(c)(iv).

III. DETERMINING WHETHER ACTIVITIES FURTHERING NON-EXEMPT PURPOSES ARE SIGNIFICANT ENOUGH TO PREVENT EXEMPTION

Haswell v. United States, 500 F.2d 1133, 1142, 1147 (Cl. Ct. 1974)

"The political efforts of an organization must be balanced in the context of the objectives and circumstances of the organization to determine whether a substantial part of its activities is to influence, or is an attempt to influence, legislation. A percentage test to determine whether the activities are substantial is not appropriate. Such a test obscures the complexity of balancing the organization's activities in relation to its objectives and circumstances in the context of the totality of the organization."

"Distribution of expenditures is only one measure of the substantiality of [organization's] political activities."

Seasongood v. Commissioner, 227 F.2d 907, 909, 912 (6th Cir. 1955)

"[T]he so-called 'political activities' of the [organization] were not in relation to all of its other activities substantial, within the meaning of the section," where it involved no expenditures, employed no individuals for this work, and dedicated less than 5% of its time and effort.

Rev Rul. 68-45, 1968-1 C.B. 259

"The fact that the organization's principal source of income is from the conduct of bingo games with the general public does not mean that the games are also its primary activity.

All facts and circumstances are taken into account in determining an organization's primary activity." (social welfare organization)

I.R.C. § 501(h)

Provides an election for certain § 501(c)(3) organizations described in § 170(b)(1)(A) or § 509(a)(2)-(3) to apply an expenditure test to determine whether a substantial part of their activities are attempting to influence legislation.

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SFC 001746

From: Fish David L
Sent: Thursday, November 03, 2011 12:16 PM
To: Light Sharon P
Subject: FW: Advocacy Org Guidesheet Draft - updated
Attachments: Advocacy Org Guidesheet 11-3-2011.doc

From: Goehausen Hilary
Sent: Thursday, November 03, 2011 1:11 PM
To: Kindell Judith E; Miller Thomas J; Fish David L
Cc: Seto Michael C; Grodnitzky Steven; Lowe Justin; Kastenberg Elizabeth C; Hull Carter C
Subject: Advocacy Org Guidesheet Draft updated

Hello,

Attached is an updated version of the draft Advocacy Org Guidesheet that Cincinnati requested and has been asking us for. I received edits from Chip and have incorporated them into this draft. If anyone els e has any suggestions/revisions/etc. please make them as soon as possible so that next steps can be taken. If I can get any additional edits by next Wednesday, November 9, that would be much appreciated and then next steps can be determined. I think the dr aft is in great shape and would be beneficial to EOD. Please let me or Justin know if you have any questions, comments or concerns.

Thanks,
Hilary

Hilary Goehausen
Tax Law Specialist
Exempt Organizations
Technical Group 1
SFC
[redacted]

From: Goehausen Hilary
Sent: Wednesday, September 21, 2011 4:30 PM
To: Kindell Judith E; Miller Thomas J; Hull Carter C; Kastenberg Elizabeth C
Cc: Seto Michael C; Fish David L; Grodnitzky Steven; Lowe Justin
Subject: Advocacy Org Guidesheet draft

Hello,

Attached please find a draft of the Advocacy Org Guidesheet that Justin and I have been putting together. Please review and provide us with any and all comments and suggestions you have.

If you have any questions, please let me know.

Thanks,
Hilary

Hilary Goehausen

SFC 001747

Tax Law Specialist
Exempt Organizations
Technical Group 1
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f: SFC

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 legislati ve 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, nominat ion, 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

(i.e. legislative activity)	Must Not Be Substantial	Unlimited Amount If In Furtherance of Exempt Purposes	
Engage in general public advocacy not related to legislation or the election of candidates	YES; Permitted As An Educational Activity	YES; Unlimited Amount If In Furtherance of Exempt Purposes	LIMITED

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 b y 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 spe eches given by the candidate(s)?
- Does the organization, or has it ever, conducted voter education activiti es, 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.	Is there a "candidate" for "public office?" This is an individual who: • Offers himself, or • Is proposed by others • As a contestant for elective public office, whether national, state, or local public office. 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? 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.		
B.	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: • The position was created by statute • The position is continuous • The position is not contractual • The position is for a fixed term of office • The office requires an oath of office		
C.	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?		
	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?		
	Does the organization encourage individuals to vote for or against a particular candidate? 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.		
	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.? • Are such references coupled with reasonably overt indications that the organization supports or opposes a particular candidate or candidates in an election? • 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?		
	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.	**Personal Endorsements:** 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: • Do the organization leader's statements appear in a publication that is not an official publication of the organization? • Is the ad or publication paid for by the individual himself or herself, and not by the organization? • Is the organization leader's title and affiliation with the organization used for identification purposes only, and not to		

	indicate support by the organization?		
E.	**Candidate Forums:** 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: • Does the organization operate the forum in a manner indicating bias or preference for one candidate or candid ates over others, such as through biased questioning? • Has the organization indicated support for or opposition to a candidate (e.g., such as when the candidate is introduced)? • Does the organization invite only candidates who share the same position as the organization to participate? • Does the organization provide an equal opportunity for all candidates to participate? • Does the organization provide equal amounts of time for each candidate to answer questions and express their views? • Are questions prepared and presented by a nonpartisan, independent panel or moderator? • Does the moderator comment on questions or otherwise make comments that imply approval or disapproval of a candidate? • 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? • Do the topics discussed cover a broad range of issues that are of interest to the public? • Are the candidates asked to agree or disagree with positions, agendas, platforms, or statements of the organization, indicating prohibited campaign intervention?		
F.	**Candidate Appearances:** 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: • Was the candidate invited to speak at the organization's event in his or her capacity as a political candidate? • 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		

	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.) • 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)? • Did any political fundraising occur?		
G.	Did the candidate appear or speak at an organization event in a **non-candidate capacity?** (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: • Is the candidate publicly recognized by the organization or a representative of the organization during the event as a candidate for public office? • 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? • 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. • Has any campaign activity occurred in connection with the candidate's attendance?		
H.	**Voter Guides:** 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: • Are incumbents identified as candidates for re-election? • Are incumbents' positions compared to the positions of other candidates or the organization's position in a biased manner? • Is the voting guide distributed close in time to an election? • 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?		

	• Is the voting guide widely distributed among the electorate during an election campaign as opposed to the organization's membership? • Does the voting guide include only the voting records of candidates for office? • 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? • Does the voting guide contain editorial comments by the organization? • Does the voting guide contain express or implied approval or disapproval of a candidate's voting record?		
I.	**Candidate Questionnaires**: 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: • Does the candidate questionnaire contain editorial comments by the organization? • Does the candidate questionnaire include only issues of importance to the organization itself and not to the general public? • Does the questionnaire contain express or implied approval or disapproval of candidate responses?		

Section II: Lobbying

The following factors are indicative of lobbying (i.e. legislative activities):

		Yes	No
A.	Is the organization attempting to influence legislation or a legislative proposal? • 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. • Lobbying does not include attempts to influence (1) regulations or (2) administrative matters.		
B.	Is there "action" being taken with reference to the legislation? • Action includes introduction, amendment, enactment, defeat, or repeal by legislative bodies or the public.		

C.	Does the organization engage in "direct lobbying?" • Is the organization trying to influence legislation by directly contacting members or employees of a legislative body? • Does the organization communicate with government officials or employees who can affect legislation? • Do the communications refer to specific legislation? • Do the communications reflect the organization's specific views on legislation? • Does the organization advocate a position on a specific act, bill, or resolution?		
D.	Does the organization engage in "indirect" or "grassroots" lobbying: • Does the organization attempt to influence legislation by influencing the public's opinion on specific legislation? • Does the communication refer to specific legislation? • Does the communication reflect a view or position on the legislation? • 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?		

Section III: General Advocacy

The following are indicators of general advocacy:

		Yes	No
A.	• 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? • Is the organization attempting to influence non-legislative governing bodies (e.g., the executive branch, regulators)? • 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.)		
B.	Does the organization engage in "educational" activities? (See Rev. Proc. 86-43). The term "educational" relates to: • The instruction or training of an individual for the purpose of		

	improving or developing his capabilities, or • The instruction of the public on subjects useful to the individual and beneficial to the community.		
	Is the organization advocating a particular position or viewpoint ? If "Yes" to the following, the activity may qualify as permissible educational activity: • Does the organization present a sufficiently full and fair exposition of the pertinent facts that aid the listener or reader in the learning process? • Does the organization provide a factual background for the viewpoint or position being advocated ?		
C.	The organization's presentations should avoid the following factors in order to be considered educational: • Do the organization's presentations avoid expressing conclusions more on the basis of strong emotional feelings than of objective evaluations? • Does the organization avoid presenting viewpoints or positions unsupported by facts and this is a significant portion of the organization's communications? • Does the organization avoid presenting facts purporting to support its viewpoints or position made in a distorted manner?. • Does the organization avoid making substantial use of inflammatory and/or disparaging terms?		

SFC 001760

From: Thomas Cindy M
Sent: Tuesday, November 15, 2011 11:51 AM
To: Kindell Judith E
Cc: Letourneau Diane L; Fish David L
Subject: FW: Advocacy Cases for Triage
Attachments: advocacy.xls; Advocacy Orgs Cincinnati.xls

Judy,

Per Lois' request, I'm forwarding this information to you. Attachment 2 includes Hilary's comments regarding the advocacy cases.

From: Fish David L
Sent: Sunday, November 06, 2011 7:31 PM
To: Seto Michael C; Thomas Cindy M
Subject: RE: Advocacy Orgs Congressionals Coming! WE NEED TO MOVE ON THIS

Based on feedback received, the document won't work in its present form. I think we need to work with Determs to make it a usable document.

Mike will check with Hilary on clarifying the cases that can be approved, etc.

From: Seto Michael C
Sent: Sunday, November 06, 2011 7:18 PM
To: Thomas Cindy M
Cc: Fish David L
Subject: RE: Advocacy Orgs Congressionals Coming! WE NEED TO MOVE ON THIS

This is the follow-up on my e-mail I sent to you a few minutes ago. I read through the list, and I like to have Hilary to make the list a bit more clear on which cases need to be developed, the type of development needed, whether a particular case can be approved without further development and whether the organization is not an advocacy organization (therefore not needed to be included on the list).

The check/guide sheet is with David, Tom Miller and Judy Kindell for review. I can send you a draft copy. Let me know. I think we may have to clear the check/guide sheet with Lois, but I will check with David.

From: Seto Michael C
Sent: Sunday, November 06, 2011 7:02 PM
To: Thomas Cindy M; Lieber Theodore R
Subject: RE: Advocacy Orgs Where Do We Stand?
Importance: High

I have finally caught up with the e-mails and am focused on this technical issue. I will ask Hillary to elaborate whether these cases needs to be developed, the type of development needed or the organization is not an advocacy organization (therefore not needed to be included on the list).

The check/guide sheet is with David, Tom Miller and Judy Kindell for review. Once they approve it, I or David will send it to you. I think we may have to clear the check/guide sheet with Lois, but I will check with David. I can send you the current draft if you so desire. Let me know.

From: Thomas Cindy M
Sent: Sunday, October 30, 2011 2:23 PM
To: Seto Michael C
Cc: Fish David L
Subject: FW: Advocacy Orgs Congressionals Coming! WE NEED TO MOVE ON THIS
Importance: High

Mike,

It was my understanding from Holly that the cases were going to be put into buckets, i.e., those that can be approved as is, those that require additional development, and those that appear to be denials. Based on the email below from Hiliary, it sounds as though all of those with "General Advocacy" only can be approved as is. Is this your understanding? If so, we can go ahead and get those cases approved right away.

I'm not sure what the hold is on the document/guidance EOT is supposed to be providing for us, but I've received a phone call from an individual who was previously an EO Determinations specialist. He is working with one of these organizations (Cincinnati 912) and is threatening to go to his Congressional Office regarding this organization and others. That is only going to create even more work for us and we need to get letters out to these organizations ASAP,

Please let me know when we can expect to get the document from EOT. Thanks.

From: Goehausen Hilary
Sent: Wednesday, October 26, 2011 1:20 PM
To: Thomas Cindy M
Cc: Lieber Theodore R; Seto Michael C
Subject: FW: Advocacy Orgs Where Do We Stand?
Importance: High

Hi Cindy,

Below are comments that I made expl aining some of my notations on the cases in Excel. My understanding from speaking with Mike was that I was to review the cases to determine whether the cases were clearly lobbying or engaging in political campaign activities, or if an organization was not engaged in either and therefore was simply engaging in general advocacy (educational/issue advocacy activities etc). Where I had concerns about whether the c3s and c4s were actually engaging in good c3/c4 activities -- and not just making inflammatory, emot ionally charged statements without any factual support or educational aspect to their activities – I made notes reflecting such. Where it simply states "general advocacy" or "general advocacy/legislative advocacy" (or lobbying), without comments, those or ganizations appeared to be fine (no development).

If you would like me to provide a definitive answer on what organizations can go Favorable, I can do that (these would be the cases where I noted "general advocacy." However, many appear to need more infor mation (as noted in the comments in Excel).

-- I have marked asterisked (*) c3's that based on their Form 1023 and/or website are engaging in prohibited political campaign activities.

-- I use political activities/political campaign intervention/candidate election activities interchangeably to denote political activities.

-- While many of the c4 organizations appear to be engaging in general advocacy (issue advocacy/educational activities), many of these "social welfare activities" may need further develop ment because their websites include substantial inflammatory/strong emotional rhetoric, articles, etc. that really do not appear to be educational in most or any aspect, provide any factual background for the viewpoints expressed, and therefore may not qua lify as good c4 activities (promotion of social welfare, common good, etc.). Where there are questions relating to this and concerns about the activities (ie development would be needed), I have made comments.

-- Where I commented that a website needs to b e verified means that the org didn't provide their website address on their Form 1023/1024 but I located it during a web search and it would need to be confirmed by the taxpayer.

-- Where I denoted the activity of the org as "general advocacy," this means I didn't find any indication the org was engaging in political activities or lobbying at all. However, as mentioned above in #3, I made additional notations on such organizations and whether they were even educational, issue advocacy, etc., or whether the activities appear to be propaganda, based on personal emotions, inflammatory, and without any or little factual basis for statements made (ie generally bad c3/c4 activities).

If there are any questions, please let me know. Also, we are in the process of d rafting the Advocacy Org Guidesheet and it is circulating for review among our group currently. I don't have a date on when we can get that to you, but will speak with Mike and Justin.

Thanks,

Hilary

From: Thomas Cindy M
Sent: Tuesday, October 25, 2011 7:17 PM
To: Lieber Theodore R; Seto Michael C
Subject: FW: Advocacy Orgs Where Do We Stand?
Importance: High

Ted/Mike,

Not sure where this leaves us and I'm unclear as to what action is being suggested for some of these cases. Specifically, if the comment indicates "general advocacy," what does that mean --- additional development or what?

Also, where do we stand with the document Justin Lowe or others from D.C. were putting together with lessons learned, suggested developmental questions for those applying under c3 and for those applying under c4, sample denial letter, etc.? We're starting to get a lot of heat fr om the public on these cases sitting idle and now have Congressionals on some of these. What is the plan of action and estimated completion date? Thanks.

From: Lieber Theodore R
Sent: Monday, October 24, 2011 1:08 PM

SFC 001763

To: Thomas Cindy M
Cc: Seto Michael C
Subject: Advocacy Orgs Cincinnati.xls

Attached are Hillary comments from the screened cases.

From: Thomas Cindy M
Sent: Thursday, October 06, 2011 10:19 PM
To: Seto Michael C
Subject: RE: Advocacy Org Cases in TEDS / Mortgage Foreclosure Project

Mike - I incorporated responses into the e mail below. Thanks.

From: Seto Michael C
Sent: Thursday, October 06, 2011 2:16 PM
To: Thomas Cindy M
Subject: RE: Advocacy Org Cases in TEDS / Mortgage Foreclosure Project

Agree. I will let Hilary and Justin know that they should complete the cases on the list. We have a draft on areas to watch out for, but it is being vetted and not completed yet. I can send you a copy if you like. Let me know. [Thomas - I'd rather you send once it has been fully vetted and complete.]

Mortgage Foreclosure Project - The team said that we don't owe you any more cases. If that is the case and EOD doesn't need any more assistance, I will dissolve the EOT Mortgage Foreclosure Team. However, I will designate an EOT contact person for mortgage foreclosure cases if your staff need consultation on a particular case. Let me know if the contact person plan is good for you. [Thomas - contact person plan is good.]

Also, apparently, EO Exam is proposing a compliance project on mortgage foreclosure organizations in 2012 and has drafted a proposal (I have a draft if you one a copy). I spoke with Tonya Davis yesterday, and she said that she will need assistance on technical part of the project from EOT and/or EOD. Have she contacted you yet? As for EOT, I plan to designate a couple of contact person for the compliance project (thinking about Elizabeth Kastenberg and Ellen Berick). [Thomas - I haven't heard from her. We'd probably designate the manager, Bill Angner, or one of the senior specialist's in his group.]

Thanks, Mike

From: Thomas Cindy M
Sent: Tuesday, October 04, 2011 9:46 AM
To: Seto Michael C
Subject: RE: Advocacy Org Cases in TEDS

We don't have a team in place yet. Thus far, we had 1 agent coordinating with Chip Hull and that 1 agent has all the cases assigned to him. It would probably be best if Hilary and Justin completed the review of all cases so we know what buckets we have and how many cases are in each bucket. That would help us to figure out how many people we need involved in this effort. Also, I thought that a document was going to be shared with us with lessons learned and watch out areas from the cases worked in EOT, along with precedent, etc.

After we get this and determine who is going to be involved, then "yes" we'd want Hilary and Justin to meet with them via phone conference to discuss how to develop them, to answer questions, etc.

If you have concerns regarding this, let me know and we can have a call to discuss. Thanks.

From: Seto Michael C
Sent: Friday, September 30, 2011 4:38 PM
To: Thomas Cindy M
Subject: FW: Advocacy Org Cases in TEDS

Hi Cindy,

We have reviewed 11 cases so far and only one can go favorable. Would it help your team on those 10 cases if Hilary and Justin meet with them via phone conference to discuss how to develop them, like what we are doing in the ACA cases.

Let me know.

Thanks,

Mike

From: Goehausen Hilary
Sent: Friday, September 30, 2011 4:06 PM
To: Seto Michael C
Subject: Advocacy Org Cases in TEDS

Hi Mike,

After talking with Justin and reviewing some of th e cases I've looked at (11), we agreed that only one of the cases would be favorable. The other cases, while not engaging in political campaign intervention/activities, may need further development because it is questionable whether they're even engaging i n social welfare activities. Many are simply propaganda.

Justin explained to me the approach he and Susan Cundiff took while reviewing ACA cases in TEDS which involved having weekly meetings with the agents and discussing the cases. He thought a similar approach would work with these cases. We would go through them and talk to Cindy, etc. about our thoughts on each case, issues for further development, and other things they may want to consider. Is that an acceptable approach?

Thanks, Hilary

From: Thomas Cindy M
Sent: Thursday, September 15, 2011 3:25 PM
To: Paz Holly O
Subject: Advocacy Cases for Triage

Holly,

Per our discussion when you were in Cincinnati, we agreed that Justin and Hillary would review the advocacy cases in TEDS and would triage them. Attached is a list of all the cases we have that includes the name, EIN, subsection requested, and control date. The cases can be pulled up in TEDS by the EIN.

I also included a column for "Action To Be Taken." I thought that they could use this column to let us know if a case can be approved, needs more information, etc. If they choose to handle another way, that is fine too.

Please let me know if you need for me to take any other action. Thanks.

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Organization Name	Control Date	EIN	Subsection	Current EDS Status
[redacted] Tea Party	11/19/09	[redacted]	c-4	52
[redacted] Tea Party	12/04/09	[redacted]	c-4	52
[redacted] Tea Party	12/29/09	[redacted]	c-4	52
[redacted] Patriot [redacted] [redacted]	01/02/10	[redacted]	c-4	52
[redacted]	02/10/10	[redacted]	c-4	52
Tea Party Patrio [redacted]	02/10/10	[redacted]	c-4	52
Patriot [redacted]	03/02/10	[redacted]	c-3	52
[redacted] Responsible Government	03/08/10	[redacted]	c-4	52
[redacted] Tea Party	03/15/10	[redacted]	c-4	52
[redacted] Patriots	03/18/10	[redacted]	c-4	52
[redacted] Tea Party	03/19/10	[redacted]	c-4	52
[redacted] Tea Party, Inc.	03/26/10	[redacted]	c-4	52
Freedo [redacted]	03/26/10	[redacted]	c-4	52
[redacted] s	03/29/10	[redacted]	c-3	52
[redacted] Conservativ [redacted]	04/01/10	[redacted]	c-4	52
91 [redacted]	04/05/10	[redacted]	c-4	52
[redacted] Tea Part [redacted]	04/09/10	[redacted]	c-4	52
[redacted] Tea Party	04/14/10	[redacted]	c-4	52
[redacted] Tea Party	04/16/10	[redacted]	c-4	52
[redacted] Tea Party Patriots	04/29/10	[redacted]	c-4	52
Patriot [redacted]	05/03/10	[redacted]	c-4	52
[redacted] Our Natio [redacted]	05/05/10	[redacted]	c-4	52
[redacted] Tea Party	05/07/10	[redacted]	c-4	52
[redacted]	05/10/10	[redacted]	c-3	52
Conservativ [redacted]	05/11/10	[redacted]	c-4	52
[redacted] Patriots	05/11/10	[redacted]	c-4	52
Refor [redacted]	05/20/10	[redacted]	c-4	52
91 [redacted]	05/20/10	[redacted]	c-4	52
[redacted] s Tea Part [redacted]	05/21/10	[redacted]	c-4	52
[redacted] Tea Part [redacted]	05/26/10	[redacted]	c-4	52
[redacted] Tea Party	05/27/10	[redacted]	c-4	52
[redacted] Tea Party	05/28/10	[redacted]	c-4	52
[redacted] Americ [redacted]	06/03/10	[redacted]	c-3	52
[redacted] Conservativ [redacted]	06/07/10	[redacted]	c-4	52
[redacted] Tea Party Patriot [redacted]	06/11/10	[redacted]	c-4	52
[redacted] as Tea Party	06/11/10	[redacted]	c-4	52
[redacted]	06/14/10	[redacted]	c-4	52
America [redacted]	06/18/10	[redacted]	c-3	52
[redacted]	06/23/10	[redacted]	c-3	52
[redacted] Libert [redacted]	06/30/10	[redacted]	c-4	52
[redacted] Tea Part [redacted]	07/06/10	[redacted]	c-4	52
[redacted] Tea Party	07/08/10	[redacted]	c-4	52
[redacted]	07/12/10	[redacted]	c-3	52
[redacted]	07/13/10	[redacted]	c-4	52
[redacted] Conservativ [redacted]	07/14/10	[redacted]	c-4	52
[redacted] Tea Party [redacted]	07/19/10	[redacted]	c-4	52
[redacted] Patriots	07/20/10	[redacted]	c-4	52

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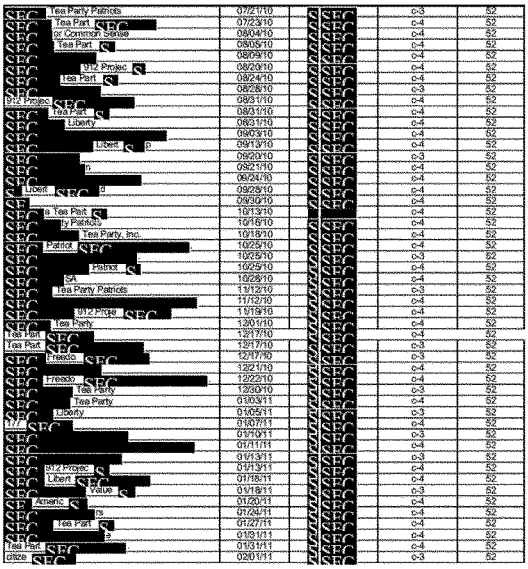

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[redacted]	02/01/11	[redacted]	[redacted]	c-3	52
[redacted]	02/03/11	[redacted]	[redacted]	c-3	52
[redacted]	02/10/11	[redacted]	[redacted]	c-4	52
Constitutio [redacted]	02/14/11	[redacted]	[redacted]	c-3	52
[redacted] Social and Economic Justice	02/14/11	[redacted]	[redacted]	c-4	52
[redacted] 9-12 Project [redacted]	02/22/11	[redacted]	[redacted]	c-4	52
[redacted] Liberty	02/22/11	[redacted]	[redacted]	c-4	52
[redacted] Growth and Development	02/22/11	[redacted]	[redacted]	c-4	52
[redacted] Prospernt [redacted]	02/22/11	[redacted]	[redacted]	c-4	52
Freedo [redacted]	03/07/11	[redacted]	[redacted]	c-4	52
[redacted] Better Governme [redacted]	03/09/11	[redacted]	[redacted]	c-4	52
[redacted] Tea Part [redacted]	03/09/11	[redacted]	[redacted]	c-4	52
[redacted] Freedo [redacted]	03/10/11	[redacted]	[redacted]	c-4	52
Progres [redacted]	03/11/11	[redacted]	[redacted]	c-4	52
[redacted]	03/15/11	[redacted]	[redacted]	c-4	52
[redacted] Freedom [redacted]	03/16/11	[redacted]	[redacted]	c-3	52
[redacted] Tea Party, e.c.	03/17/11	[redacted]	[redacted]	c-4	52
[redacted] Tea Party, Inc.	03/18/11	[redacted]	[redacted]	c-4	52
[redacted]	03/25/11	[redacted]	[redacted]	c-4	52
[redacted] Tea Party, Inc.	03/25/11	[redacted]	[redacted]	c-4	52
[redacted] Tea Party	03/28/11	[redacted]	[redacted]	c-3	52
[redacted] Progres [redacted]	03/30/11	[redacted]	[redacted]	c-4	52
[redacted] Tea Party	03/31/11	[redacted]	[redacted]	c-4	52
[redacted] p 9-12 Project	04/04/11	[redacted]	[redacted]	c-4	52
[redacted]	04/05/11	[redacted]	[redacted]	c-4	52
[redacted] Conservativ [redacted]	04/07/11	[redacted]	[redacted]	c-4	52
[redacted] Impact [redacted]	04/08/11	[redacted]	[redacted]	c-4	52
[redacted]	04/11/11	[redacted]	[redacted]	c-3	52
[redacted] Tea Party Patriot [redacted]	04/13/11	[redacted]	[redacted]	c-4	52
[redacted] Freedom	04/15/11	[redacted]	[redacted]	c-4	52
[redacted] 9-12 [redacted]	04/15/11	[redacted]	[redacted]	c-3	52
[redacted] Tea Part [redacted]	04/18/11	[redacted]	[redacted]	c-4	52
[redacted] Tea Party Patriots, Inc.	04/19/11	[redacted]	[redacted]	c-4	52
[redacted] the Future	04/22/11	[redacted]	[redacted]	c-4	52
[redacted] Tea Part [redacted]	04/27/11	[redacted]	[redacted]	c-3	52
[redacted]	05/02/11	[redacted]	[redacted]	c-3	52
Freedo [redacted]	05/04/11	[redacted]	[redacted]	c-4	52
Libert [redacted]	05/12/11	[redacted]	[redacted]	c-3	52
[redacted] Tea Part [redacted]	05/13/11	[redacted]	[redacted]	c-3	52
[redacted] Freedom [redacted]	05/17/11	[redacted]	[redacted]	c-4	52
[redacted]	05/23/11	[redacted]	[redacted]	c-3	52
[redacted] Tea Party, Inc.	06/06/11	[redacted]	[redacted]	c-4	52
[redacted] Liberty	06/09/11	[redacted]	[redacted]	c-4	52
[redacted] Liberty	06/09/11	[redacted]	[redacted]	c-4	52
[redacted] Liberty	06/09/11	[redacted]	[redacted]	c-4	52
[redacted] Liberty	06/09/11	[redacted]	[redacted]	c-4	52
[redacted] Liberty	06/09/11	[redacted]	[redacted]	c-4	52
[redacted] Liberty	06/09/11	[redacted]	[redacted]	c-4	52
[redacted] Redu [redacted]	06/13/11	[redacted]	[redacted]	c-3	52
[redacted] Patriots	06/13/11	[redacted]	[redacted]	c-4	52

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SEC Liberty	06/15/11	SEC	c-4	52
We the Peop SEC	06/15/11	SEC	c-4	52
Take Bac SEC	06/17/11	SEC	c-4	52
SEC	06/21/11	SEC	c-4	52
SEC	06/25/11	SEC	c-4	52
SEC Freedo SEC	06/28/11	SEC	c-4	52
SEC	06/28/11	SEC	c-3	52
SEC Regulatory Reform	06/28/11	SEC	c-4	52
SEC	06/29/11	SEC	c-4	52
Cohsery SEC	06/29/11	SEC	c-3	52
SEC	06/30/11	SEC	c-3	52
Progressive SEC	07/01/11	SEC	c-4	52
SE Citizens United	07/05/11	SEC	c-4	52
SEC	07/06/11	SEC	c-3	52

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Action To Be Taken
Not clear if primarily political campaign intervention or general advocacy; substantial PCI activities on webpage, but requires becoming a member to access a lot of links on page; additonal development.
Appears to be primarily political campaign intervention.
Proposed favorable; general advocacy (attemptings to influence public opinion on issues, rather then legislative activities); educational; limited campaign activities.
Appears to be primarily political campaign intervention; little to no general (issue) advocacy activities/educational activities. More development may be needed, including minutes from meetings held.
Unclear whether primarily political campaign intervention or an advocacy org; more development needed, including copies of weekly newsletters. Based on website, primarily political campaign intervention. On the org's webpage,
Additional development needed; no significant amount or clear campaign intervention; however little issue advocacy or educational; significant inflammatory language, highly emotional language, little to no educational information
Suggested denial; activities are commercial in nature.
Denial; Articles specifically state their purposes are to "Promote the election of candidates that support limited government."
Issue advocacy; additional development may be needed as majority of website involves reposting various news articles, postings on website show little educational value; appear mostly emotional, inflammatory, no factual suppor
General advocacy org
Political campaign activity, no educational activities/content or legislative activities that I can see.
Appears to be mostly engaging in primarily political campaign activity; no apparent educational or legislative activities.
General advocacy org; additional development should include requests for pamphlets, other published materials.
Not on TEDS, no website
Legislative and general advocacy lucation/not social welfare
General advocacy org; more development likely
General advocacy; more development likely because little to no general issue advocacy/educational activities or lobbying
Advocacy org; some political campaign activity on state level (see Form 1024)
Advocacy org; additional development needed; hold candidate forums (one indep, 3 republicans, no dems or others); website offers little information about activities/issues.
General advocacy org
Both general advocacy and political campaign activities; more development needed to determine how much PCA the org egnages in.
Unclear; Additional development; website requires log in. News articles say that Sarah Palin formed the org. Form 1024 is bare as to activities.
Substantial campaign activity; additional development needed to determine if primary.
Couldn't pull up on TEDS
Unclear whether general advocacy or primarily political campaign activties.
No apparent political activities; General advocacy; voter education activities
General advocacy org; additional development needed. Web articles link the org t [redacted].
General advocacy org; appears to be some political campaign activities; additional development needed because little issue adv/educational activities on website; information on rallies/meetings, etc
General advocacy org
Political activities; narrative states "half of" activities include getting to know candidates running for office; also publish voting score cards
General advocacy org
General advocacy; lobbying
c3; Couldn't pull up on TEDS, but did a website search (verify website); based on website indirect prohibited political activities (anti-Obama rhetoric on website); substantial propaganda.
General advocacy; some candidate activity
General advocacy
Political campaign intervention is substantial; more development to determine if primary activity; also more development on any advocacy activities because as of filing Form 1024, had not engaged in any. See no educational act
Lobbying is primary activity; development should include what lobbying activities and legislation specifically they have tried to influence & how it relates to its exempt purposes. 1024 is vague and website is bare.
c3; purpose is to hold forums but little to no description of why/what purposes/topics/etc; more development needed; description of activities very bare.
General advocacy; educate public on civil rights and liberties.
General advocacy; political activities (hold candidate forums)
Appears to be general advocacy; more development needed; no detail as to what issues they're advocating/educating on; can't access website.
Political activties and general advocacy; issue advocacy/educational activities lacking from website.
Lobbying (healthcare legislation repeal) appears to be significant; Also, political activities (held candidate forum where only 1 candidate appeared and 2 others did not)
Lobbying and general advocacy
General advocacy; little to no details or info on issues/educational activities on website or Form 1024
Political campaign activities; verify website; website articles are emotional/inflammory; little to no description of activities on Form 1024; more development needed re political activities and educational value of website/other mater
Substantial amount of campaign activity, including candidate forums, candidate ratings, etc. More development to determine if primary activity.

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Lobbying; provide narrative description of activities; website is heavy on legislation, call to action on specific legislation; little to no educational aspects other than bare description of legislation, no substantive discussion of issues
Significant political campaign activity; further development needed to determine if primary activity; have "vetting committees" for candidates and endorse specific candidates for various elections
Lobbying and general advocacy org; candidate election advocacy (does not appear primary)
Lobbying and egneral advocacy org; engages in political campaign activity but does not appear to be primary activity
Denial; Org states in its application that it is a PAC "which primarily helps members elect candidates who reflect our values through a variety of activities aimed at influding the outcome of elections."
General advocacy org; development may need to include how much of its activities/educational/issue advocacy is provided to public vs only membership.
Appears to be primarily political campaign intervention; website shows no educational activity or issue advocacy or legislative advocacy. Narrative of activities is bare with no detail other then dates of rallies.
Appears to be general educational advocacy; website down so could not view.
Appears to be general advocacy; couldn't access website
General advocacy and legislative advocacy; some candidate election advocacy but not primary
General advocacy/some lobbying, but does engage in candidate election advocacy, further development to: little to no educational value; emotional/inflammatory language/unsupported "factual" statements.
"Lobbying and general advocacy org; however, significant anti-Obama rhetoric and articles; appears to be an anti-Obama Administration website; however there are educational materials on site.
Significant legislative advocacy; development should include determining whether this is primary activity or germane to any exempt purpose; have held a number of candidate forums; development should explore if any candidate
c3; Educational advocacy org; voter registration/drive activities; However, may be direct/indirect campaign intervention. (substantial language/information on website focuses on democratic attacks and republican/conservative r
General advocacy org & lobbying activities, however little to no educational activities/issue advocacy; highly inflammatory and disparaging commentary/articles. Appears to have no objectivity, no factual support for statements, et
Legislative advocacy appears to be primary activity. Org is advocating a health care reform/freedom act.
Appears to be substantial lobbying and campaign election activities
More development necessary; affiliated wit [redacted]; Form 1024 provides little to no information on activities and is vague and broad as to planned activities.
Org specifically states activities involve candidate election advocacy; need to determine if primary activity.
Political campaign activities; supporting candidates; website has little on educational activities, a lot of info on campaign activities and candidate forums. Need to determine if primary activity.
Political campaign intervention appears to be a significant if not primary activity.
Unclear; much more development needed; Form 1024 description of activities is bare and not detailed. No website.
c3; Appears educational in line with 501c3 purposes; no apparent political campaign activity;"Development should look into whether compensation of CEO is reasonable
Significant political campaign activities (a lot of anti-Obama) but also general adv/educational activities (some facts/some inflammatory/emotional viewpoints/lanaguage); need to determine if PCA is primary.
General advocacy; some educational activity on website, however, a lot of emotional commentary/personal commentary based more on personal positions; conclusions/comments based more on strong emotional feelinfs then ob
501(c)(3); denial; Engages in political campaign activity. Specifically checked on Form 1023, Part VIII, Specific Activities, that the org will support or oppose candidates. Additionally in narrative the org states it rates candidates a
Engages in candidate election advocacy; specifically endorses certain candidates; engages in some legislative and general advocacy; need to determine if campaign election activities are primary activity.
General advocacy org; however, very vague on activities, for example states that its purpose is to educate on local, state and national issues but does not discuss those issues. Website is bare except for disparaging commentary
Primary activity appears to be political activities/campaign intervention; majority of website involves anti-Obama articles and posts
Unclear; org states its activities include helping "tea party" orgs market themselves, develop their org, attract speakers, develop websites, produce stickers/flags/items, etc. which seems like commercial/business activity, little to n
c3; Unclear: no website; Form 1023 narrative description of activities bare; additional development needed to determine if any political activities.
Appears to be general advocacy (educational activities). No website; development should request copies of brochures/pamphlets/materials distributed at fundraising or speech events, etc. to determine if any political activities are
Appears to be general advocacy; must sign up to access "stay informed" part of website.
General advocacy org
501c3; polls members to see who they are voting for (prohibited political activities). Also lobbying; made 501(h) election.
Couldn't locate on TEDS
501c3; may be political activities; development needed to determine if there is (comments made regarding Obama)
Unclear; website shows substantial anti-Obama information; log in required for part of site; development should include copies of "fax blasts" and other materials disseminated to determine if political campaign activity and if prima
c3; 501h election; educational; no political campaign activities; "development should include determining reasonableness of CEO compensation (at $650,000 a year)
Legislative/general advocacy; Primary purpose is to defeat a state ballot initiative; engages in educational activities related to opposition to the measure.
501c3; unclear whether advocacy org or if they engage in political campaign intervention/activities; development needed because Articles state part of its purpose is to promote business interests of its members as well as issue n
General advocacy org; political campaign activity but not apparently substantial or primary.
Couldn't access on TEDS
501c3; engaging in lobbying. Language in Form 1023 narrative doesn't appear to be good c3 activities; language in Articles says specific purpose is to educate on "threats posed by radical Islam", combating these threats, etc. Or
Primary activity may be political campaign intervention. Significant Republican candidate election advocacy and campaign communications on website.
General and legislative activity
Org states 50% of activities will be devoted to political campaigning and endorsement of candidates. General advocacy org/lobbying; lobbying activities also extensive
Org states majority of activities divided between training people for lobbying and campaign activities
States it's an advocacy org; Form 1024 narrative is bare and undetailed; website is unavailable. More development likely.
Couldn't access on TEDS

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501c3; potential political campaign activity; negative commentary/articles on Obama on website. More development needed.
501c3; additional development needed on reasonableness of executive compensation as well as activities and if there are any prohibited campaign activities.
Unclear what this organization is intended for; raises money for scholarship program(s), but also spent $1000 to send Tim Melton to a conference called the American Legislative Council Conference which does not appear to hav
Couldn't access on TEDS

Primary purpose is political campaign intervention according to website which states "our goal is to impact the 2010 elections." Form 1024 narrative provides little, undetailed information. Website is less educational and more em
Lobbying and general advocacy
Primary purpose is to lobby for legislation; lobbying appears to relate to its exempt purposes
Appears to be general advocacy org; no website. Form 1024 narrative provides emotional language as opposed to description of educational activities. More development needed.
General advocay org
Legislative and general advocacy
Legislative advocacy org; primary/main activity is lobbying. Some candidate election advocacy on website (verify website).
Legislative and political campaign activities and general advocacy; including voter education activities (voter registration, get out vote drives, etc)
Unclear; significant anti-Rick Perry rhetoric; little educational aspects to website (verify website with org); emotional commentary significant.
Couldn't access on TEDS
Couldn't access on TEDS
Provided BLANK Form 1024; provided no narrative, provided no financial data.
Lobbying and substantial political campaign activities, general advocacy as well
Lobbying and general advocacy
Lobbying/legneral advocacy activity
c3; May be engaged in substantial lobbying activities (no 501h election) and may also be engaged in prohibited political campaign activity (see website; holding a meeting about the presidential straw poll, more development need
Legislative and general advocacy; verify website (little to no information).
Unclear; development needed (website requires registered access); review website to determine if any true educational activity, or majority of which is inflammatory/emotional
General advocacy org; development needed to determine if any lobbying activities
General advocacy; may have some political activities; affiliated with a 527 PA [redacted]
Primary activity may be candidate election intervention/political campaign activity based on website
Political activities; possible general advocacy but website provides little educational material or issue advocacy; activities include candidate vetting; development needed and should request information to help determine what issu
501c3; no apparent campaign activity visible from 1023 or website. No legislative activity, may be issue advocacy.
General advocacy org; has presidential election poll on website but appears to be extent of political activity
Engages in lobbying and general advocacy
501c3; no apparent campaign activity; couldn't access website though.
501c3; significant propoganda, potentially substantial lobbying activities; not good c3 activities.
General advocacy org and engages in political activities; development should include questions on candidate forums, copies of any materials distributed, etc. Determine whether candidate/campaign activity is primary activity.
*This org was a 527 that terminated its status, news reports talk about a bankruptcy. It was associated with/formed b [redacted] It seeks to become a 501c4; the 527 is transferring any assets to to the 501c4 and all employe
c3 engaging in prohibited political campaign intervention; website has a section devoted to an Elections Committee that "identifies, vets, and supports" candidates for office, pictures of group at campaign rallies wearing shirts sup
c3; also filed first page of 1024 application?; educational activity; no apparent lobbying activities; no political activities; "development may want to address reasonableness of compensation for the org's president.
Substantial activity may be lobbying; development should request copies of "educational" materials it distributes/produces, materials from events, etc. to determine if lobbying is primary activity and if there are actual educational a
501c3; development needed to determine if engaging in prohibited political activities/propaganda; no access to website (must sign in to view)
501c3; engaging in prohibited political activity (see Candidate Bio page on website with language that appears to favor candidates discussed on page in addition the org fails to provide bios on ALL candidates for the offices at iss
Primary activity appears to be lobbying; appears related to org's specific exempt purposes
501c3; no website or can't find via web search; appears to be general advocacy/educational org; development should determine if any prohibited political activity or propaganda occurs
General advocacy/issue advocacy; need to determine if any educational activity or if activity/language of org is purely based on emotion/not fact.
Couldn't locate on TEDS
Couldn't locate on TEDS
Couldn't locate on TEDS
Couldn't locate on TEDS
Couldn't locate on TEDS
Couldn't locate on TEDS
501c3; purpose is to raise money to send to the Treasury Department to help pay off national debt. No political campaign activities; legislative activities.
General advocacy org; activities may be less educational and more emotional rhetoric (see website articles).

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Lobbying;This org's website has substantial inflammatory/emotional rhetoric, no educational information found. Bad c4 activity.
Lobbying and general advocacy.
Couldn't locate on TEDS
* Org could be controversial; appears to be anti-Islamic group; purpose appears to be "educating" on the dangers of radical Islam/Sharia law/Muslim Brotherhood etc. While there are educational aspects to some articles on webs
Primary activities appear to be lobbying and political campaign activities, will compose candidate questionnaires, voter guides, etc. Development needed to determine if legislative activities are related to exempt purposes.
Unclear; more development needed to determine whether political activities are primary
501c3; 501(h) election; educational activities. However, have concerns about one activity of org that involves its website and that will "provide a means by which corporate employees and citizens with information on illegal and frau
General advocacy org; purpose is to influence regulations
Lobbying activities and general advocacy
501c3; no website; additional development to determine if any political activities; request materials, etc.; as well as compensation and allowance of discretionary bonuses
501c3; website under construction; additional development recommended to obtain materials distributed, research conducted, more detail on activities.
c4 appears to be engaged in lobbying & general advocacy; has related 527 PAC; president i [redacted], Link to PAC is on c4's website
Political campaign activities appear to be substantial based on Form 1024 narrative; development may be needed.
c3; 501h election; expedited case; General advocacy; unsure whether any good c3 activities; website found is bare

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under "President's Message," states: "Our ultimate goal is to turn California's 54 electoral votes back to a conservative candidate. First order of business is to get Barbara Boxer out of office in 2010, and advance to take
on issues. Additional development should include copies of materials provided to members: press releases, articles, commentary, and research reports; should obtain copies of these; copies of reports/summaries that a

t. Additional development should request copies of email newsletters sent to subscribers.

ivity or issue advocacy

nels

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election advocacy took place, how much, if primary etc.
esponse so development is needed and should examine this language/web section)
e.

jective evaluations. Development should include examining educational value to web-based comments/postings/etc.
nd allow candidates who support org's ideals to endorse the org. Website also urges citizens to contact Congress (grassroots lobbying).

y about a local council person.

o educational or issue advocacy on website. Additionally, alot of campaign rhetoric, reference to taking back the country after Nov 2 elections. Attachment includes emotional rhetoric, nothing objective or informational; vi

occuring/occurred.

ry.

egarding political activity.

g could be engaging in substantial inflammatory rhetroic/propaganda; may be engaging in more than substantial lobbying;development should request all types of materials the org publishes, videos, dvds, etc. they prod

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e anything to do with the org's raising of funds for stated scholarship program [redacted]). More development needed.

otional commentary.

ed). Have also held candidate forums so development should request materials from forums and information as to who was invited and who attended, questions presented, etc to determine if any political campaign interv

le advocacy/educational activities are being undertaken and questions on their "candidate vetting" and copies of materials distributed/produced.

ses from 527 will work for the 501c4.Development needed.
porting certain candidates. Form 1023 they checked no to engaging in political campaign activity.

ctivities of the org being conducted so as to be a good c4.

ue); additionally, there is language on website regarding "hold your elected officials accountable"; development should ask what the org means by this? Or how it intends to "hold elected officials accountable." A substanti

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ibe, the materials/articles/etc could be propoganda, and based more on emotion/inflammatory language then educational. Development may also want to include reasonableness of compensation for org's Secretary (only

ıdulent corporate behavior may publicize this information."

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n Dianne Feinstein in 2012. We will pursue the 2016 elections with dedication and numbers."
re prepared by the org's various "committees"

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ewpoints/positions unsupported by facts. Development may also want to include examining whether exec compensation is reasonable.

Joe

SFC 001780

3 Year Automatic Revocation Cases

ention occurred or meets educational aspect.

ial part of activities also may be lobbying.

3 Year Automatic Revocation Cases

one receiving compensation; $30,000).

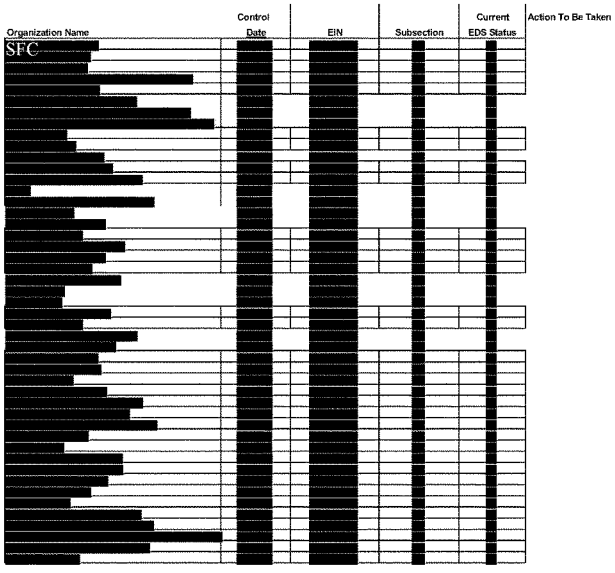
SFC 001782

Current MF Status	TOTAL
01	#REF!
02	#REF!
21	#REF!
23	#REF!
24	#REF!
25	#REF!
31	#REF!
32	#REF!
36	#REF!
97	#REF!
Total Number of 27 Month Cases	**#REF!**

Current EDS Status	
52	161
37 (ready to close)	0

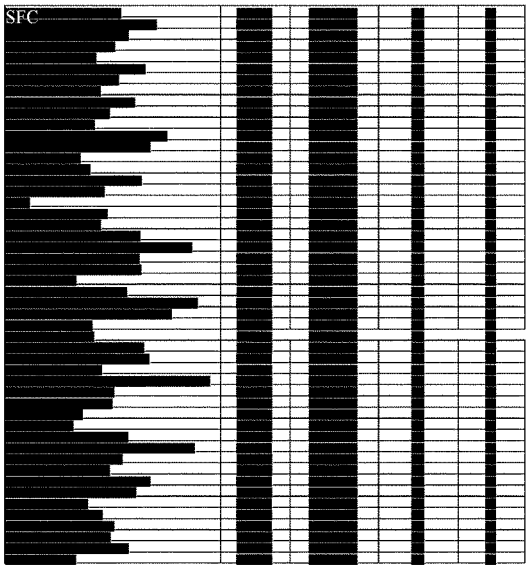
SFC 001783

3 Year Automatic Revocation Cases



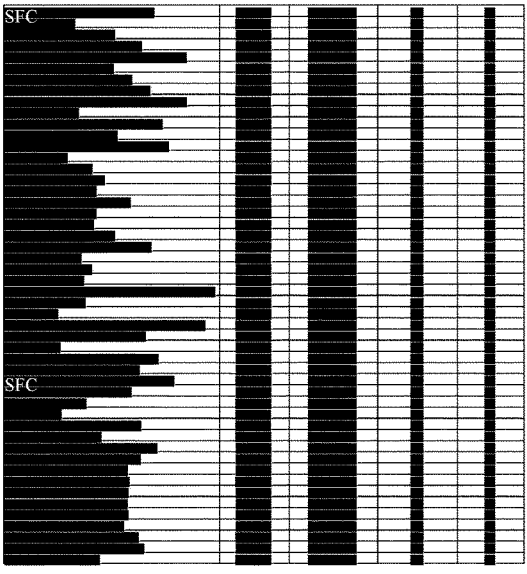
SFC 001784

3 Year Automatic Revocation Cases



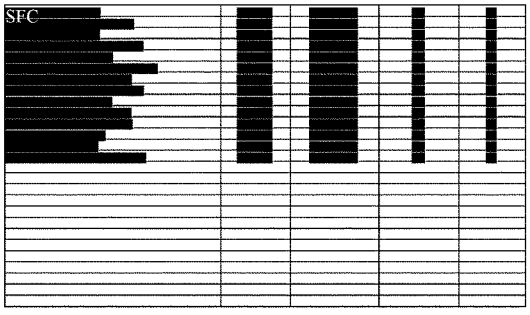
SFC 001785

3 Year Automatic Revocation Cases



SFC 001786

3 Year Automatic Revocation Cases



Current MF Status	TOTAL
01	#REF!
02	#REF!
21	#REF!
23	#REF!
24	#REF!
25	#REF!
31	#REF!
32	#REF!
36	#REF!
97	#REF!
Total Number of 27 Month Cases	**#REF!**

Current EDS Status	
52	161
37 (ready to close)	0

SFC 001788

From: Lerner Lois G
Sent: Monday, March 05, 2012 12:00 PM
To: Flax Nikole C
Subject: FW: Schedule a meeting on advocacy sheet?

Importance: High

Just FYI

Lois G. Lerner
Director of Exempt Organizations

From: Lerner Lois G
Sent: Monday, March 05, 2012 12:39 PM
To: Cook Janine; Spellmann Don R
Cc: Paz Holly O
Subject: FW: Schedule a meeting on advocacy sheet?
Importance: High

Not sure we have that much time guys --this is at the Commissioner level. I met with Miller Friday and I will be going up to Senate Finance this Thursday --we have told everyone that we gave this to staff to use in the cases, so we need to be able to make it public yesterday! We'll move our schedules around, but I'm guessing there will still need to be work once we've talked. Can we do a call today?

Lois G. Lerner
Director of Exempt Organizations

From: Paz Holly O
Sent: Monday, March 05, 2012 12:36 PM
To: Lerner Lois G
Subject: Fw: Schedule a meeting on advocacy sheet?

Sent from my BlackBerry Wireless Device

From: Spellmann Don R [redacted]
Sent: Monday, March 05, 2012 12:12 PM
To: Paz Holly O; Fish David L; Kindell Judith E; Seto Michael C
Subject: Schedule a meeting on advocacy sheet?

SFC 001789

We'd like to come over and talk about the advocacy guidesheet and present our suggestions. We'll bring a revised draft with us. How does Thursday March 8 look for all of you (and whomever else needs to be included)? Preferred meeting times would be 10 or 1. We're thinking this discussion would be elow the Lois/Janine level. We could do the same thing on Friday the 9th.

Please let us know if this works for you.

Thank you.

Don

Don R. Spellmann
Senior Counsel
Office of Division Counsel/Associate Chief Counsel
(Tax Exempt and Government Entities)
1111 Constitution Avenue, NW SFC
Washington, DC 20224
SFC (Fax)

SFC 001790

From: Goehausen Hilary
Sent: Tuesday, February 28, 2012 2:29 PM
To: Seto Michael C; Hull Carter C; Grodnitzky Steven
Subject: RE: Updated Advocacy Org timeline
Attachments: Timeline - Political Advocacy Cases in EOT-Hilary edits.doc

I just added a few suggestions using track changes. Thanks!

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

From: Seto Michael C
Sent: Tuesday, February 28, 2012 3:07 PM
To: Goehausen Hilary; Hull Carter C; Grodnitzky Steven
Subject: RE: Updated Advocacy Org timeline
Importance: High

The timeline is excellent. I made 2 changes. I placed Chip's involvement in a separate section and added a section on the preparation of the guide sheet. Please review. Please give me your changes, if any, by 4 PM. I will send it to Holly thereafter.

Great job!

Thanks, Mike

From: Goehausen Hilary
Sent: Tuesday, February 28, 2012 1:59 PM
To: Seto Michael C; Hull Carter C; Grodnitzky Steven
Subject: Updated Advocacy Org timeline
Importance: High

Attached is a 3rd version of the Advocacy Organization Timeline for review and input.

Thanks,
Hilary

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

A. Timeline for the 3 exemption applications that were referred to EOT from EOD

1. Prescott Tea Party, LLC	2. American Junto, Inc.	3. Albuquerque Tea Party, Inc.
The Applicant sought exemption under §501(c)(3) formed to educate the public on current political issues, constitutional rights, fiscal responsibility, and support for a limited government. It planned to undertake this educational activity through rallies, protests, educational videos and through its website. The organization also intended to engage in legislative activities. The case was closed FTE on May 26, 2010.	The organization applied for exemption under §501(c)(3), stating it was formed to educate voters on current social and political issues, the political process, limited government, and free enterprise. It also indicated it would be involved in political campaign intervention and legislative activities. The case was closed FTE on January 4, 2012.	The organization applied for exemption under §501(c)(4) as a social welfare organization for purposes of issue advocacy and education. A proposed adverse is being prepared on the basis that the organization's primary activity is political campaign intervention supporting candidates associated with a certain political faction, its educational activities are partisan in nature, and its activities are intended to benefit candidates associated with a specific political faction as opposed to benefiting the community as a whole.
Timeline: **2009** • **11/09/2009** → Application received by EOD. • **12/18/2009** → Case assigned to EOD specialist. **2010** • **3/08/2010** → **Date the case was referred to EOT.** Case pulled from	**Timeline:** **2010** • **2/11/2010** → Application was received by EOD.	**Timeline:** **2010** • **1/4/2010** → Application was received by EOD.

EOD files to send to EOT for review. • **3/11/2010** → EOD prepared a memo to transfer the case to EOT as part of EOT's review of some of the "advocacy organization" cases being received in EOD. • **4/02/2010** → Case assigned to EOT. • **4/14/2010** → 1st development letter mailed to Taxpayer (Response due by 5/06/2010). • **5/26/2010** → Case closed FTE (90-day suspense date ended on 8/26/2010).	• **4/11/2010** → Case assigned to a specialist in EOD. • **4/25/2010** → EOD emailed EOT (Manager Steve Grodnitzky) regarding who EOD should contact for help on "advocacy organization" cases being held in screening. • **5/25/2010** → EOT requested a §501(c)(3) "advocacy organization" case be transferred from EOD to replace Prescott Tea Party, LLC, a §501(c)(3) advocacy organization applicant that had been closed FTE. • **6/25/2010** → Memo proposing to transfer the case to EOT was prepared by EOD specialist. • **6/30/2010** → **Date the case was referred to EOT.** • **7/7/2010** → 1st development letter sent (Response due by 7/28/2010). • **7/28/2010** → EOT received Taxpayer's response to 1st development letter.	• **2/22/2010** → Case assigned to EOD specialist. • **3/11/2010** → EOD prepared memo to transfer the case to EOT as part of EOT's help reviewing the "advocacy organization" cases received in EOD. • **4/02/2010** → Case assigned to EOT. • **4/21/2010** → 1st development letter sent (Response due by 5/12/2010). • **4/29/2010** → Taxpayer requested extension for time to respond to 1st development letter. TLS granted extension until 6/11/2010. • **6/8/2010** → EOT received the Taxpayer's response to 1st development letter.

	2011 • **4/27/2011** → 2nd development letter sent (Response due by 5/18/2011). • **5/18/2011** → EOT received Taxpayer's response to 2nd development letter. • **8/10/2011** → EOT met with Chief Counsel to discuss the "advocacy organization" cases pending in EOT, including American Junto (and Albuquerque Tea Party, discussed next). EOT and Counsel determined that additional development should be conducted on both. • **11/18/2011** → 3rd development letter sent (Response due by 12/9/2011). • **12/16/2011** → TLS left voicemail with Taxpayer to determine if the organization had responded or planned to respond to 3rd development letter. • **12/22/2011** → TLS again contacted the Taxpayer to determine if the organization was going to respond to 3rd development letter. The Taxpayer indicated it was not going to respond and that the organization had	**2011** • **5/13/2011** → File memo forwarded to Guidance for review. • **6/27/2011** → The case file and file memo were forwarded to Chief Counsel for review and comments regarding EOT's proposed recognition of exemption. • **8/10/2011** → EOT met with Chief Counsel to discuss the "advocacy organization" cases pending in EOT including Albuquerque Tea Party (and American Junto, discussed previously). EOT and Counsel determined additional development should be conducted on both. • **11/16/2011** → 2nd development letter sent to the Taxpayer (Response due by 12/7/2011). • **11/30/2011** → TLS spoke with Taxpayer and granted a 30-day extension to respond to the 2nd development letter. Extension was granted until 1/6/2012.

	dissolved. An FTE letter was prepared. **2012** • **1/4/2012** → FTE letter mailed to the Taxpayer (90-day suspense date ends 4/4/2012).	**2012** • **1/11/2012** → EOT received Taxpayer's response to 2nd development letter. • **1/24/2012** → After review of file, TLS recommended a proposed denial. The TLS is currently drafting a proposed denial.

B. Timeline for informal technical assistance which was provided by EOT Personnel to EOD between May 2010 to October 2010

- 5/17/2010 → EOD personnel (Liz Hofacre) contacted and referred 2 proposed development letters to an EOT personnel (Chip Hull) for informal review.
- Between May, 2010 to October 2010, EOT personnel (Chip Hull) informally reviewed approximately 26 case exemption applications and development letters on behalf of EOD. Mr. Hull provided feedback on most of the 26 exemption applications.

C. Timeline for preparation of the Advocacy Organization Guide sheet

- Late July 2011 - started drafting the guide sheet to help EOD personnel working advocacy organization cases in differentiating between the different types of advocacy and explaining the advocacy rules pertaining to various exempt organizations.
- Early November 2011 - forwarded to EOD for comments. No comments were received.

SFC 001796

From: Marshall David L
Sent: Monday, March 26, 2012 6:02 AM
To: Griffin Kenneth M; Hunt Sylvia F
Subject: Inventory as of 3/26/12

The following are cases on my docket or with which I am substantially involved as of 3/26/12.

SFC [redacted]

[redacted]

[redacted]

SFC [redacted]

[redacted]

[redacted]

SFC

SFC

SFC

SFC [redacted]

[redacted]

[redacted]

SFC [redacted]

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SFC 001799

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SFC [redacted]

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[redacted] SFC [redacted]

SFC [redacted]

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IRS0000058865

SFC

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SFC [redacted]

[redacted]

SFC [redacted]

[redacted]

[redacted]

SFC [redacted]

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[redacted]

Advocacy Guide Sheet PRESP-109143-12 (Spellmann) This is a highest priority matter involving how to release an advocacy guide sheet to the public during a Presidential election year and whether and how to involve or inform Treasury. There has been much public discussion of the allegedly delayed processing time of certain applicants for recognition of section 501(c)(4) social welfare status and the extent to

which such organizations may participate in political campaign intervention without jeopardizing their tax-exempt status. Vicki and Janine are considering how to proceed with Lois, Steve and Nicole. This matter already is the subject of much Congressional inquiry (through constituent letters), questioning of Doug Shulman on the Hill and reportedly further Congressional hearings. We are, in part, waiting to hear further instructions from our executives, but in the meantime are scrubbing an existing draft in anticipation of a much reduced public release package.

SFC [redacted]

[redacted]

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SFC [redacted]

[redacted]

[redacted]

SFC [redacted]

[redacted]

SFC [redacted]

[redacted] SFC [redacted]

[redacted]

[redacted]

[redacted]

David L. Marshall
General Attorney, CC:TEGE:EOEG:EO
IRS, Office of Chief Counsel
(Tax Exempt & Government Entities)
1111 Constitution Ave. NW [redacted]
Washington, DC 20224
Telephone: [redacted]
Fax: [redacted]

From: Seok Stephen D
Sent: Monday, December 12, 2011 2:11 PM
To: Bell Ronald D; Estes Janine L; Garuccio Jodi L; Herr Joseph R; Herring Donald Grant; Hofacre Elizabeth L; Marquez Elizabeth J; Morris Annetta R; Steele Mitchell P; Seok Stephen D; Woo Gregory; Young Carly
Cc: Bowling Steven F
Subject: Advocacy Org. Guide Sheet (Draft)
Attachments: Advocacy Org Guidesheet 11-3-2011 (2).doc

Attached find Advocacy Org. Guide Sheet (Draft) from EO Tech. Please review before the meeting.

Thank you,
Stephen.

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 legislati ve 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, nominat ion, 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

(i.e. legislative activity)	Must Not Be Substantial	Unlimited Amount If In Furtherance of Exempt Purposes	
Engage in general public advocacy not related to legislation or the election of candidates	**YES; Permitted As An Educational Activity**	**YES; Unlimited Amount If In Furtherance of Exempt Purposes**	**LIMITED**

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 b y 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 spe eches given by the candidate(s)?
- Does the organization, or has it ever, conducted voter education activiti es, 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.	Is there a "candidate" for "public office?" This is an individual who: • Offers himself, or • Is proposed by others • As a contestant for elective public office, whether national, state, or local public office. 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? 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.		
B.	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: • The position was created by statute • The position is continuous • The position is not contractual • The position is for a fixed term of office • The office requires an oath of office		
C.	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?		
	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?		
	Does the organization encourage individuals to vote for or against a particular candidate? 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.		
	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.? • Are such references coupled with reasonably overt indications that the organization supports or opposes a particular candidate or candidates in an election? • 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?		
	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.	**Personal Endorsements:** 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: • Do the organization leader's statements appear in a publication that is not an official publication of the organization? • Is the ad or publication paid for by the individual himself or herself, and not by the organization? • Is the organization leader's title and affiliation with the organization used for identification purposes only, and not to		

	indicate support by the organization?		
E.	**Candidate Forums:** 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: • Does the organization operate the forum in a manner indicating bias or preference for one candidate or candid ates over others, such as through biased questioning? • Has the organization indicated support for or opposition to a candidate (e.g., such as when the candidate is introduced)? • Does the organization invite only candidates who share the same position as the organization to participate? • Does the organization provide an equal opportunity for all candidates to participate? • Does the organization provide equal amounts of time for each candidate to answer questions and express their views? • Are questions prepared and presented by a nonpartisan, independent panel or moderator? • Does the moderator comment on questions or otherwise make comments that imply approval or disapproval of a candidate? • 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? • Do the topics discussed cover a broad range of issues that are of interest to the public? • Are the candidates asked to agree or disagree with positions, agendas, platforms, or statements of the organization, indicating prohibited campaign intervention?		
F.	**Candidate Appearances:** 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: • Was the candidate invited to speak at the organization's event in his or her capacity as a political candidate? • 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		

	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.) • 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)? • Did any political fundraising occur?		
G.	Did the candidate appear or speak at an organization event in a **non-candidate capacity?** (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: • Is the candidate publicly recognized by the organization or a representative of the organization during the event as a candidate for public office? • 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? • 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. • Has any campaign activity occurred in connection with the candidate's attendance?		
H.	**Voter Guides:** 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: • Are incumbents identified as candidates for re-election? • Are incumbents' positions compared to the positions of other candidates or the organization's position in a biased manner? • Is the voting guide distributed close in time to an election? • 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?		

	• Is the voting guide widely distributed among the electorate during an election campaign as opposed to the organization's membership? • Does the voting guide include only the voting records of candidates for office? • 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? • Does the voting guide contain editorial comments by the organization? • Does the voting guide contain express or implied approval or disapproval of a candidate's voting record?		
I.	**Candidate Questionnaires**: 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: • Does the candidate questionnaire contain editorial comments by the organization? • Does the candidate questionnaire include only issues of importance to the organization itself and not to the general public? • Does the questionnaire contain express or implied approval or disapproval of candidate responses?		

Section II: Lobbying

The following factors are indicative of lobbying (i.e. legislative activities):

		Yes	No
A.	Is the organization attempting to influence legislation or a legislative proposal? • 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. • Lobbying does not include attempts to influence (1) regulations or (2) administrative matters.		
B.	Is there "action" being taken with reference to the legislation? • Action includes introduction, amendment, enactment, defeat, or repeal by legislative bodies or the public.		

C.	Does the organization engage in "direct lobbying?" • Is the organization trying to influence legislation by directly contacting members or employees of a legislative body? • Does the organization communicate with government officials or employees who can affect legislation? • Do the communications refer to specific legislation? • Do the communications reflect the organization's specific views on legislation? • Does the organization advocate a position on a specific act, bill, or resolution?		
D.	Does the organization engage in "indirect" or "grassroots" lobbying: • Does the organization attempt to influence legislation by influencing the public's opinion on specific legislation? • Does the communication refer to specific legislation? • Does the communication reflect a view or position on the legislation? • 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?		

Section III: General Advocacy

The following are indicators of general advocacy:

		Yes	No
A.	• 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? • Is the organization attempting to influence non-legislative governing bodies (e.g., the executive branch, regulators)? • 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.)		
B.	Does the organization engage in "educational" activities? (See Rev. Proc. 86-43). The term "educational" relates to: • The instruction or training of an individual for the purpose of		

	improving or developing his capabilities, or • The instruction of the public on subjects useful to the individual and beneficial to the community.		
	Is the organization advocating a particular position or viewpoint ? If "Yes" to the following, the activity may qualify as permissible educational activity: • Does the organization present a sufficiently full and fair exposition of the pertinent facts that aid the listener or reader in the learning process? • Does the organization provide a factual background for the viewpoint or position being advocated ?		
C.	The organization's presentations should avoid the following factors in order to be considered educational: • Do the organization's presentations avoid expressing conclusions more on the basis of strong emotional feelings than of objective evaluations? • Does the organization avoid presenting viewpoints or positions unsupported by facts and this is a significant portion of the organization's communications? • Does the organization avoid presenting facts purporting to support its viewpoints or position made in a distorted manner?. • Does the organization avoid making substantial use of inflammatory and/or disparaging terms?		

SFC 001819

From: Blumenfeld Michael B
Sent: Tuesday, March 13, 2012 9:00 AM
To: Wilkins William J; Sterner Christopher B; Corwin Erik H
Cc: Judson Victoria A; Cook Janine; Brown Kyle N; Paxson Kirk M; Winnick Helene A
Subject: TEGE Bi-Weekly Report

Categories: NUUU

Attached is the CC:TEGE biweekly report. Please let me know if you have any questions or need anything further. Thanks.

Michael Blumenfeld
SFC [redacted]

IRS0000061498

TEGE Bi Weekly Report
March 12, 2012

Litigation

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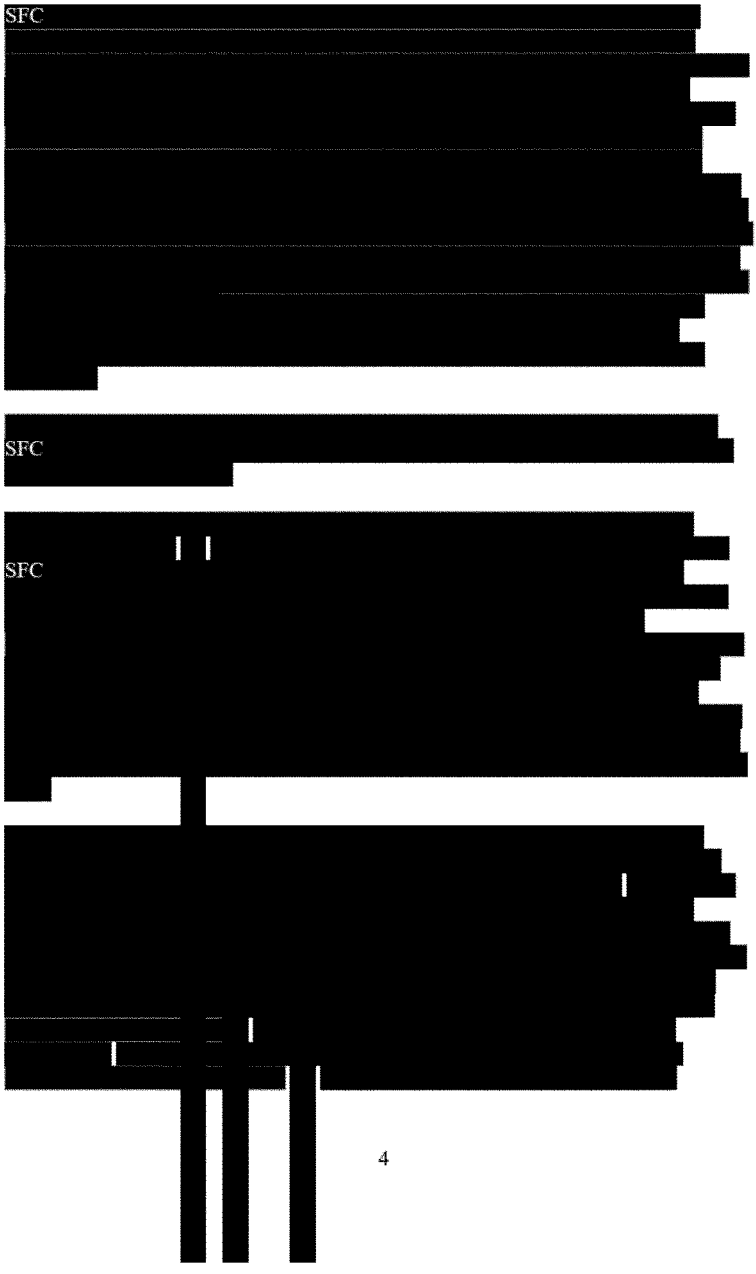
SFC 001823



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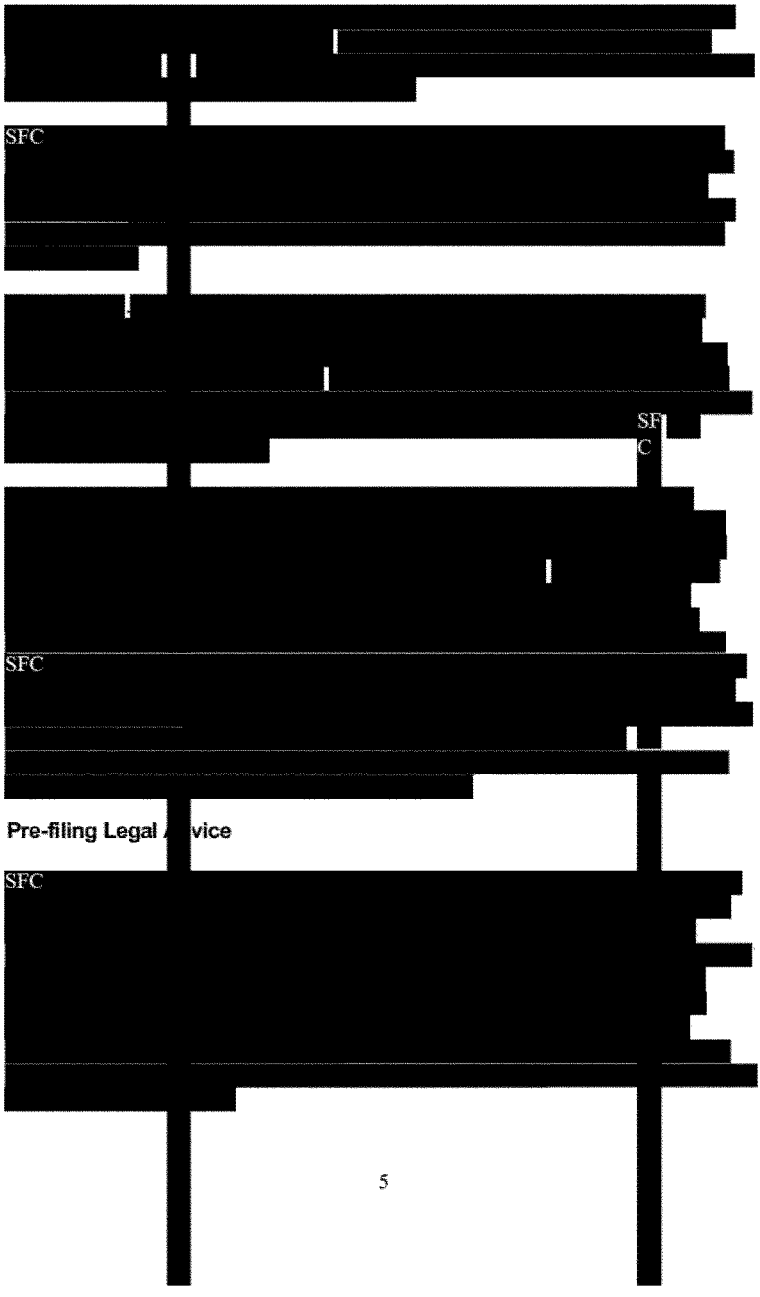
IRS0000061502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Pre-filing Legal Advice
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Advocacy Organization Guide Sheet: (PRESP-109143-12). Exempt Organizations (EO) requested accelerated counsel review (within 1 week) of a guide sheet on the federal tax rules for political campaign and lobbying activities of exempt organizations. EO plans to provide the guide sheet to its agents for processing exemption applications and for conducting examinations. The guide sheet pertains, principally, to § 501(c)(4) social welfare organizations, § 501(c)(5) labor organizations, and § 501(c)(6) business leagues. The guide sheet lists a series of activities that may be used for political campaign or lob bying purposes. For each type of activity, the guide provides comprehensive factual development questions and identifies the applicable published guidance for determining if such activities further political campaign or lobbying purposes. It also contain s an appendix of the statutory and regulatory limitations on political campaign and lobbying activities, definitions of key legal terms (such a candidate for public office), and case law and published guidance on how to determine if the political campaign and lobbying activities are substantial (and thereby affect exempt status). SrC Don Spellmann, SC Susan Brown and Attorney David Marshall worked quickly to provide extensive comments and revisions to the guide, streamlining and condensing the presentation , making the development questions clearer and more objective, and listing and summarizing the applicable law.

Post-Filing Legal Advice:

SFC [redacted]

SFC [redacted]

SFC 001826

SFC [redacted]

IRS0000061505

SFC 001827

From: Light Sharon P
Sent: Tuesday, May 01, 2012 1:04 PM
To: Lerner Lois G
Subject: FW: Quiet sharing: Revised Guide Sheet

From: Marks Nancy J
Sent: Monday, April 30, 2012 2:47 PM
To: Lerner Lois G; Light Sharon P; Urban Joseph J
Subject: Fw: Quiet sharing: Revised Guide Sheet

Folks Cathy was asked by Steve and Nikole to provide a cold re ad and her reactions are below. I gather Nikole shares many of the same worries. Cathy is fine with me sharing the email and would be glad to strategize re solutions --please don't pass her email on tho. Sharon maybe you could take the lead on this and afte r you've read it give Cathy a buzz. She realizes from me the counsel concerns that have made it difficult to craft useful guidelines in the absence of much in the way of fleshed out guidance in reg or ruling form. Thanks

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Sent using BlackBerry

From: Livingston Catherine [redacted]
Sent: Sunday, April 29, 2012 02:18 PM
To: Ingram Sarah H; Marks Nancy J
Subject: Quiet sharing: Revised Guide Sheet

Hi. Nikole and Steve took me up on my offer of some help from fresh eyes. I read the draft guidesheet, and I provided her this reaction. (I am presuming you both have it. If not, let me know and I will forward.) As I say below, I have strong opinions so everyone should be free to ign ore me. However, as you will read, I am concerned about this document that Counsel has sent forward, both for its practical utility in Cincinnati and also for what it doesn't make clear and what it ma y be perceived as implying about existing guidance. I'll let you know what Nikole says in response. In the event that she does like the approach I am suggesting, or in the event that the reaction is helpful to both of you -- given all the activity -- I thought I would share it quietly. For obvious reasons, it should not go to anyone else because no one else knows that I am being consulted at this point.

I will need to consult with both of you about how to help Counsel gain back some skill on this topic. The product reflects, to me, best efforts of a team tha t has not had the requisite experience with working the cases and issues.

From: Livingston Catherine E
Sent: Sunday, April 29, 2012 2:11 PM
To: Flax Nikole C
Subject: RE: Revised Guide Sheet

Hi, Nikole. I've read this now and have a combination of questions and comments.

1) Is this intended to help staff in Cincinnati process applications? The intro says it is for that purpose. I am wondering how helpful it would be, as structured, for s everal reasons. First, exemption applications tend not to have a lot of detail about proposed activities. The degree of detail offered in each guidesheet comes from guidance developed to be able to

assess an activity that has form and shape and specific detail. As crafted, would the staff in Cincinnati think they have to ask and get commitments on a whole lot of detail for future activities, more detail than is reasonable to provide prospectively?

2) Why is the guidesheet answering the question of wheth er specific activity is either political campaign intervention or lobbying or neither? The ultimate question is exempt or not exempt. I think the intro does not lay out clearly and correctly what the legal standards are for exemption and how that relates to the amount of these types of activities that are permitted. Even if the staff in Cincinnati just needs help on how to characterize different types of activity, I think the public would be confused and the message would be incomplete without a far more precise and careful intro.

3) How is the staff in Cincinnati to know whether or not to use a given guidesheet? They've divided them by activity and say to use each one "only if" the application says the organization is going to do that activity. Are appl ications always that clear? Moreover there isn't clear definition of each activity. For example, it never says what is a candidate forum and how is that distinct from a candidate appearance although the implication is that a forum is multiple candidates and an appearance is only one.

4) Why are the guidesheets on lobbying for 501(c)(3) organizations only? They say very explicitly to consult the other guidesheet on advocacy activities to tell whether something is campaign intervention or lobbying. That d istinction is highly relevant for 501(c)(4) orgs, and knowing whether an activity falls into a clear definition of lobbying may be the best way to resolve a question.

5) Why is there no mention of Rev. Rul. 2004-6? We spent a huge amount of time crafting those scenarios to deal with delicate advocacy situations. By its terms, it is to help determine when there is exempt function activity that would cause a c4, 5 or 6 to have to pay 527(f) tax, but we always acknowledged internally that it also served to help define when advocacy would cross to being political campaign intervention.

6) Why are they paraphrasing examples from guidance that there was excruciating care taken to develop? I worry that in the paraphrasing we will imply something about the existing guidance that is contrary to what we mean. I also worry that the "derived from" phrase will tend to suggest that the guidance can be used to stand for things beyond what it says. They have it there when they want to distill a factor and indicate it should be used.

What follows is unsolicited advice so feel free to stop here.

If this were me doing this, and the problem to be solved were in fact guidesheets for staff in Cincinnati to provide orderly processing of exemption applications, here's what I would do to revise this.

1) The Cincinnati staff want one stop shopping where they don't have to go find all the rulings and regs etc. and distill out which parts of which guidance apply to the facts they have in a given application. II would think the purpose of the document is to serve as a single point to access the full collection of guidance via the activity in question rather than the legal issue.

2) I would have a single "guidesheet" and not make artificial distinctions amongst the pieces. I would just have sections in the guidesheet for different activities, and I would stop having such serious warnings about where things can and cannot be used.

3) I would then use a structure like this:

Voter Guides

Short intro explaining what this activity is in general form but noting there is no formal definition so anything in an application that involves

Publishing something on paper or electronically
Providing data with respect to one or more candidates about their positions on one or more issues
Provided at a time or in a manner that could be perceived as relating to an upcoming election

Can be analyzed using this tool as a voter guide activity.

Next section -- quick recap on examples from existing guidance:

I would use verbatim quotes of the examples on voter guides, with cites to the guidance and a paraphrase of what the analysis said about the example and its legal implications. I would not try to paraphrase the facts, only t he outcome. Let the old guidance speak for itself. Be clear that any activity that tracks with one of these examples is the easiest to analyze, but because guidance has been developed for various purposes (e.g., 527(f) tax or for 501(c)(4) rather than 501(c)(3)), you may still need to check with EO Technical to be sure the yes/no on the exemption application is the right answer.

I would then list the guidance citations so they are readily available as a list.

This approach to the guidance also gets rid of the "derived from" language in referencing the guidance. The "derived from" which troubles me.

Next section -- working your case.

I would say that in trying to determine whether the activity mentioned as possible in the application or in subseque nt case development will be consistent with 501(c)(3) or 501(c)(4) will depend on having a sufficiently good record of how the organization intends to conduct the activity. I would list the aspects of the activity on which you would want a record and a recommendation that questions be asked but with a respect for how much can be determined prospectively. So for voter guides:

-- How will content be accumulated? Candidate questionnaires exclusively? If not, then how?

-- Describe range of issues to be cover ed. How will range of issues be determined? Will it be broad?

-- How will candidate positions be reflected -- check box options? Verbatim of statements they provide? How many words allowed? Paraphrase of statements candidates provide?

-- Structure and content -- will there be anything in the structure or content that could be read as indicating a preference for any candidate or position, e.g. colors, bold type, order in which candidates are listed, explicit statements about preferred positions etc.?

-- When and where will voter guides be distributed?

The section would be set up to convert to an easy short set of development questions on the activity that could be sent out and that practitioners would see as legally relevant and not overly detailed.

This approach, with a list of questions, also flows naturally and intuitively as a distillation from the examples quoted verbatim in the earlier section. It is not necessary to tie each factor to a specific piece of guidance or to write "derived from" any particular piece of guidance. This section is the real value contributed to the specialists in Cincinnati. It represents what the technical experts have taken from the guidance and converted to practical form as a list of relevant questions.

Final section -- when to seek help from EO Technical

-- Encounter facts that are unlike anything discussed here.

-- Not sure whether an activity should be analyzed as voter guide activity or something else.

-- Taxpayer raises a piece of guidance not listed in this section.

-- Voter guides being offered in combination with one or more other activities and not sure how the combination affects the analysis.

Any other circumstance where you unsure whether activity is consistent with the examples set forth in the first section above.

As you know, I tend to have strong opinions. This is certainly not the only way this could be handled. Rather, it is the direction I would recommend.

If I can be of any further help, by all means let me know. (That's presuming that I ha ve been of help with this first set of comments.)

From: Flax Nikole [redacted]
Sent: Friday, April 27, 2012 5:02 PM
To: Livingston Catherine E
Subject: FW: Revised Guide Sheet

Cathy - I left you a vm about this. If your schedule doesn't allow or you have no interest, just ignore. Just looking for a gut reaction.

Have a good weekend.

From: Cook Janin [redacted]
Sent: Thursday, April 26, 2012 6:18 PM
To: Flax Nikole C
Cc: Lerner Lois G; Judson Victoria A; Corwin E rik H
Subject: Revised Guide Sheet

Nikole,

Here is the revised guidesheet we sent to Lois' shop yesterday. It reflects some fine-tuning on the 4/20 version. The changes were predominantly clean-up, more consistency in language, added precisio n and clarity, and better conformity to the published ruling examples (resulting in more "derived from" notations). We also removed, combined, or massaged a number of factors that were neutral (or unnecessary).

Let us know if you have any specific quest ions. (Erik, you already have this version)
Janine

<< File: guide sheet master 04-25-12 (counsel).doc >>

SFC 001831

From: Thomas Cindy M
Sent: Tuesday, April 17, 2012 7:44 AM
To: Marks Nancy J; Malone Robert; Urban Joseph J; Light Sharon P; Paz Holly O
Subject: FW: Advocacy Orgs - Updated List of Cases and Guidesheet from EOT
Attachments: Updated Adv Org Excel Cinci v3 11-21-11.xls; Advocacy Org Guidesheet 11-3-2011 (2).doc

Attachment 1 includes an updated list of advocacy organizations along with comments received from EOT.

Attachment 2 is the Advocacy Organization guidesheet received from EOT that was shared with the manager overseeing the Emerging Issue (Advocacy Organizations).

From: Bowling Steven F
Sent: Wednesday, November 23, 2011 3:01 PM
To: Thomas Cindy M
Subject: FW: Advocacy Orgs
Importance: High

Cindy,

I would like Stephen Seok to coordinate these. We have a commitment meeting at 8:30 and I have a 2011 -44 team meeting at 10:30 on the 30th.

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
SEC [redacted]
Tel SEC [redacted]
Fax SEC [redacted]

From: Thomas Cindy M
Sent: Wednesday, November 23, 2011 1:57 PM
To: Bowling Steven F
Subject: Advocacy Orgs
Importance: High

Steve,

Please refer to Mike Seto's email below. Attachment 1 includes the list of cases EOT reviewed along with their comments. Attachment 2 is a draft document EOT put together for our use.

I'd like to meet with you on 11/30, along with whomever you'd like to coordinate these cases, so we can come up with a game plan for working these cases. In the meantime, for those cases that EOT believes can be approved, I'd recommend you go ahead and have those cases worked now that the Guidesheet is available.

From: Seto Michael C
Sent: Tuesday, November 22, 2011 3:56 PM

SFC 001832

To: Thomas Cindy M; Fish David L; Kindell Judith E
Cc: Grodnitzky Steven; Goehausen Hilary; Lowe Justin; Kastenberg Elizabeth C; Lieber Theodore R
Subject: List of advocacy org cases screened by EOT for EODi

Hilary has updated the spreadsheet, the content of which is self-explanatory.

We have screened 162 cases, substantial majority of which needs to be developed.

We identified 12 cases that may qualify for exemption. The caveat is that the favorable suggestions are based on initial screening of the cases, not full development. We recommend that EOD review our suggestions on these 12 cases.

We identified 15 cases for possible denial of exemption. The caveat is that our denial suggestions are based on initial screening of the cases, not full development. We recommend that EOD review our suggestions on these 15 cases.

We have indicated in red font the names of the 2 organizations (#40: Ohio Liberty Council and #137 Ohioans for Healthcare Freedom) that are related to American Junto, one of the 2 political advocacy cases pending here. Please suspend action on these two cases while EOT is working on American Junto.

If you have questions, please contact Hilary and Steve or me. FYI . . . Steve is the manager overseeing this te chnical area.

Thanks, Mike

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 legislati ve 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, nominat ion, 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

(i.e. legislative activity)	Must Not Be Substantial	Unlimited Amount If In Furtherance of Exempt Purposes	
Engage in general public advocacy not related to legislation or the election of candidates	**YES; Permitted As An Educational Activity**	**YES; Unlimited Amount If In Furtherance of Exempt Purposes**	**LIMITED**

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 b y 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 spe eches given by the candidate(s)?
- Does the organization, or has it ever, conducted voter education activiti es, 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.	Is there a "candidate" for "public office?" This is an individual who: • Offers himself, or • Is proposed by others • As a contestant for elective public office, whether national, state, or local public office. 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? 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.		
B.	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: • The position was created by statute • The position is continuous • The position is not contractual • The position is for a fixed term of office • The office requires an oath of office		
C.	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?		
	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?		
	Does the organization encourage individuals to vote for or against a particular candidate? 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.		
	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.? • Are such references coupled with reasonably overt indications that the organization supports or opposes a particular candidate or candidates in an election? • 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?		
	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.	**Personal Endorsements:** 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: • Do the organization leader's statements appear in a publication that is not an official publication of the organization? • Is the ad or publication paid for by the individual himself or herself, and not by the organization? • Is the organization leader's title and affiliation with the organization used for identification purposes only, and not to		

	indicate support by the organization?		
E.	**Candidate Forums:** 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: • Does the organization operate the forum in a manner indicating bias or preference for one candidate or candid ates over others, such as through biased questioning? • Has the organization indicated support for or opposition to a candidate (e.g., such as when the candidate is introduced)? • Does the organization invite only candidates who share the same position as the organization to participate? • Does the organization provide an equal opportunity for all candidates to participate? • Does the organization provide equal amounts of time for each candidate to answer questions and express their views? • Are questions prepared and presented by a nonpartisan, independent panel or moderator? • Does the moderator comment on questions or otherwise make comments that imply approval or disapproval of a candidate? • 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? • Do the topics discussed cover a broad range of issues that are of interest to the public? • Are the candidates asked to agree or disagree with positions, agendas, platforms, or statements of the organization, indicating prohibited campaign intervention?		
F.	**Candidate Appearances:** 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: • Was the candidate invited to speak at the organization's event in his or her capacity as a political candidate? • 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		

	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.) • 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)? • Did any political fundraising occur?		
G.	Did the candidate appear or speak at an organization event in a **non-candidate capacity?** (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: • Is the candidate publicly recognized by the organization or a representative of the organization during the event as a candidate for public office? • 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? • 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. • Has any campaign activity occurred in connection with the candidate's attendance?		
H.	**Voter Guides:** 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: • Are incumbents identified as candidates for re-election? • Are incumbents' positions compared to the positions of other candidates or the organization's position in a biased manner? • Is the voting guide distributed close in time to an election? • 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?		

	• Is the voting guide widely distributed among the electorate during an election campaign as opposed to the organization's membership? • Does the voting guide include only the voting records of candidates for office? • 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? • Does the voting guide contain editorial comments by the organization? • Does the voting guide contain express or implied approval or disapproval of a candidate's voting record?		
I.	**Candidate Questionnaires**: 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: • Does the candidate questionnaire contain editorial comments by the organization? • Does the candidate questionnaire include only issues of importance to the organization itself and not to the general public? • Does the questionnaire contain express or implied approval or disapproval of candidate responses?		

Section II: Lobbying

The following factors are indicative of lobbying (i.e. legislative activities):

		Yes	No
A.	Is the organization attempting to influence legislation or a legislative proposal? • 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. • Lobbying does not include attempts to influence (1) regulations or (2) administrative matters.		
B.	Is there "action" being taken with reference to the legislation? • Action includes introduction, amendment, enactment, defeat, or repeal by legislative bodies or the public.		

C.	Does the organization engage in "direct lobbying?" • Is the organization trying to influence legislation by directly contacting members or employees of a legislative body? • Does the organization communicate with government officials or employees who can affect legislation? • Do the communications refer to specific legislation? • Do the communications reflect the organization's specific views on legislation? • Does the organization advocate a position on a specific act, bill, or resolution?		
D.	Does the organization engage in "indirect" or "grassroots" lobbying: • Does the organization attempt to influence legislation by influencing the public's opinion on specific legislation? • Does the communication refer to specific legislation? • Does the communication reflect a view or position on the legislation? • 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?		

Section III: General Advocacy

The following are indicators of general advocacy:

		Yes	No
A.	• 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? • Is the organization attempting to influence non-legislative governing bodies (e.g., the executive branch, regulators)? • 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.)		
B.	Does the organization engage in "educational" activities? (See Rev. Proc. 86-43). The term "educational" relates to: • The instruction or training of an individual for the purpose of		

	improving or developing his capabilities, or • The instruction of the public on subjects useful to the individual and beneficial to the community.		
	Is the organization advocating a particular position or viewpoint ? If "Yes" to the following, the activity may qualify as permissible educational activity: • Does the organization present a sufficiently full and fair exposition of the pertinent facts that aid the listener or reader in the learning process? • Does the organization provide a factual background for the viewpoint or position being advocated ?		
C.	The organization's presentations should avoid the following factors in order to be considered educational: • Do the organization's presentations avoid expressing conclusions more on the basis of strong emotional feelings than of objective evaluations? • Does the organization avoid presenting viewpoints or positions unsupported by facts and this is a significant portion of the organization's communications? • Does the organization avoid presenting facts purporting to support its viewpoints or position made in a distorted manner?. • Does the organization avoid making substantial use of inflammatory and/or disparaging terms?		

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EOD Political Advocacy Cases - Screened by EO Technical (11/16/11) 1]

	Organization Name	Control Date	EIN	Subsection	Current EDS Status	Lobbying	General Advocacy (i.e. issue advocacy and/or educational	Propaganda/In flammatory (little to no educational aspects)	Political Activities	Development	Comments	Suggested Action(s)
												Suggestions are based on initial screening of cases in TEDS, not on a full review and development of the cases. * Indicates that development may not needed. Suggest that EOD may want to review the case to make final determinations whether to or not to develop the case.
1	[redacted] Tea Party	11/19/09	[redacted]	c 4	52	X		X	X	Yes	Lobbying, general advocacy (little to no educational aspects); political activities (not primary)	
2	[redacted] Tea Party	12/04/09	[redacted]	c 4	52	X	X	X	X	Yes	Substantial political campaign intervention, could be primary activity. Development	
3	[redacted] Tea Party	12/29/09	[redacted]	c 4	52		X			-	General advocacy, educational, limited campaign activities	Possible favorable
4	[redacted] Patriot [redacted]	01/02/10	[redacted]	c 4	52	X			X	Yes	Lobbying/political campaign intervention, little to no general (issue) advocacy activities/educational activities. More development may be needed, indicating minutes from meetings held.	
5	[redacted]	02/10/10	[redacted]	c 4	52		X		X	Yes	Unclear whether primarily political campaign intervention or an advocacy org; more development needed, including copies of weekly newsletters. Based on website, primarily political campaign intervention. On the org's blog under "President's Message," states: "Our ultimate goal is to turn California's 54 electoral votes back to a conservative candidate. First order of business is to	
6	Tea Party/Patriot [redacted]	02/10/10	[redacted]	c 4	52					Yes	Additional development needed, as a gratifier amount of clear campaign intervention; however little issue advocacy or educational; significant inflammatory language, highly emotional language, little to no educational information on issues. Additional development should include copies of materials provided to members, press releases, articles, commentary, and research reports; should obtain copies of these, copies of reports/approaches.	
7	Patriots [redacted]	03/02/10	[redacted]	c 3	52					Yes	Review for possible denial; activities are commercial in nature	
8	[redacted] Responsible Government	03/08/10	[redacted]	c 4	52				X	-	May be proposed denial. Articles of incorporation spec f only state their purposes are to "Promote the election of cand dates that support limited government."	May be proposed denial if primary activity if political

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EOD Political Advocacy Cases - Screened by EO Technical (1/16/11)

9	Tea Party	03/12/10	[redacted]	c 4	52		X	X		Yes	Issue advocacy; additional development may be needed as majority of webs to involve reporting various news articles; postings on website show little educational value; appear mostly emotional,	
10	Patriots	03/18/10	[redacted]	c 4	52		X			*	General advocacy org	
11	Tea Party	03/19/10	[redacted]	c 4	52				X	*	Political campaign activity; activities unclear; no real educational activities/content apparent. Development needed; hosted Herman Cain event	
12	Tea Part [redacted]	03/23/10	[redacted]	c 4	52				X	*	Appears to be mostly engaging in primarily not-cut campaign activity; no apparent educational or legislat ve activities	
13	Freedom [redacted]	03/26/10	[redacted]	c 4	52		X			Yes	General advocacy org; additional development should include requests for pamphlets, other subtleted materials, etc	
14	[redacted]	03/29/10	[redacted]	c 3	52					Yes	Not on TEDS; no website	
15	[redacted] Conservative	04/01/10	[redacted]	c 4	52	X	X		X	*	Legislative and general advocacy; some apparent political advocacy	Possible favorable
16	91 [redacted]	04/06/10	[redacted]	c 4	52		X			Yes	Maybe general advocacy or not cut cand to determine if really educational and good cit activities; more development likely to website requires member login to majority of website	
17	Tea Part [redacted]	04/08/10	[redacted]	c 4	52	X	X		X	Yes	General advocacy and lobbying; appears to be good cit activities	
18	Tea Party	04/14/10	[redacted]	c 4	52		X			*	Advocacy org; some cut cut campaign activity on state level (see Form 1024)	Possible favorable
19	[redacted] Tea Party	04/16/10	[redacted]	c 4	52		X		X	Yes	Advocacy org; additional development needed to determine if PA are primary, or hold candidate forums (one indep, 3 republicans, moderate or others); website offers little information about activities/issues	
20	Tea Party Patriots	04/29/10	[redacted]	c 4	52	X	X			*	General advocacy org	Possible favorable
21	Patriot [redacted]	05/03/10	[redacted]	c 4	52		X	X	X	Yes	Sub-general advocacy and some apparent political campaign activities (e negative Obama commentary); more development may be needed to determine if good cit activities	
22	[redacted]	05/05/10	[redacted]	c 4	52					Yes	Another: Add'l cit development; website requires login. News articles say that Sarah Palin formed the org. Form 1024 is sure as to activities	
23	Tea Party	05/07/10	SFC	c 4	52				X	Yes	Substantial campaign activity; additional development needed to determine if primary	
24	[redacted]	05/10/10	[redacted]	c 3	52					Yes	Couldn't add up on TEDS	
25	Conservative [redacted]	05/11/10	[redacted]	c 4	52		X		X	Yes	Unclear whether general advocacy or primarily political campaign activities	
26	[redacted] Patriots	05/11/10	[redacted]	c 4	52		X			*	General advocacy; voter education activities	Possible favorable
27	Bulb [redacted]	05/20/10	[redacted]	c 4	52		X			Yes	May be general advocacy org; additional development needed. Web articles link the org to Gov Chris Christie	
28	91 [redacted]	05/26/10	[redacted]	c 4	52		X	X		Yes	Additional development needed; little issue adv/educational activities on website; just information on rallies/meetings, etc	

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EOD Political Advocacy Cases - Screened by EO Technical (11/16/11) 3

29	Tea Party	05/21/10	SFC	c 4	52	X				-	General advocacy org, possible lobbying, may be favorables but may need add'l anal development to see what actual activities engaging in
30	Tea Part	05/25/10		c 4	52		X		X	Yes	Political act v t ies; narrative states "half of" activities include getting to know cand dates running for office; also publish voting score cards; need to determine if candidate activity's educational or partisan
31	Tea Party	05/27/10		c 4	52		X			-	General advocacy org
32	Tea Party	05/28/10		c 4	52	X	X			-	General advocacy, lobbying
33	SFC	06/03/10		c 3	52					Yes	c3. Couldn't pull up on TEDS, but did a website search (verify website), based on website indirect prohibited political activities (anti Obama rhetoric on website), substantial propaganda
34	Conservativ	06/07/10		c 4	52		X			-	General advocacy
35	Tea Party	06/11/10		c 4	52		X			-	General advocacy
36	Tea Party	06/11/10		c 4	52				X	Yes	Political campa gn intervention seems substantial; more development to determine if primary activity; also more development on any advocacy activities because as of filing Form 1024, had not engaged in any 'bes nc educational activity or issues advocacy
37		06/14/10		c 4	52	X	X			Yes	Lobbying and general advocacy; development may be needed. Website includes a "like Timothy Geithner" section, and a section to "dam-and Joe Biden apologize"
38		06/18/10		c 3	52					Yes	c3; unclear, state purpose is to hold forums but little to no description of why/what purposes/topics/etc; more development needed; description of activities very bare
39		06/22/10		c 3	52					-	General advocacy; educate public on c vil rights and abort on
40	Love	06/30/10		c 4	52		X			-	General advocacy, but can ask/need more questions [illegible]	Possible denial
41	Tea Part	07/08/10		c 4	52		X			Yes	Appears to be general advocacy; more development needed; no detail as to what issues they're advocating/educating on; can't access website
42	Tea Party	07/08/10		c 4	52			X	X	Yes	Unclear, need to determine if activities actually constitute good ol activities if e issue adv or educational activities).
43	SFC	07/12/10		c 3	52	X			X	Yes	Lobbying (healthcare leg ation repeal); appears to be a grassroots; Also, political act v t es (held candidate forum where only 1 candidate appeared and 2 others did not)
44	SFC	07/13/10		c 4	52	X	X			Yes	Lobbying and general advocacy; need more info on actual activities
45	Conservative	07/14/10		c 4	52		X			Yes	General advocacy; little to no detail s or info on issues/educational activities on website or Form 1024

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EOD Political Advocacy Cases - Screened by EO Technical (11/16/11) 4

46	[redacted] Tea [redacted]	07/19/10	SFC [redacted]	c 4	52			X	X	Yes	Political campaign activities, verify website, website articles are emotional/inflammatory, little to no description of activities on Form 1024, more development needed re political activities and educational value of website/other materials	
47	[redacted] Patriots	07/20/10	[redacted]	c 4	52				X	Yes	Substantial amount of campaign activity, including candidate forums, candidate ratings, etc. More development to determine if primary activity	
48	[redacted] Tea Party Patriots	07/21/10	[redacted]	c 3	52	X				Yes	Lobbying, provide narrative description of activities; website is heavy on legislation, call to action on specific legislation, little to no educational aspects other than bare description of legislation, no substantive discussion of issues	
49	[redacted] Tea Part [redacted]	07/23/10	[redacted]	c 4	52				X	Yes	Significant political campaign activity, further development needed to determine if primary activity, have "setting committees" for candidates and endorse specific candidates for various elections	
50	[redacted] for Common Sense	08/04/10	[redacted]	c 4	52	X	X			*	Lobbying and general advocacy org; candidate election advocacy (does not appear primary)	Possible favorable
51	[redacted] o Tea Part [redacted]	08/05/10	[redacted]	c 4	52	X	X	X	X	*	Lobbying and general advocacy org; engages in political campaign activity, but, negative comments referring to liberals, etc.; may need development regarding inflammatory/emotional statements	
52	[redacted]	08/09/10	[redacted]	c 4	52				X	*	Proposed denial: Org states in its application that it is a PAC "which primarily helps members elect candidates who reflect our values through a variety of activities aimed at influding the outcome of elections."	Possible denial
53	[redacted] 51 [redacted]	08/20/10	[redacted]	c 4	52		X			*	General advocacy org	
54	[redacted] Tea Party, Inc	08/24/10	[redacted]	c 4	52				X	Yes	Appears to be primarily political campaign intervention, website shows no educational activity or issue advocacy or legislative advocacy. Narrative of activities is bare with no detail other than dates of rallies	
55	[redacted]	08/26/10	[redacted]	c 3	52		X			*	Appears to be general educational advocacy; website down so could not view so may want to do additional development	
56	[redacted] 51 [redacted]	08/31/10	[redacted]	c 4	52		X			*	Appears to be general advocacy; couldn't access website so may want to do additional development	
57	[redacted] Tea Part [redacted]	08/31/10	[redacted]	c 4	52	X	X		X	*	General advocacy and legislative advocacy; may be indirectly negative political activities (indirect negative comments on Obama)	
58	[redacted] Liberty	08/31/10	[redacted]	c 4	52	X	X	X	X	Yes	General advocacy/some lobbying, but does engage in candidate election advocacy; further development be little to no educational value; emotional/inflammatory language/unsupported "factual" statements	

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EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)

59	SFC	05/03/10	SFC	c 4	62	X	X	X	X	Yes	"Lobbying and general advocacy org, however, significant anti Obama rhetoric and articles, appears to be an anti Obama Administration website, however there are educational materials on a se	
60	SFC Liberty	03/13/10		c 4	62	X			X	Yes	Appears to be lobbying, have held a number of candidate forums; development should explore if political activities are primary activity etc. Also need more info on actual activities	
61	SFC	09/20/10		c 3	62		X		X	Yes	c3, Educational advocacy org, voter registration/drive activities. However, may be direct/indirect campaign intervention, substantial language/information on website focuses on democratic attacks and republican/conservative response so development is needed and should examine this language/web section)	Possible denial, however development suggested
62	SFC	08/21/10		c 4	62	X		X		Yes	General advocacy org & lobbying activities, however little to no educational activities/issue advocacy, highly inflammatory and disparaging commentary/articles. Appears to have no objectivity, no factual support for statements, etc	
63	SFC	08/24/10		c 4	62	X				,	Lobbying appears to be primary activity. Org is advocating a health care reform/freedom act	Possible favorable
64	Libert SFC	09/28/10		c 4	62	X				Yes	Appears to be substantial lobbying activities, need more/specific to log in so development may want materials distributed via email, mailer ads distributed at rallies, meeting minutes, etc	
65	C	08/30/10		c 4	62					Yes	More development necessary, affiliated with Combat Veterans for Congress PAC, Form 1024 provides little to no information on activities and is vague and broad as to planned activities	
66	SFC Tea Part	10/13/10		c 4	62				X	Yes	Org specifically states activities involve candidate selection advocacy, need to determine if primary activity	
67	SFC Patriots	10/16/10		c 4	62				X	Yes	Political campaign activities; supporting candidates, website has little on educational activities, a lot of info on campaign activities and candidate forums. Need to determine if primary activity	
68	SFC Tea Party,	10/18/10		c 4	62				X	Yes	Political campaign intervention appears to be a significant if not primary activity	
69	SFC Party of	10/25/10		c 4	62					Yes,	Unclear; much more development needed, Form 1024 description of activities is bare and not detailed. No website	
70	SFC	10/25/10		c 3	62		X			Yes	c3, Appears educational in line with 501c3 purposes, no apparent political campaign activity, may want to look into whether compensation of CEO is reasonable and if absolutely no political intervention	

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EOD Political Advocacy Cases - Screened by EO Technical (11/16/11) 6 1

71	[redacted] Patriots, [redacted]	10/25/10	27 3587025	c 4	52		X	X	X	Yes	Significant political campaign activities (a lot of anti Obama) but also general advocacy/educational activities (some facts/some inflammatory/emotional rhetoric/language); need to determine if PCA is relevant	
72	[redacted] Part [redacted]	10/28/10	27 2504748	c 4	52		X	X		Yes	General advocacy, some educational activity on website, however, a lot of emotional commentary/personal commentary based more on personal positions, conclusions/comments based more on strong error and feelings than objective [illegible]	
73	[redacted] Tea Party Patriots	11/12/10	27 2076246	c 3	52				X	Yes	c3, possible dealt, Engages in political campaign activity. Specifically checked on Form 1023, Part VII, Specific Activities, that the org will support or oppose candidates. Additionally is narrative the org states it rates candidates and a few candidates who	Possible denial
74	[redacted]	11/12/10	26 4714753	c 4	52	X	X		X	Yes	Engages in candidate election advocacy, specifically endorses certain candidates, engages in some legislative and general advocacy, need to determine if campaign election activities are primary activity	
75	[redacted] 01 [redacted]	11/19/10	27 1009251	c 4	52		X			Yes	General advocacy org, however, very vague on activities, for example states that its purpose is to educate on local, state and national issues but does not discuss those issues. Website is bare except for disparaging commentary about a local council person	
76	[redacted] Tea Party	12/01/10	27 1198139	c 4	52				X	Yes	Primary activity may be political activities/campaign intervention, majority of webs is involves anti Obama articles and	
77	Tea Part [redacted]	12/17/10	27 0470227	c 4	52					Yes	Unclear, org states its activities include helping "tea party" orgs market themselves, develop the org, attract speakers, develop websites, produce stickers/flagsitaries, etc. which seems like commercial/business activity, little to no educational or issue advocacy on website. Additionally, alot of campaign rhetoric, reference to taking back the country after Nov 2 elections. Attachment includes emotional rhetoric, nothing objective or informational, viewpoints/positions unsupported by facts. Development may also want to include examining whether exec compensation is reasonable	
78	Tea Part [redacted]	12/17/10	27 3893819	c 3	52					Yes	c3, Unclear, no website, Form 1023 narrative description of activities bare; additional development	
79	[redacted] Freedom [redacted]	12/17/10	27 3998038	c 3	52		X			Yes	Appears to be general advocacy (educational activities). No website, development should request copies of brochures/pamphlets/webs/ads distributed at fundraising or speech events, etc. to determine if	
80	[redacted]	12/21/10	26 2446373	c 4	52		X			-	Appears to be general advocacy, must sign up to access "stay informed" part of website, may want to do further development	

IRS0000066159

SFC 001851

ECD Political Advocacy Cases - Screened by EO Technical (11/19/11)

81	[redacted] Friends [redacted]	12/2/2010	SFC	c 4	52		X			+	General advocacy org	
82	[redacted] Tea Party	12/30/10		c 3	52	X	X		X	Yes	c3, polls members to see who they are voting for (prohibited political activities). Also lobbying; needs 1024 election	Possible denial
83	[redacted] Tea Party	01/03/11		c 4	52					Yes	Couldn't access on TEDS	
84	[redacted] Liberty	01/02/11		c 3	52		X		X	Yes	c3, may be good c3 activities, but may be engaged in pol cal campaign activity; development suggested to make sure	
85	077 [redacted]	01/05/11		c 4	52				X	Yes	Unclear; website shows substantial and Obama informal on; log in required for part of site; development should include copies of "tax blasts" and other materials disseminated to determine if political campaign activity and if primary	
86	[redacted]	01/10/11		c 3	52	X				Yes	c3, 50 th election; educational; "development should include determining reasonableness of CEO compensation (at $650 000 a year)	
87	SFC [redacted]	01/11/11		c 4	52	X	X			+	Legislative/general advocacy; Primary purposes to defeat a state ballot initiative; engages in educational activities related to opposition to the measure	Possible favorable
88	[redacted]	01/13/11		c 3	52		X		X	Yes	c3, unclear whether advocacy org or if they engage in pol cal campaign intervention/activities; development needed because Articles of Incorp state part of its purpose is to promote business interests of its members as well as issue regarding political activity	
89	[redacted] 91 [redacted]	01/13/11		c 4	52		X		X	Yes	General advocacy org; need more info on activities	
90	[redacted] Liberty [redacted]	01/18/11		c 4	52					Yes	Couldn't access on TEDS	
91	[redacted] Values, [redacted]	01/18/11		c 3	52	X				Yes	1023; engaging in lobbying. Language in Form 1023 narrative doesn't appear to be good c5 activities; language in Articles says specific purpose is to educate on "threats posed by rail cal taken", combating these threats, etc. Org could be engaging	Possible denial
92	[redacted] Accord [redacted]	01/20/11		c 4	52				X	Yes	Primary activity may be political campaign intervention. Significant Republican candidate election advocacy and campaign communications on website	
93	[redacted]	01/24/11		c 4	52	X	X			+	General and legislative activity	Possible favorable
94	[redacted] Tea Part [redacted]	01/27/11		c 4	52	X	X		X	Yes	Org states 50% of activities will be devoted to political campaign ng and endorsement of candidates. General advocacy org/lobbying; lobbying act v i se also extensive	Possible denial
95	[redacted]	01/31/11		c 4	52	X			X	Yes	Org states majority of activities divided between training people for lobbying and campaign activities	Possible denial

IRS0000066160

SFC 001852

EOD Political Advocacy Cases - Screened by EO Technical (11/16/11) 8 1

96	Tea Party Patriot [redacted]	01/03/11	SFC	c 4	52		X			Yes	States it's an advocacy org. Form 1024 narrative is bare and undetailed; website is unavailable. More development likely.
97	[redacted]	02/01/11		c 3	52					Yes	Couldn't access on TEDS
98	SFC [redacted]	02/01/11		c 3	52				X	Yes	Schedule potential political campaign activity; negative commentary/articles on Obama on website. More development needed.
99	[redacted]	02/03/11		c 3	52				X	Yes	Schedule additional development needed on reasonableness of executive compensation as well as activities and if there are any prohibited campaign activities.
100	[redacted]	02/10/11		c 4	52					Yes	Orgs purpose appears to be to raise money for an org called Pontiac Promise Zone (college tuition funding org). But also spent approx $1,000 to send Tim Mc Ine to the American Legislative Exchange.
101	Constitution [redacted]	02/14/11		c 3	52					Yes	
102	[redacted] Social and Economic Justice	02/14/11		c 4	52					Yes	Couldn't access on TEDS
103	[redacted] 9 12 Project [redacted]	02/22/11		c 4	52	X		X	X	Yes	Primary purpose may be political campaign intervention; website which states "our goal is to impact the 2010 elections." Form 1024 narrative provides little, undetailed information. Website is less educational and more emotional commentary.
104	[redacted]	02/22/11		c 4	52	X	X			*	Lobbying and general advocacy
105	[redacted] Growth and Opportunity	02/22/11		c 4	52	X				*	Primary purpose is to lobby for big station; lobbying appears to relate to its exempt purposes.
106	[redacted] Prosperity [redacted]	02/22/11		c 4	52		X	X		Yes	Appears to be general advocacy org; no website. Form 1024 narrative provides emotional language as opposed to description of educational activities. More development needed to determine if good of
107	Freedo [redacted]	02/02/11		c 4	52		X			*	General advocacy org
108	[redacted] Better Government [redacted]	02/08/11		c 4	52	X	X			*	Legislative and general advocacy
109	[redacted] Tea Party [redacted]	02/08/11		c 4	52	X			X	*	Primary/main activity is lobbying. Some candidate election advocacy on website (verify website)
110	Fair [redacted] Freedo [redacted]	02/10/11		c 4	52	X	X		X	*	Lobbying, general adv., political campaign activities; on-voter education activities (voter registration, get out vote drives, etc).
111	Progress [redacted]	02/11/11		c 4	52	X		X	X	Yes	Unclear, are Rick Perry Rallies; voter education activities though; political commentary that may be disarray national/political educational.
112	[redacted]	02/15/11		c 4	52					Yes	Couldn't access on TEDS
113	[redacted] Freedo [redacted]	02/16/11		c 3	52					Yes	Couldn't access on TEDS

IRS0000066161

SFC 001853

EOD Political Advocacy Cases - Screened by EO Technical (11/15/11) 9)

114	[redacted] Tea Part [redacted]	03/17/11	SFC [redacted]	c 4	52					Yes	Provided BLANK Form 1024, provided no narrative, provided no financial data	Possible denial
115	[redacted] Tea Party, [redacted]	03/18/11	[redacted]	c 4	52	X	X		X	-	Lobbying and general adv., some cand data advocacy but may not be primary	
116	[redacted]	03/25/11	[redacted]	c 4	52	X	X			-	Lobbying and general advocacy	
117	[redacted] Tea Part [redacted]	03/25/11	[redacted]	c 4	52	X	X			-	General advocacy activity may be lobbying, voter education activities	Possible favorable
118	[redacted] Tea Party	03/28/11	[redacted]	c 3	52	X			X	Yes	c3, May be engaged in substantial lobbying activities (no 50 th election) and may also be engaged in prohibited political campaign activity (see website, holding a meeting about the presidential straw poll, more development needed). Have also held candidate forums so development should request materials from forums and information as to who was invited and who attended, questions presented, etc to determine if any political campaign intervention occurred or meets educat onal aspect	
119	[redacted] Progres [redacted]	03/30/11	[redacted]	c 4	52	X	X			Yes	Legislative and general advocacy (provided very little information so additional development likely)	
120	[redacted] Tea Party	03/31/11	[redacted]	c 4	52					Yes	Unclear, development needed (website requires registered access), review website to determine if (no) true educational activity or majority of which is	
121	[redacted] 9 1 [redacted]	04/04/11	[redacted]	c 4	52		X				General advocacy org	
122	[redacted]	04/08/11	[redacted]	c 4	52		X		X	Yes	General advocacy, may have some political activities, affiliated with a 527 PAC Righthavage com Political Action Committee	
123	[redacted] Conservative [redacted]	04/07/11	[redacted]	c 4	52				X	Yes	Primary activity may be candidate elect on intervention/political campaign activity based on website	Possible denial
124	[redacted]	04/08/11	[redacted]	c 4	52		X		X	Yes	Political activities, possible general advocacy but website provides little educational material or issue advocacy, activities include candidate vetting; development needed and should request information to help determine what issue advocacy/educational activities are being undertaken and questions on their "candidate vetting" and copies of materials distributed/produced	
125	[redacted]	04/11/11	[redacted]	c 3	52		X			Yes	501c3, no apparent campaign activity visible from 1023 or website. No legislative activity	
126	[redacted] Tea Party Patriots [redacted]	04/13/11	[redacted]	c 4	52		X			-	General advocacy org, has presidential election poll on website but appears to be extent of political activity	
127	[redacted]	04/15/11	[redacted]	c 4	52	X	X			-	Engages in lobbying and general advocacy	
128	[redacted] 91 [redacted]	04/15/11	[redacted]	c 3	52					Yes	501c3, no apparent campaign activity, couldn't access website though so development may be needed to ensure no prohibited political campaign	

IRS0000066162

SFC 001854

EOD Political Advocacy Cases - Screened by EO Technical (11/16/11) 10

129	Tea Party Patriots [redacted]	04/19/11	SFC [redacted]	c 4	52	X		X		-	8/31/11, significant #/elements/story/emotional statements, potent ally substantial lobbying activities; lost good ol' activities	Possible denial
130	[redacted] Tea Party Patriots, [redacted]	04/19/11	[redacted]	c 4	52		X		X	Yes	General advocacy org, engages in political activities; development should include questions on card date forums, copies of any materials distributed, etc	
131	SFC [redacted]	04/22/11	[redacted]	c 4	52					Yes	"This org was a 527 that terminated its status, news reports talk about a bankruptcy. It was assoc ated with/formed by Newt Gingrich. It seeks to become a 501(c). the 527 is transferring any assets to to the	
132	[redacted] Tea Party [redacted]	04/27/11	[redacted]	c 3	52				X	-	c3 engaging in prohibited political campaign intervention; website has a section devoted to an Elections Committee that "identifies, vets, and supports" candidates for office, pictures of group at campaign rallies wearing shirts supporting certain candidates. Form 1023 they checked no to engaging in pol t cal campaign activity	Possible denial
133	[redacted]	05/02/11	[redacted]	c 3	52					Yes	c3; also filed first page of a 1024 application? educational activity, no apparent lobbying activities, no political activities; "development may want to [redacted]	
134	Freedo [redacted]	05/04/11	[redacted]	c 4	52					Yes	Unclear what activities are, website bare, activity may just be lobbying; development should request copies of "educational" materials if distributed/produced, materials from events, etc.	
135	Liberty [redacted]	05/12/11	[redacted]	c 3	52					Yes	c3; development needed to determine if engaging in prohibited political activities/propaganda; no access to website (must sign in to view)	
136	[redacted] Tea Part [redacted]	05/13/11	[redacted]	c 3	52					-	c3, engaging in prohibited political activity (see Candidate Bio page on website with language that appears to favor candidates discussed on page 9; addition the org fails to provide bios on ALL candidates for the offices at issue); additionally, there is language on website regarding "hold your elected officials accountable"; development should ask what the org means by this? Or how it intends to "hold elected officials accountable." A substantial part of activities also may be lobbying	Possible denial
137	[redacted] [redacted]	05/17/11	[redacted]	c 4	52	X				-	Lobbying	Possible denial
138	SFC [redacted]	05/26/11	[redacted]	c 3	52		X			Yes	c3; no website or can't find via web search; appears to be general advocacy/educational org, development should determine if any prohibited	
139	[redacted] Tea Part [redacted]	05/06/11	[redacted]	c 4	52		X	X		Yes	General advocacy/issue advocacy, need to determine if any educational activity or if activity/language of org is purely based on	
140	[redacted] Liberty [redacted]	06/09/11	[redacted]	c 4	52					Yes	Couldn't locate on TEDS	
141	[redacted] Liberty [redacted]	06/09/11	[redacted]	c 4	52					Yes	Couldn't locate on TEDS	

EO Political Advocacy Cases - Screened by EO Technical (11/16/11)

142	[redacted]	Liberty	09/09/11	SFC	c 4	52					Yes	Couldn't locate on TEDS
143	[redacted]	Liberty	09/09/11		c 4	52					Yes	Couldn't locate on TEDS
144	[redacted]	Liberty	09/09/11		c 4	52					Yes	Couldn't locate on TEDS
145	[redacted]		09/09/11		c 4	52					Yes	Couldn't locate on TEDS
146	SFC [redacted]		09/10/11		c 3	52	X				Yes	c3; purpose is to as money to assist to the Treasury Department to help pay off national debt No political campaign act v i ties; leg slative activities
147	[redacted]	Patriots	09/10/11		c 4	52		X	X		Yes	General advocacy org; act v ities may be less educational and more emotional rhetoric (see website articles)
148	[redacted]	Liberty	09/12/11		c 4	52	X		X	X	Yes	Very political position; website has substantial inflammatory/emotional rhetoric, no educational information on board. Bad of activity	Possible denial
149	We the People [redacted]		09/13/11		c 4	52	X	X			Yes	Lobbying and general advocacy Need more info on actual activities	
150	Take Back [redacted]		09/13/11		c 4	52					Yes	Couldn't locate on TEDS	
151	SFC [redacted]		09/23/11		c 4	52		X	X		Yes	"Org's purpose appears to be "educating" on the dangers of radical Islam/Sharia law/Muslim Brotherhood etc. While there are educational aspects to some articles on website, the materials/articles/etc could be propaganda, and
152	[redacted]		09/25/11		c 4	52	X			X	Yes	Primary activities appear to be lobbying w/ anti political campaign activities, with response canvassing questionnaires, voter guides, etc. development	
153	SFC [redacted]	Freedom	09/26/11		c 4	52				X	Yes	Unclear; more development needed to determine whether political activities are primary	
154	SFC [redacted]		09/26/11		c 3	52	X	X			Yes	c3; 501(h) election; educational activities However, have concerns about one activity of org that involves its website and that will "provide a means by which corporate employees and citizens with information on illegal and fraudulent corporate behavior may	
155	SFC [redacted]		09/26/11		c 4	52		X			"	General advocacy org; purpose is to influence regulations	
156	[redacted]		09/26/11		c 4	52	X	X			"	Lobbying activities and general advocacy; need more info on activities engaging in	
157	Citizens [redacted]		09/26/11		c 3	52					Yes	c3; no website; additional development to determine if any political activities; request meter ds, etc., as well as compensation and a balance of discretionary	

SFC 001856

EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)

15	SFC [redacted]	05/30/11	SFC [redacted]	c.3	52					Yes	501c3; website under construction; additional development recommended to obtain materials distributed, research, consulted, more detail on activities
160	Progressive [redacted]	07/01/11	[redacted]	c.4	52	X	X			-	c4 appears to be engaged in lobbying & general advocacy; has related 527 PAC
161	[redacted]	07/08/11	[redacted]	c.4	52				X	Yes	Political campaign activities appear to be substantial based on Form 1024 narrative; development may be needed
162	[redacted] America [redacted]	07/05/11	[redacted]	c.3	52	X	X			Yes	c3 (expedited case); 501h election; also general advocacy; however, unsure whether good c3 activities; website is bare

IRS0000066165

Current MF Status	TOTAL
01	#REF!
02	#REF!
21	#REF!
23	#REF!
24	#REF!
25	#REF!
31	#REF!
32	#REF!
36	#REF!
97	#REF!
Total Number of 27 Month Cases	**#REF!**

Current EDS Status	
52	161
37 (ready to close)	0

SFC 001858

From: Thomas Cindy M
Sent: Friday, June 10, 2011 5:14 PM
To: Paz Holly O; Seto Michael C
Subject: FW: Coordination Question - For meeting tentatively scheduled for 6/13

Follow Up Flag: Follow up
Flag Status: Completed

From: Thomas Cindy M
Sent: Wednesday, June 08, 2011 4:46 PM
To: Seto Michael C
Cc: Esrig Bonnie A; Bowling Steven F; Bell Ronald D; Hull Carter C; Kastenberg Elizabeth C
Subject: Coordination Question

Mike,

Ron Bell received the email directly below from Chip regarding the 'tea party cases" and the criteria for identifying these ca ses. It appears there is some duplication of efforts because Holly already asked me for information last week. Refer to my email below dated 6/2/2011. If you would like to discuss, please feel free to call me. Thanks.

From: Hull Carter C
Sent: Wednesday, June 08, 2011 1:52 PM
To: Bell Ronald D
Cc: Bowling Steven F; Kastenberg Elizabeth C
Subject: Coordination Question
Importance: High

Hi Ron,

In order to present a balanced picture to Lois Lerner at our briefing, we have a couple of questions concerning how the cases on your list were identified to be included in your list.

The EO Determinations Screening Checksheet lists "Political Activities - Sensitive Issues" and the IRM 7.20.5.4 describes cases such as these as "impact cases." On screening, how were the cases on your list identified as political? For example, were specific identifying words used, people or location, etc.? Did any particular person within EO indicate that these types of cases should be set aside and included on the list? Or was there a memorandum of some kind requesting that EO take a closer look at these types of cases? We noted that the list contained organizations that appeared to be of a particular political ideology. Were any other political ideology cases included (e.g. liberal, conservative, well -known, particular people or identifying particular people or affiliations)?

Thank you for your assistance. Any information you can gather on this would be most helpful. If you have any questions, you can contact me or Elizabeth Kastenberg at (202) 283 -9468.

Chip

From: Thomas Cindy M
Sent: Thursday, June 02, 2011 10:35 PM
To: Paz Holly O
Subject: group of cases

The email below from John Shafer, Screening Manager, outlines the criteria the screening group is using to identify cases as "tea party cases." This is criteria the screening group came up with based on cases they were seeing. If we don't want the screening group to include all of these type issues as "tea party cases," they would have no problem including or excluding certain cases. However, they need to be given the criteria to use. And, if we don't want certain cases included, then EOD still needs to know how the cases should be processed. I guess what I am trying to say is that it doesn't matter what the cases are called or how they are grouped, EOD needs guidance to ensure consistency.

Process: When the screening group starts seeing new type cases that have similar issues, they meet and come up with criteria to identify "emerging issue" and elevate information. "Emerging issue" cases are sent to Group 7822 (Steve Bowling's group) and we start coordinating with EOT to seek guidance.

Would you like for me to ask Bonnie Esrig, Steve Bowling, Group 7822 Manager, and Ron Bell, agent working "tea party cases" to participate in the briefing with Lois?

From: Shafer John H
Sent: Thursday, June 02, 2011 9:21 AM
To: Thomas Cindy M
Cc: Esrig Bonnie A; Bowling Steven F
Subject: RE: Tea Party Cases - NEED CRITERIA

Cindy,

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.

John Shafer
Group Manager
SFC [redacted]
Telephone: SFC [redacted]
FAX: SFC [redacted]

From: Thomas Cindy M
Sent: Thursday, June 02, 2011 12:46 AM
To: Shafer John H
Cc: Esrig Bonnie A; Bowling Steven F
Subject: Tea Party Cases - NEED CRITERIA
Importance: High

John,

Could you send me an email that includes the criteria screeners use to label a case as a "tea party case?" BOLO spreadsheet includes the following:

Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) or 501(c)(4).

Do the applications specify/state "tea party?" If not, how do we know applicant is involved with the tea party movement?

I need to forward to Holly per her request below. Thanks.

From: Melahn Brenda
Sent: Wednesday, June 01, 2011 3:08 PM
To: Paz Holly O; Thomas Cindy M
Subject: RE: group of cases

Holly - we will UPS a copy of the case in #1 below to your attention tomorrow. It should be there Monday. I'm sure Cindy will respond to #2.

Brenda

From: Paz Holly O
Sent: Wednesday, June 01, 2011 2:21 PM
To: Thomas Cindy M
Cc: Melahn Brenda
Subject: group of cases

re: Tea Party cases

Two things re: these cases:

1. Can you please send me a copy of the Crossroads Grassroots Policy Strategies (EIN 27 - 2753378) application? Lois wants Judy to take a look at it so she can su mmarize the issues for Lois.

2. What criteria are being used to label a case a "Tea Party case"? We want to think about whether those criteria are resulting in over -inclusion.

Lois wants a briefing on these cases. We'll take the lead but would like you to participate. We're aiming for the week of 6/27.

Thanks!

Holly

SFC 001862

From: Seto Michael C
Sent: Friday, March 09, 2012 12:06 PM
To: Goehausen Hilary; Lowe Justin; Grodnitzky Steven; Megosh Andy; Mangrum Emily Davis
Cc: Fish David L; Kastenberg Elizabeth C; Salins Mary J; Shoemaker Ronald J; Lieber Theodore R
Subject: Processing procedures to handle the technical assistance request from EOD
Per our discussion at our meeting yesterday, the processing procedures are below.

If you have questions, ask Steve or me. Thanks, Mike

A. Process – Technical Assistance to EOD on Advocacy Case(s)

- Assign the technical assistance request to Hilary/T1 for review; document the work done for the case via the case history sheet and include all research document in the administrative file.
- Review is based on the information in the administrative file with research done via the Internet. No development letters are to be sent to or contacts are to be made with the taxpayer because that this is technical assistance request from EOD. The timeline for completing review in EOT is COB Monday, March 19. If additional time is needed, inform Steve.
- After review is done, case goes directly to Justin/Guidance for review;
- Once EOG/EOT review is completed, analysis done and recommendation made, I will schedule a meeting with Cindy Thomas and Donna Abner to update them on our analysis and recommendation.
- After the meeting, we will send the application with the analysis and recommendation to Counsel for comment/concurrence. Holly is to be notified when the application is ready to go to Counsel.
- Once we got Counsel's comments, schedule a briefing with EO Director/ EO R&A Director/EO Guidance Manager.

B. TRAC control – request TPU for a control
  - Use the taxpayer's name
  - Use TRAC **code 11b**, not 1e, because this is a technical assistance request.

C. WEBETS - Create line under "Technical" on WEBETS to capture time spent on the review of advocacy cases from EOD
  - "Technical Assistance To EOD on Advocacy Cases"
  - Activity code 132 / Project code 6415

EP/EO Case Chronology Record

SFC 00186 Page 1

Employer's or Organization's Name	EIN	
Crossroads Grassroots Policy Strategies	[redacted]	
	Screener's Name: G Muthert	Total Time: 0.4
Plan name and Plan Number	Specialist's Name: Liz Hofacre / Joseph Herr	0.5
	Reviewer's Name	

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

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

Remarks

Form **5464-A** (4-97) Catalog Number 24265N Department of the Treasury - Internal Revenue Service

IRS0000071224

EP/EO Case Chronology Record SFC 00186 **Page 2**

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

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

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

Remarks

EP/EO Case Chronology Record

SFC 00186 Page 3

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

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

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

Hall Regeina D

From: Downing Nanette M
Sent: Thursday, October 14, 2010 9:21 AM
To: Hall Regeina D; Nair Vasu T
Subject: FW: Washington Post: As campaign money pours in, so do complaints

RECEIVED
OCT 15 2010
EO CLASSIFICATION
7993

From: Pyrek Steve J
Sent: Thursday, October 14, 2010 6:25 AM
To: Lerner Lois G; Letourneau Diane L; Downing Nanette M; Choi Robert S; Zarin Roberta B; Kindell Judith E; Urban Joseph J; Ingram Sarah H
Subject: Washington Post: As campaign money pours in, so do complaints

As campaign money pours in, so do complaints

By Dan Eggen Washington Post Staff Writer
Wednesday, October 13, 2010; 7:42 PM

The 2010 midterm elections are likely to set records for spending by outside interest groups - and are already setting a healthy pace for complaints with the Federal Election Commission and the Internal Revenue Service.

Another example is likely to come Thursday, with two gay rights organizations, the Human Rights Campaign and the Courage Campaign, planning to file an IRS complaint over the tax status of one of their most vocal opponents.

The groups allege that the Ruth Institute, an arm of the National Organization for Marriage, has violated rules forbidding charities to get involved in political races. NOM, which opposes legalizing same-sex marriage, denies the allegation.

The complaint, a copy of which was provided to The Washington Post, points to evidence that the president of the Ruth Institute, Jennifer Roback Morse, has actively participated in events in favor of Carly Fiorina, the Republican candidate for Senate in California.

The Ruth Institute has also actively campaigned for judicial candidates in that state's San Diego County and in Iowa, where conservative activists are leading an effort to remove three state Supreme Court judges who voted in favor of marriage rights for gays there, according to the complaint.

"The evidence that the Ruth Institute and the NOM Education Fund repeatedly stepped over the line into illegal activity is indisputable," said Joe Solmonese, the HRC's president. "Is the Ruth Institute nothing more than a front and funnel for NOM's political activities?"

NOM President Brian Brown called the allegations "laughable" and denied most of the examples cited in the complaint. He said that Morse participated in many events as a private citizen, and that attacks by the two groups have helped NOM raise more than $200,000 in a week.

The complaint is the latest in a series of disputes over the activities of various nonprofit groups, which have been particularly active in this year's elections after a spate of favorable court rulings.

On Wednesday, for example, the watchdog groups Public Citizen and Protect Our Elections filed a complaint with the FEC alleging that the pro-Republican organization Crossroads GPS is violating federal campaign finance laws by claiming to be a nonprofit group rather than a political committee. A similar complaint was filed with the IRS

earlier this month against Crossroads GPS, which was founded with the help of GOP political guru Karl Rove and is one of the leading spenders this year.

Neither the FEC nor the IRS comments on specific complaints.

According to the complaint, the Ruth Institute is listed as a project of NOM's Education Fund, which is incorporated as a 501(c)3 nonprofit group, named for the portion of the tax code used for charities. Donations to such charities are tax-deductible, but the groups are prohibited from participating in political campaigns.

NOM has spent more than $200,000 in an attempt to unseat Sen. Barbara Boxer (D-Calif.), but the Ruth Institute is supposed to steer clear of those efforts.

The HRC and the Courage Campaign say the Ruth Institute has violated that prohibition in several ways. In one example, a video shows Morse at a Fiorina campaign event in San Diego, where she identified herself as the Ruth Institute president, handed out bumper stickers for the institute and urged listeners to visit the group's Web site. The complaint also cites other videos, Internet links and blog postings linking the Ruth Institute with the Fiorina campaign; many of the references have since been removed.

"They simply believe they are above the law," said Rick Jacobs, founder and chairman of the Courage Campaign.

Brown dismisses such allegations, saying NOM and its affiliates are scrupulous about abiding by the rules. He acknowledged one incident mentioned in the complaint, which he characterized as a simple mistake: NOM issued a news release about a Fiorina event that named the Ruth Institute; he said the release was retracted when the error was pointed out by the group's critics.

"We know the law, and we follow the law," Brown said. "They're trying to silence us and make it hard for us to operate."

Neither side expects the matter to be decided before the Nov. 2 elections. The IRS can take months, or years, to adjudicate such complaints.

Super super PACs

One result of this year's Supreme Court decision in *Citizens United v. Federal Election Commission* is the rise of "super PACs," which are free to raise and spend unlimited funds as long as they don't coordinate with candidates.

Now there's a new wrinkle, according to the Sunlight Foundation: The *all-corporate* super PAC.

Alaskans Standing Together, a new super PAC formed to support Sen. Lisa Murkowski (R-Alaska), has told the FEC it has raised $805,000 so far - all of it from a group of nine federal contractors known as Alaska Native Corporations. As The Washington Post has reported, billions of taxpayer dollars have gone to such contractors amid widespread allegations of abuse.

Call it the Washington Circle of Life: from taxpayer to contractor to politician . . .

SFC 001868

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

Department of the Treasury

Date: February 8, 2012

Employer Identification Number:
SFC [redacted]
Person to Contact – Group #:
Janine L. Estes - 7829
ID# 0203052
Contact Telephone Numbers:
SFC [redacted] Phone
SFC [redacted] Fax
Response Due Date:
February 22, 2012

True the Vote
C/O Foley & Lardner LLP
Attn: Richard F. Riley
3000 K Street NW, Ste 600
Washington, DC 20007-5109

Dear Sir or Madam:

Thank you for the information submitted November 8, 2011 regarding your application for exemption. Unfortunately, we need more information before we can complete our consideration of your application.

Please provide the information requested on the enclosed Information Request by the response due date shown above. Your response must be signed by an authorized person or an officer whose name is listed on the application. Also, the information you submit should be accompanied by the following declaration:

> *Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information, and such facts are true, correct, and complete.*

If we approve your application for exemption, we will be required by law to make the application and the information that you submit in response to this letter available for public inspection. Please ensure that your response doesn't include unnecessary personal identifying information, such as bank account numbers or Social Security numbers, that could result in identity theft or other adverse consequences if publicly disclosed. If you have any questions about the public inspection of your application or other documents, please call the person whose name and telephone number are shown above.

To facilitate processing of your application, please attach a copy of this letter and the enclosed Application Identification Sheet to your response and all correspondence related to your application. This will enable us to quickly and accurately associate the additional documents with your case file. Also, please note the following important response submission information:

- Please don't fax and mail your response. Faxing and mailing your response will result in unnecessary delays in processing your application. Each piece of correspondence submitted (whether fax or mail) must be processed, assigned, and reviewed by an EO Determinations specialist.

- Please don't fax your response multiple times. Faxing your response multiple times will delay the processing of your application for the reasons noted above.

- Please don't call to verify receipt of your response without allowing for adequate processing time. It takes a minimum of three workdays to process your faxed or mailed response from the day it is received.

If we don't hear from you by the response due date shown above, we will assume you no longer want us to consider your application for exemption and will close your case. As a result, the Internal Revenue Service will treat you as a taxable entity. If we receive the information after the response due date, we may ask you to send us a new application.

In addition, if you don't respond to the information request by the due date, we will conclude that you have not taken all reasonable steps to complete your application for exemption. Under Internal Revenue Code section 7428(b)(2), you must show that you have taken all the reasonable steps to obtain your exemption letter under IRS procedures in a timely manner and exhausted your administrative remedies before you can pursue a declaratory judgment. Accordingly, if you fail to timely provide the information we need to enable us to act on your application, you may lose your rights to a declaratory judgment under Code section 7428.

We have sent a copy of this letter to your representatives as indicated in Form 2848, Power of Attorney and Declaration of Representative.

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

Sincerely yours,

Janine L. Estes
Exempt Organizations Specialist

Enclosures: Information Request

Cc: Cleta Mitchell, Esq.
Richard F. Riley, Esq

SFC 001870

True the Vote
SFC [redacted]

Additional Information Requested:

1. Provide a print-out of each of your website's pages or proposed website's pages, including any pages with restricted access.

2. Provide details regarding all of your activity on Facebook and Twitter. Also, provide hard copies of all advertising you have conducted using social media outlets.

3. Submit the following information relating to your past and present directors, officers, and key employees:

   a) Provide a resume for each.
   b) Indicate the number of hours per month each individual has provided or is providing services to you.
   c) Provide a description of all the services each individual provides or has provided to you.
   d) Indicate the total compensation provided to each individual.
   e) Describe how each compensation package was determined.
   f) Indicate if any of your current and former officers, directors, and key employees are related to each other (include family and business relationships) and describe the nature of the relationship.

4. 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.

5. Do you have a conflict of interest policy? If yes, submit a copy.

6. Provide minutes of all board meetings since your creation.

7. Regarding your fundraising:

   a) Provide copies of all solicitations the organization has made regarding fundraising.
   b) Provide copies of all documents related to the organization's fundraising events, including pamphlets, flyers, brochures, webpage solicitations.
   c) Provide a listing and details regarding all fundraising expenses.

8. Provide actual financial information for 2010 and 2011 and a budget for 2012. Provide details regarding each item listed.

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SFC [redacted]

9. Provide a description of the collateral materials used by the organization.

10. Although no salaries and wages on the financial information submitted with your initial application does the organization currently have or plan to have employees? Provide the following information:

    a) How many employees do you have?
    b) Indicate the total of full-time, part-time, and seasonal employees?
    c) If employees are part-time, when did/do they work?
    d) If employees are seasonal, during what season (months) did/do they work?
    e) How many employees are/were devoted to each activity of the organization throughout the year?

11. Regarding your current and planned volunteers:

    a) How many volunteers do you have?
    b) How many volunteers are/were devoted to each activity of the organization throughout the year?
    c) How many and what sort of resources are devoted to volunteer activities?

12. In your Form 1023 application, you stated you conduct the following activities: Training Election Workers and Public Education. 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.

13. 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

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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.

14. You have stated you will recruit individuals to serve as election administration workers or as election observers. Provide the following information:

a) Explain the process used to recruit individuals willing to fill these positions.

b) Provide copies of any materials distributed to recruit individuals.

c) How many individuals have you trained to date?

d) How many individuals are currently undergoing training?

e) How many elections have you provided election workers for?

f) What percentage of individuals recruited go on to serve as administration workers?

g) What percentage of individuals recruited go on to serve as election observers?

h) What percentage of individuals recruited do not go on serve as election workers?

i) Do you only train election workers for the state of Texas? If yes, do you plan to expand your activities to other states? List the states in which you plan to train election workers. If you have already expanded provide a list states in which you are currently training election workers.

j) Are there any regulations that govern the role of an election observer? If yes, provide copies of the applicable regulations.

15. You stated that election administration workers are trained by local election administrators. Provide the following information:

a) Do election administration workers receive any training from you? Explain the training received.

b) If training is received from you how does this training differ from the training received by election observers?

c) When do the election administration workers receive this training: prior to the training, concurrently with the training, or after receiving the training from local election administrators?

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16. You have stated the organization's materials are carefully vetted by election law experts. Provide the names and credentials of the election law experts used by the organization

17. You have stated the organization's voter integrity center will be staffed with legal and election experts. Provide the names and credentials of the legal and election experts used by the organization.

18. How many reports have election observers made to the voter integrity center? Of those reports how many have been elevated to the appropriate election administration official to correct the violation?

19. You have stated the organization may participate in civil lawsuits to compel compliance with the election law. Provide a description of any of your organization's involvement in civil lawsuits to date.

20. Provide the following information about the organization's voter registration integrity activity:

    a) Explain the process used to recruit individuals.

    b) Provide copies of any materials distributed to recruit individuals.

    c) Describe the training process used by the organization. Provide a copy of any training materials used.

    d) How many individuals have you trained to date?

    e) How many individuals are currently undergoing training?

    f) Identify the states in which the organization conducts, has conducted, or plans to conduct this activity.

    g) In how many jurisdictions have you conducted this activity?

21. You stated the organization has developed, through volunteers, a software capability for downloading the registered voter lists, then reviewing and indentifying potential inaccurate registrations. Is there any intellectual property rights associated with this software? If so, who owns those rights?

22. You stated the organization is lessening the burdens of government by assisting governmental bodies in accomplishing their requirements under law. You go on to state the organization's review of registration lists directly fulfills the HAVA requirements imposed on government and offers a resource to accomplish this task that many local jurisdictions lack. Provide the following information:

    a) Has the organization ever been approached by a jurisdiction specifically to perform a review of registration lists? If so, please explain.

    b) To your knowledge has a local election administration official ever used your review

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of voter rolls to assist them in discharging their statutory obligation to maintain integrity of the voter registration rosters? If so, please explain.

c) In how many jurisdictions have you presented your review of voter rolls to election administration?

23. You stated you will provide voter registration training. In addition to voter registration will you, or have you ever, conducted get out to vote drives, or publish or distribute voter guides? Provide the following information:

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.

24. You stated the organization may create documentaries. Provide copies of any completed documentaries including printed transcripts.

25. In regards to the organization's public education activities you state the organization seeks to educate the public and influential individuals. Define influential individuals.

26. You stated the organization hopes to raise awareness of voter integrity tissues through strategic outreach efforts including media relations. 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) Press releases
b) Interviews with news media
c) Letters to the editor
d) Op-ed pieces

27. In your initial application you stated True the Vote would like to see Texas enact legislation to support the use of a Voter ID card. 20% of the budget would be used to support printing to educate on the cause. In your most recent response you stated True the Vote will provide information on its findings to elected officials. Provide the following information regarding these activities:

a) Provide copies of all communications, pamphlets, advertisements, and other materials distributed by you regarding the legislation.
b) Do you conduct media advertisements lobbying for or against legislation? If yes, provide copies of any radio, television, or internet advertisements relating to the organization's lobbying activities.
c) Do you directly or indirectly communicate with members of legislative bodies? If so, explain the amount and nature of the communication.

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28. Are you a membership organization? Provide details regarding all members' fees and benefits.

29. Do you publish or distribute materials or conduct other communications that are prepared by or reviewed by another organization? If yes, explain and provide a copy of such materials or communications.

30. Will you publish and/or distribute material in favor of any candidate for public office? If yes, explain.

31. Do you or will you rate candidates? If yes, explain.

32. Do you or will you endorse candidates? If yes, explain and answer the following:

    a) Provide your endorsement criteria.
    b) Once a candidate is endorsed, how does your organization handle the endorsement?
    c) Provide a list of all candidates you have endorsed.
    d) Does your organization notify the candidate of the endorsement? If yes, explain.
    e) Do you provide any materials to candidates, which they may use to promote their candidacy? If so, please describe and provide copies of those materials.

33. You have indicated you have a close connection with King Street Patriots.

    a) Provide the address of the organization.
    b) Describe in detail the nature of the relationship.
    c) Do you work with the organization(s) regularly?
    d) Provide copies of all related contracts with such organizations.
    e) Describe the nature of all contacts with the organizations.
    f) Do you share employees, volunteers, resources, office space, etc. with the organization(s)? If yes, explain.

34. Are you associated with any other IRC 501(c)(3), 501(c)(4) or 527 organizations? If yes:

    a) Provide the name, federal employer identification number and address of each organization.
    b) Describe in detail the nature of the relationship(s).
    c) Do you work with the organization(s) regularly?
    d) Provide copies of all related contracts with such organizations.
    e) Describe the nature of all contacts with the organizations.
    f) Do you share employees, volunteers, resources, office space, etc. with the organization(s)? If yes, explain.

True the Vote
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35. Are you associated with any for-profit organizations? If yes:

a) Provide the name, federal employer identification number and address of each organization.
b) Describe in detail the nature of the relationship(s).
c) Do you work with the organization(s) regularly?
d) Provide copies of all related contracts with such organizations.
e) Describe the nature of all contacts with the organizations.
f) Do you share employees, volunteers, resources, office space, etc. with the organization(s)? If yes, explain.

36. Do 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 provide contracts or other agreements documenting the business relationship.

37. Has any person or organization provided educational services to you? If yes, provide the following:

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.

38. Have you conducted candidate forums at which candidates for public office were invited to speak? If yes, provide the following:

a) Details, including the nature of the forums
b) The candidates invited to participate
c) The candidates that did participate
d) The issues discussed
e) The time and location of the event.
f) Copies of all materials distributed regarding the forum and provided at the forum, including any internet material discussing or advertising the forum.

39. Have any candidates for public office spoken at a function of the organization other than a candidate forum? If yes, provide the following:

a) The names of the candidates
b) The functions at which they spoke
c) Any materials distributed or published with regard to their appearance and the event
d) Any video or audio recordings of the event
e) A transcript of any speeches given by the candidate(s)

SFC 001877

True the Vote
SFC [redacted]

PLEASE DIRECT ALL CORRESPONDENCE REGARDING YOUR CASE TO:

US Mail:

Internal Revenue Service
Exempt Organizations
P. O. Box 2508
Cincinnati, OH 45201
ATT: Janine L. Estes
Room 4525
Group 7829

Street Address for Delivery Service:

Internal Revenue Service
Exempt Organizations
550 Main St, Federal Bldg.
Cincinnati, OH 45202
ATT: Janine L. Estes
Room 4525
Group 7829

Letter 2382 (5-2011)
Catalog Number 57829T

SFC 001878

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

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

Lois G. Lerner
Director of Exempt Organizations

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

Lois,

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

Thanks and we look forward to receiving the invitation.

Kathryn Beard

Communications & Research Director
Democracy 21

SFC [redacted]

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

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

SFC 001879

Lois G. Lerner
Director of Exempt Organizations

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

Lois,

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

Thanks,

Kathryn Beard

Communications & Research Director
Democracy 21

[redacted]
SFC [redacted]

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

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

Lois G. Lerner
Director of Exempt Organizations

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

Great. Thank you very much.

Kathryn Beard

Communications & Research Director
Democracy 21

SFC [redacted]

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

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

Lois G. Lerner
Director of Exempt Organizations

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

Dear Ms. Lerner,

Thank you for getting back to me.

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

Kathryn Beard

Communications & Research Director
Democracy 21

SFC [redacted]

From: Lerner Lois G SFC
Sent: Friday, December 14, 2012 2:16 PM
To: Kathryn Beard
Cc: Sandifer Theodora
Subject: RE: Meeting with Democracy 21 and Campaign Legal Center

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

Lois G. Lerner
Director of Exempt Organizations

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

Dear Ms. Lerner,

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

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

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

Kathryn Beard

Communications & Research Director
Democracy 21

SFC

SFC 001882

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

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

Lois G. Lerner
Director of Exempt Organizations

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

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

SFC 001883

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

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

Lois G Lerner
Director of Exempt Organizations

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

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

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

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

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

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

According to the letter from the watchdog groups:

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

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

The letter from the watchdog groups continues:

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

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

According to Democracy 21 President Fred Werthheimer:

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

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

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

According to the letter sent today:

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

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

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

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

According to the letter:

The $70 million in campaign expenditures attributed to Crossroads GPS consists overwhelmingly of ads reported to the Federal Election Commission as "independent expenditures," *i.e.*, ads that contain "express advocacy."

As we have discussed at length in our prior correspondence with you, the IRS uses a different test to define activity that constitutes intervention or participation in elections, and additional ads by Crossroads GPS that may not be subject to reporting to the FEC may nonetheless fall well within the test used by the IRS to determine what constitutes campaign spending by a tax-exempt group.

In continuing any ongoing review of the application submitted by Crossroa ds GPS for status as a section 501(c)(4) organization, we believe it is essential that you not accept at face value either the obviously self -serving statement on its application that Crossroad GPS's campaign spending will not constitute its "primary purpo se" or any self-serving claims by the organization that communications were "issue ads."

The IRS should closely scrutinize the spending that Crossroads GPS engaged in during the 2012 campaign. This includes both the spending that was reported to the FEC as "independent expenditures" because it included "express advocacy," and any other spending on communications that may well have constituted intervention or participation in campaigns under IRS rules, even if the ads did not contain "express advocacy."

In particular, we strongly urge you not to accept at face value any claim by Crossroads GPS that any or all of its ads that mention federal candidates and did not contain express advocacy were "public education ads" or "issue ads." These ads, and the context in which they were run, must be reviewed by the IRS to determine whether in fact any or all of the ads constituted ads to intervene or participate in elections, within the IRS definition of that standard. *E.g.*, Revenue Ruling 2004-6, 2004-1 C.B. 328.

In our letter to you of September 27, 2012, we submitted transcripts of the ads run by Crossroads GPS from January 1, 2012 through September 24, 2012. We urged the IRS to review each of these ads, and to apply the agency's standards to determine whether the ads constituted intervention or participation in campaigns. We again urge you to conduct such a review.

The letter concludes:

It is the responsibility and obligation of the IRS to stop this kind of abuse of the tax laws. It is imperative that the IRS closely and critically review the assertions made by Crossroads GPS in its application for tax -exempt status, and in its tax returns, in light of its massive, campaign spending in the 2012 federal elections.

Crossroads GPS served as little more than a campaign operation in 2012. Crossroads GPS has no business being treated as a "social welfare" organization and the IRS should deny its application for tax -exempt status as a section 501(c)(4) organization.

From: Williams Grant
Sent: Wednesday, January 02, 2013 4:02 PM
To: Eldridge Michelle L
Subject: FW: ProPublica: 501c4 questions says deadline today

From: Burke Anthony
Sent: Wednesday, January 02, 2013 3:51 PM
To: Williams Grant
Subject: FW: 501c4/Crossroads question

Here's the inbound.

SFC 001886

From: Justin Elliot [SFC [redacted]]
Sent: Wednesday, January 02, 2013 3:45 PM
To: Burke Anthony
Subject: 501c4/Crossroads question

Hi Anthony — This is the piece I was talking about with Crossr oads GPS' application: http://www.propublica.org/article/what-karl-roves-dark-money-nonprofit-told-the-irs

To recap what I'm looking for today, I'm just w ondering if Crossroads GPS has been recognized as a 501c4 (I realize you cannot comment on the application itself). Last we checked they had not been recognized, but I want to make sure my information is current.

Secondly, wondering if you want to comme nt on the letter sent to the IRS today by Democracy 21 and the Campaign Legal Center: http://www.democracy21.org/index.asp?Type=B_PR&SEC={91FCB139-CC82-4DDD-AE4E-3A81E6427C7F}&DE={554527CB-18F4-43AC-8FD1-AC9F05DF2EDB}

I'm doing an update to our piece today linking to this letter.

Thanks,
Justin

--
Justin Elliott
Reporter
ProPublica
SFC [redacted]

SFC 001887

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

I had a meeting today with an organization that was asking us to consider guidance on the c4 issue. To get ready for the meeting, I asked for every document that had sent in over the last several years because I knew they had sent in several referrals. I reviewed the information last night and thought the allegations in the documents were really damning, so wondered why we hadn't done something with the org. The first complaint came in 2010 and there were additional ones in 2011 and 2012.

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

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

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

Lois G. Lerner
Director of Exempt Organizations

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

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

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

Tom Miller

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

SFC 001889

From: Lerner Lois G
Sent: Friday, January 04, 2013 4:59 PM
To: Marks Nancy J
Subject: FW: Referral organization

I am only sharing because someone other than me needs to know this. I have said from day one that Exam is not capable of dealing with the political stuff--or much of the sensitive stuff--they don't get the issues. We always feel safer because Exam decisions are made by "career IRS agents." I actually think they make poor decisions--if it isn't a straightforward tax violation--they don't have a clue and just non-select the referral. When I initially talked to Nan about doing a post review of referral decisions, she said the most experienced folks she had had made the decisions, so she didn't know who in Exam would be able to do it. Scary! Please keep to yourself at this point, but someone other than me needs to know in the event I get hit by a truck. please talk to me before you share further. Thanks

Lois G. Lerner
Director of Exempt Organizations

From: Lerner Lois G
Sent: Friday, January 04, 2013 5:50 PM
To: Downing Nanette M
Subject: FW: Referral organization

I had a meeting today with an organization that was asking us to consider guidance on the c4 issue. To get ready for the meeting, I asked for every document that had sent in over the last several years because I knew they had sent in several referrals. I reviewed the information last night and thought the allegations in the documents were really damning , so wondered why we hadn't done something with the org. The first complaint came in 2010 and there were additional ones in 2011 and 2012.

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

I know the org is now in the ROO--based on allegations sent in this year, but this is an org that was a prime candidate for exam when the referrals and 990s first came in. I worry that if the allegations in the present complaint only discuss this year, Exam will slot if for a future year because this year's 990 isn't in yet. My level of confidence that we are equipped to do this work continues to be shaken. I don't even know what to recommend to make this better. I'm

guessing if it hadn't been for us implementing Dual Track, the org would never be examined. And, I am not confident they will be able to handle the exam without constant hand holding--the issues here are going to be whether the expenditures they call general advocacy are political intervention.

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

Lois G. Lerner
Director of Exempt Organizations

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

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Tom Miller

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

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

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

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

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

Lois G. Lerner
Director of Exempt Organizations

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

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

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

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

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

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

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

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

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Lois G. Lerner
Director of Exempt Organizations

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

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

Tom Miller

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

SFC 001894

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

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

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

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

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

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

SFC 001895

Lois G. Lerner
Director of Exempt Organizations

IRS0000122864

SFC 001896

From: Lerner Lois G
Sent: Friday, April 03, 2009 5:39 PM
To: 'WPowers SFC
Cc: Choi Robert S
Subject: RE: Thank you for your help

Follow Up Flag: Follow up
Flag Status: Flagged

You're more than welcome. Let us know anytime we can help --If you need assistance in the future --please cc Robert.S.Choi SFC. That way your email is less likely to sit around until I get to it! Rob's folks are the ones who will get you what you need. Thanks for the comment about Mike --I'll let him know of your nice words.

Lois G. Lerner
Director, Exempt Organizations

From: WPowers SFC
Sent: Friday, April 03, 2009 4:49 PM
To: Lerner Lois G
Subject: Thank you for your help

Dear Lois,

I wanted to thank you again for all of the help you have provided in answering my several inquiries about 501(c)(4) organizations. The information that you and your staff provided to me has been very useful, and I have also learned a great deal along the way. I also wanted to let you know that Michael Seto was extremely helpful this week in providing me the requested documents both promptly and professionally.

Once again, I greatly appreciate your help and hope to have a chance to work with you and your staff in the future.

All the best,
Bill

William A. Powers
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Tel SFC
Fax SFC

From: Lerner Lois G
Sent: Tuesday, February 02, 2010 9:31 AM
To: 'WPowers SFC
Cc: Choi Robert S; Letourneau Diane L
Subject: Re: Question from the FEC about an exempt organization

Follow Up Flag: Follow up
Flag Status: Flagged

I'll have someon check ans we'll get back to you. Jeanne Callahan has retired so when emailing me please cc Diane Letourneau, my ne Executive Assistant. Thanks
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

From: WPowers SFC
To: Lerner Lois G
Cc: Choi Robert S; Callahan Jeanne
Sent: Tue Feb 02 09:35:21 2010
Subject: Question from the FEC about an exempt organization

Dear Lois,

Last year you and your staff were able to provide me with copies of publicly available information filed by American Issues Project, Inc., a 501(c)(4) organization. At that time, we received the group's 8718, 1024, as well as its 8868 and 990 for 2007. If it has been filed, would it be possible for your office to provide a copy of American Issues Project's Form 990 for 2008? Also, if the group has filed any additional forms since it filed its 2007 Form 990 dated December 18, 2008, could you please have any publicly available forms sent to me as well?

Thank you very much for all of your help again. If you or your staff have any questions, please do not hesitate to contact me at (202) 694-1650.

Many thanks,
Bill

William A. Powers
Attorney, Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Tel SFC
Fax SFC

SFC 001898

Routing Slip

Date:	November 19, 2009	*Action*	*Initial/Date*
To:	Steve Grodnitzky Manager, Technical Group 1		
From:	Debra Cowen Reviewer, Group 1		
Subject:	Emerge Maine		

Comments:

We have 3 applications for 501(c)(4) exemption from "Emerge" organizations in our group. Several of the Emerge organizations have already been recognized as exempt entities. There may be other applications in the pipeline in Cincinnati.

The organizations' sole activity is the sponsorship of a campaign school similar to the ones described in American Campaign Academy. The proposed denial is based on the organization's participation in political campaigns, and failure to promote social welfare because of private benefit to the Democratic Party (partisan purposes) as well as private benefit to the individual women selected to participate. It is similar to the denial to the DLC but will be prospective.

Because of the tie-in to PACI and DLC, I thought it wise to have Judy review the draft at the same time as the Group Manager.

Judy - Please let me know if you'd like to see the underlying administrative file. Also - if you feel you don't need to be in this loop until after we receive a protest - or later - let us know and we will follow our existing review procedures.

Steve - I will give you the hard copy and the administrative file as well.

If either of you feel it appropriate, we will prepare a Significant Case Report. My own opinion - it isn't a significant case until we receive a protest. I anticipate that happening, of course. If the denial is sustained, we can make a referral to Exam of the organizations that were recognized incorrectly.

SFC [redacted]

Lowe Justin

From: Lowe Justin
Sent: Tuesday, October 21, 2008 9:00 AM
To: Thrasher Laurie A
Cc: Grodnitzky Steven
Subject: Political Activities Cases

Hi Laurie, I have received 2 cases from Determs in Cincinnati that involve political activities (Ted requested that they be brought up here). I will drop them off with you today. Please assign them to Group 1 when you get a chance. The case names are:

Emerge Maine
Emerge Nevada

Thanks,

Justin

10/21/2008

SFC 001900

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

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

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

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

SFC 001901

EO Technical
Significant Case Report
(April 28, 2010)

Name of Org/Group	Group #/Manager	EIN	Received	Issue	Tax Law Specialist	Estimated Completion Date	Status/Next action
Prescott Tea Party, LLC and Albuquerque Tea Party, Inc.	2/Ron Shoemaker	27-0484865 and 90-0513502	4/2/2010	Whether a tea party organization meets the requirements under 501(c)(3) and is not involved in political intervention.	Chip Hull	9/30/2010	One development letter sent, and working on sending development letter for the second case. Also, will coordinate with Cincy as to helping to develop their cases.
SFC							

SFC 001902

IRS0000141811

SFC 001903

From: Grodnitzky Steven
Sent: Thursday, May 27, 2010 5:45 PM
To: Lerner Lois G; Choi Robert S
Cc: Letourneau Diane L; Neuhart Paige; Trilli Darla J; Douglas Akaisha; Grodnitzky Steven
Subject: SCR Chart for the month of May
Attachments: SCR report table May 2010.doc

Here is the SCR chart for the significant cases in EO Technical, updated for the month of May.

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

SFC 001904

EO Technical
Significant Case Report
(May 27, 2010)

Name of Org/Group	Group #/Manager	EIN	Received	Issue	Tax Law Specialist	Estimated Completion Date	Status/Next action
Prescott Tea Party, LLC and Albuquerque Tea Party, Inc.	2/Ron Shoemaker	27-0484865 and 90-0513502	4/2/2010	Whether a tea party organization meets the requirements under 501(c)(3) and is not involved in political intervention.	Chip Hull	9/30/2010	Prescott case failed to answer development letter and FTEd. **CLOSED.** Requesting a second (c)(3) case to review. Albuquerque received an extension to answer the development letter. Coordinating with Cincy as to helping to develop their cases.
[redacted]							

IRS0000141813

SFC 001905

IRS0000141814

SFC 001906

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: Emerge Maine, Emerge Nevada, and Emerge Massachusetts, Emerge Oregon **TIN/EIN:** 418018017, 458028002, 418235013 **POA:** N/A	**TAX PERIODS:** **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, DC	☐ **INITIAL REPORT** ☒ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☒ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☒ Other (explain in Case Summary)
FORM TYPE(S): 1024	**START DATE:** Emerge Massachusetts: • Determinations: 8/15/08 • Technical: 4/16/09 Emerge Maine: • Determinations: 1/11/08 • Technical: 10/9/08 Emerge Nevada: • Determinations: 12/31/07 • Technical: 10/9/08 Emerge Oregon • Determinations: 2/9/2010 • Technical:4/14/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) :	**CRIMINAL REFERRAL?** No **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

The Emerge cases involve applications filed by four state chapter organizations who recruit women belonging to the Democratic Party to schools that teach campaign -related skills, such as fund-raising, public speaking, etc.

The proposed denial for Emerge Maine is based on the organization's failure to promote social welfare because of substantial private benefit to the Democratic Party. It is similar to the denial of the DLC case, and is based on the rationale in the American Campaign Academy decision. The Emerge Maine proposed denial letter has been reviewed and approved by the group reviewer, EO Tech Group 1 manager, EO Tech acting manager, EO Guidance, and Judy Kindell. The letter was sent to TEGE Counsel in late April to ensure a consistent rationale as to litigation strategies. Once the Emerge Maine proposed denial is finalized, the other three cases can be completed based on the template from Emerge Maine. As a side note, a few state chapters have been granted tax exemption, and Counsel has reviewed those case files.

CURRENT SIGNIFICANT ACTIONS ON CASE: Counsel has approved the Emerge Maine proposed denial, which was issued on 1/10/11. The Emerge Massachusetts proposed denial was issued on 1/14/11.

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

SFC 001907

TEGE Division Sensitive Case Report
(revised January 2007)

SIGNIFICANT NEXT STEPS, IF ANY: Issue the Emerge Nevada proposed denial when the applicant confirms new information obtained from its website. Coordinate with EO Tech Group 2 to issue the Emerge Oregon proposed denial.	**ESTIMATED CLOSURE DATE:** February 28, 2011
BARRIERS TO RESOLUTION, IF ANY: None.	
SUBMITTED BY: Siri Buller	**MANAGER:** STEVEN GRODNITZKY
DATE: January 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.

From: Grodnitzky Steven
Sent: Thursday, September 30, 2010 1:36 PM
To: Lerner Lois G; Choi Robert S
Cc: Neuhart Paige; Letourneau Diane L; Trilli Darla J; Grodnitzky Steven; Paz Holly O
Subject: SCR Chart for EOT and Determinations
Attachments: SCR report table September 2010.doc

Rob and Lois,

Please find attached a chart summarizing all the SCR cases for the period ending September 30, 2010 for EO Technical and Determinations.

Any questions, please let me know.

Thanks.

Steve

SFC 001909

EO Technical
Significant Case Report
(September 30, 2010)

Name of Org/Group	Group #/Manager	EIN	Received	Issue	Tax Law Specialist	Estimated Completion Date	Status/Next action
Prescott Tea Party, LLC and Albuquerque Tea Party, Inc.	2/Ron Shoemaker	27-0484865 and 90-0513502	4/2/2010	Whether a tea party organization meets the requirements under 501(c)(3) and is not involved in political intervention.	Chip Hull	12/31/2010	Prescott case failed to answer development letter and FTEd. **CLOSED.** Requested and received a second (c)(3) case to review. Developing both the (c)(3) and (c)(4) cases. Coordinating with Cincy as to helping to develop their cases. Cincy has 3 § 501(c)(3) and 22 § 501(c)(4) applications.
SFC [redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Emerge Maine *, Emerge Nevada, Emerge Massachusetts, Oregon	1/ Steven Grodnitzky	SFC [redacted]	Cincinnati 1/11/08 EOT 10/9/08	Whether orgs that recruit women belonging to Democratic party to schools that teach campaign-related skills qualify for § 501(c)(4) status	Siri Buller	12/31/2010	Proposed denial sent to TEGE Counsel in late April to ensure consistency as to litigation strategy. Counsel is reviewing "approved" similar applications for comparison , and expects to complete review in October.
SFC [redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

SFC 001910

IRS0000156435

SFC 001911

* Sent to TEGE Commissioner through Mike Daly

IRS0000156436

SFC 001912

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: Emerge Maine, Emerge Nevada, and Emerge Massachusetts, Emerge Oregon **TIN/EI** SFC [redacted] **POA:** N/A	**TAX PERIODS:** **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, DC	☐ **INITIAL REPORT** ☒ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☒ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☒ Other (explain in Case Summary)
FORM TYPE(S): 1024	**START DATE:** Emerge Massachusetts: • Determinations: 8/15/08 • Technical: 4/16/09 Emerge Maine: • Determinations: 1/11/08 • Technical: 10/9/08 Emerge Nevada: • Determinations: 12/31/07 • Technical: 10/9/08 Emerge Oregon • Determinations: 2/9/2010 • Technical:4/14/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) :	**CRIMINAL REFERRAL?** No **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

The Emerge cases involve applications filed by four state chapter organizations who recruit women belonging to the Democratic Party to schools that teach campaign -related skills, such as fund-raising, public speaking, etc.

The proposed denial for Emerge Maine is based on the organization's failure to promote social welfare because of substantial private benefit to the Democratic Party. It is similar to the denial to the DLC case, and is based on the rationale in the American Campaign Academy decision. The Emerge Maine proposed denial letter has been reviewed and approved by the EO office, including the technical advisor to the EO Director. The letter was sent to TEGE Counsel in late April to ensure a consistent rationale as to litigation strategies. Once the Emerge Maine proposed denial is finalized, the other three cases can be completed based on the template from Emerge Maine. As a side not, a few state chapters have been granted tax exemption, and Counsel is reviewing those case files.

CURRENT SIGNIFICANT ACTIONS ON CASE:

TEGE Counsel is reviewing approved similar applications for comparison.

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

SFC 001913

TEGE Division Sensitive Case Report
(revised January 2007)

SIGNIFICANT NEXT STEPS, IF ANY: Review comments, if any, from TEGE Counsel, once they are received. Counsel expects to complete review in October.	**ESTIMATED CLOSURE DATE:** December 31, 2010
BARRIERS TO RESOLUTION, IF ANY: None.	
SUBMITTED BY: Siri Buller	**MANAGER:** PETER A. HOLIAT
DATE: 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.

SFC 001914

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EI** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☐ **INITIAL REPORT** ☐ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☐ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☐ Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**
CASE OR ISSUE SUMMARY: 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 exempti on under section 501c)(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.	
CURRENT SIGNIFICANT ACTIONS ON CASE: Organization (1) – closed FTE for failure to respond to a development letter. Organization (2) – a second development letter is being drafted and will be ready by 10/14/10. Organization (3) – Information was received 07/28/10 and is being evaluated. Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).	
SIGNIFICANT NEXT STEPS, IF ANY: Send Organization (2) development letter by 10/14/10. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** December 31, 2010
BARRIERS TO RESOLUTION, IF ANY: 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.

SFC 001915

TEGE Division Sensitive Case Report
(revised January 2007)

SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: 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.

SFC 001916

From: Paz Holly O
Sent: Wednesday, November 03, 2010 5:19 AM
To: Choi Robert S; Lerner Lois G
Cc: Neuhart Paige; Trilli Darla J; Letourneau Diane L
Subject: Emailing: SCR report table Oct 2010 final.doc
Attachments: SCR report table Oct 2010 final.doc

Attached is the SCR table for October. Please let me know if you have any questions.

IRS0000156478

SFC 001917

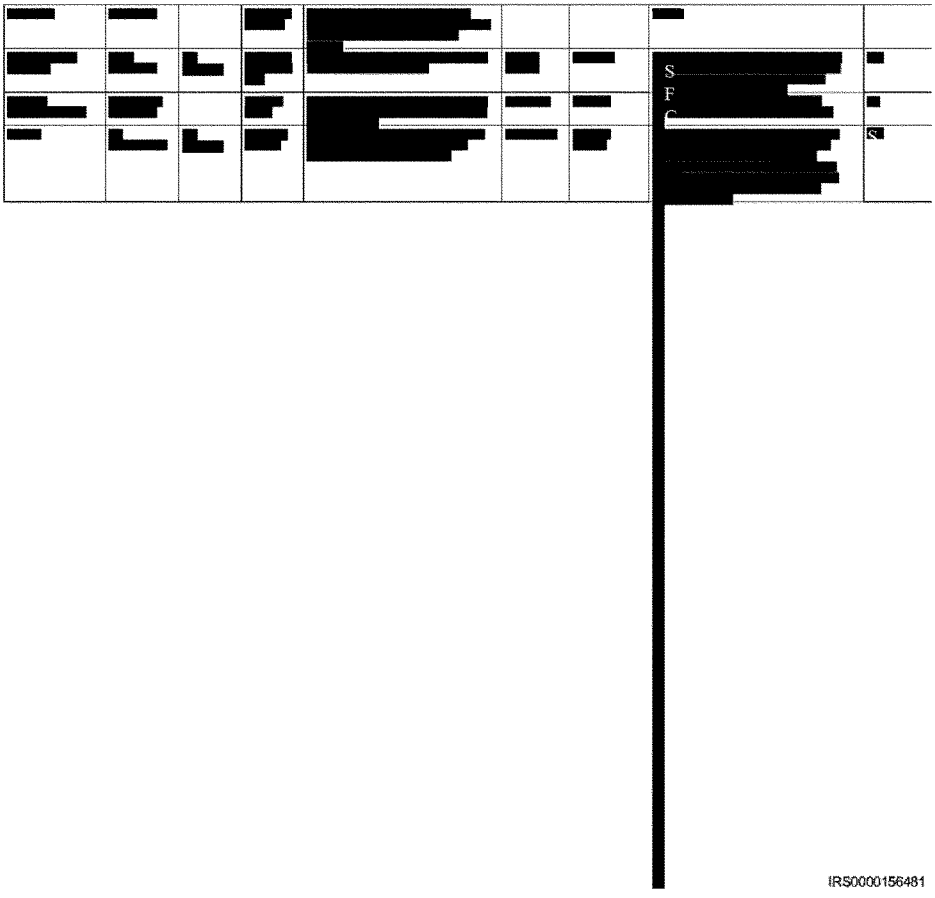
EO Technical
Significant Case Report
(September 30, 2010)

Name of Org/Group	Group #/Manager	EIN	Received	Issue	Tax Law Specialist	Estimated Completion Date	Status/Next action	Elevated to Commissi
American Junto and Albuquerque Tea Party, Inc.	2/Ron Shoemaker	SFC and SFC	4/2/2010	Whether a tea party organization meets the requirements under 501(c)(3) and is not involved in political intervention.	Chip Hull	3/31/2011	Developing both a (c)(3) and (c)(4) case. Coordinating with Cincy as to helping to develop their cases. Cincy has 40 applications.	No
SFC								
Emerge Maine , Emerge Nevada, Emerge Massachusetts, Oregon	1/ Steven Grodnitzky	SFC	Cincinnati 1/11/08 EOT 10/9/08	Whether orgs that recruit women belonging to Democratic party to schools that teach campaign-related skills qualify for § 501(c)(4) status	Siri Buter	12/31/2010	Proposed denial sent to Treas. Counsel in late April to ensure consistency as to litigation strategy. Counsel is reviewing "approved" similar applications for comparison, and expects to complete review shortly.	No
SFC								

SFC 001918

IRS0000156480

SFC 001919



IRS0000156481

SFC 001920

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: Emerge Maine, Emerge Nevada, and Emerge Massachusetts, Emerge Oregon **TIN/EI** SFC [redacted] **POA:** N/A	**TAX PERIODS:** **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, DC	☐ **INITIAL REPORT** ☒ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☒ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☒ Other (explain in Case Summary)
FORM TYPE(S): 1024	**START DATE:** Emerge Massachusetts: • Determinations: 8/15/08 • Technical: 4/16/09 Emerge Maine: • Determinations: 1/11/08 • Technical: 10/9/08 Emerge Nevada: • Determinations: 12/31/07 • Technical: 10/9/08 Emerge Oregon • Determinations: 2/9/2010 • Technical:4/14/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) :	**CRIMINAL REFERRAL?** No **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

The Emerge cases involve applications filed by four state chapter organizations who recruit women belonging to the Democratic Party to schools that teach campaign -related skills, such as fund-raising, public speaking, etc.

The proposed denial for Emerge Maine is based on the organization's failure to promote social welfare because of substantial private benefit to the Democratic Party. It is similar to the denial to the DLC case, and is based on the rationale in the American Campaign Academy decision. The Emerge Maine proposed denial letter has been reviewed and approved by the group reviewer, EO Tech Group 1 manager, EO Tech acting manager, EO Guidance, and Judy Kindell. The letter was sent to TEGE Counsel in late April to ensure a consistent rationale as to litigation strategies. Once the Emerge Maine proposed denial is finalized, the other three cases can be completed based on the template from Emerge Maine. As a side note, a few state chapters have been granted tax exemption, and Counsel is reviewing those case files.

CURRENT SIGNIFICANT ACTIONS ON CASE: Counsel is considering the implications of section 527 of the Code on the applications.

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

SFC 001921

TEGE Division Sensitive Case Report
(revised January 2007)

SIGNIFICANT NEXT STEPS, IF ANY: Review comments, if any, from TEGE Counsel, once they are received. Counsel expects to complete review before 12/31/10.	**ESTIMATED CLOSURE DATE:** January 31, 2010
BARRIERS TO RESOLUTION, IF ANY: None.	
SUBMITTED BY: Siri Buller	**MANAGER:** STEVEN GRODNITZKY
DATE: December 17, 2010	

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

From: Paz Holly O
Sent: Wednesday, February 02, 2011 10:22 AM
To: Seto Michael C; Lerner Lois G
Cc: Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E; Light Sharon P
Subject: RE: SCR Table for Jan. 2011

We can also modify the heading re: Commissioner elevation to be more clear - what it is intended to capture is whether it is being elevated in the current month.

From: Seto Michael C
Sent: Wednesday, February 02, 2011 11:21 AM
To: Lerner Lois G; Paz Holly O
Cc: Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E; Light Sharon P
Subject: RE: SCR Table for Jan. 2011

We can modify the report to include a running history of the item.

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

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

I'll get with Nan Marks on th [redacted] piece.

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

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

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

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

SFC 001923

Lois G. Lerner
Director, Exempt Organizations

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

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

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

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

O SEC r), proposed denials typically do not go to Counsel. Proposed denial goes out, we have conference, then final adverse goes to Counsel before that goes out. We can alter that in this case and brief you after we have Counsel's thoughts.

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

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

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

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

Thanks--a couple comments

1. Tea Party Matter very dangerous. This could be the vehicle to go to court on the issue of whether Citizen's United overturning the ban on corporate spending applies to tax exempt rules. Counsel and Judy Kindell need to be in on this one please needs to be in

this. Cincy should probably NOT have these cases --Holly please see what exactly they have please.

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

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

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

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

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

8. The 3 cases involvin SFC should be briefed up also.

9. SFC --why "yes-for this month only" in TEGE Commissioner block?

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

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

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

Here is the Jan. SCR summary.

SFC 001925

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: Emerge Maine, Emerge Nevada, Emerge Massachusetts, Emerge Oregon **TIN/EI** SFC [redacted] **POA:** N/A	**TAX PERIODS:** **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, DC	☐ **INITIAL REPORT** ☒ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media o r Congressional attention ☐ Unique or novel issue ☒ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☒ Other (explain in Case Summary)
FORM TYPE(S): 1024	**START DATE:** Emerge Massachusetts: • Determinations: 8/15/08 • Technical: 4/16/09 Emerge Maine: • Determinations: 1/11/08 • Technical: 10/9/08 Emerge Nevada: • Determinations: 12/31/07 • Technical: 10/9/08 Emerge Oregon • Determinations: 2/9/2010 • Technical:4/14/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) :	**CRIMINAL REFERRAL?** No **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

The Emerge cases involve applications filed by four state chapter organizations who recruit women belonging to the Democratic Party to schools that teach campaign -related skills, such as fund-raising, public speaking, etc.

The proposed denial template for the Emerge applications is based on the organization's failure to promote social welfare becau se of substantial private benefit to the Democratic Party. It is similar to the denial of the DLC case, and is based on the rationale in the American Campaign Academy decision. The Emerge proposed denial letter template has been reviewed and approved by the group reviewer, EO Tech Group 1 manager, EO Tech acting manager, EO Guidance, Judy Kindell, and TEGE Counsel to ensure a consistent rationale as to litigation strategies. As a side note, a few state chapters have been granted tax exemption, and Counsel has reviewed those case files.

CURRENT SIGNIFICANT ACTIONS ON CASE: Proposed denial letters have been issued to Emerge Maine, Emerge Nevada, and Emerge Massachusetts. The organizations have requested an extension of the deadlines to protest, which are now March 28, 2011 for Emerge Maine and Emerge Massachusetts, and April 14, 2011 for Emerge Nevada .

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

SFC 001926

TEGE Division Sensitive Case Report
(revised January 2007)

SIGNIFICANT NEXT STEPS, IF ANY: Review the organizations' protests if they are received and schedule conferences if they are requested. Coordinate with EO Tech Group 2 to complete the Emerge Oregon proposed denial process.	**ESTIMATED CLOSURE DATE:** April 29, 2011
BARRIERS TO RESOLUTION, IF ANY:	
SUBMITTED BY: Siri Buller	**MANAGER:** DANNY SMITH
DATE: March 17, 2011	

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

From: Trilli Darla J
Sent: Tuesday, August 16, 2011 12:16 PM
To: Ghougasian Laurice A
Cc: Seto Michael C; Trilli Darla J
Subject: RE: July SCRs due 07/22/11

Good Grief, let me know what is decided as far as who is taking responsibility for this thing.

In the meantime, I will still update the chart and file name with the name change.

Darla

From: Ghougasian Laurice A
Sent: Tuesday, August 16, 2011 1:03 PM
To: Trilli Darla J; Seto Michael C
Subject: RE: July SCRs due 07/22/11

OK, I wasn't certain that Hilary was updating it, based on a recent conversation with Mike. Mike, can you confirm that you want Hilary to update the SCR from now on or should Chip continue to update it with her help? Thanks.

Laurice

From: Trilli Darla J
Sent: Tuesday, August 16, 2011 1:00 PM
To: Ghougasian Laurice A; Seto Michael C
Cc: Trilli Darla J
Subject: RE: July SCRs due 07/22/11

No, since it is with Hilary now. I will do it on our chart and update the file name.

Thanks for the reminder.

Darla

From: Ghougasian Laurice A
Sent: Tuesday, August 16, 2011 11:57 AM
To: Seto Michael C
Cc: Trilli Darla J
Subject: RE: July SCRs due 07/22/11

Just a reminder: do you want to ask Ron/Chip to change the name of the "Tea Party" SCR? Thanks.

SFC 001928

From: Seto Michael C
Sent: Sunday, July 24, 2011 5:47 PM
To: Ghougasian Laurice A
Cc: Trilli Darla J
Subject: RE: July SCRs due 07/22/11

Yes. We should call it "political advocacy organization" henceforth.

From: Ghougasian Laurice A
Sent: Friday, July 15, 2011 1:05 PM
To: Seto Michael C
Cc: Trilli Darla J
Subject: RE: July SCRs due 07/22/11
Importance: High

Should we reassign the "Tea Party" SCR to Hilary (and change its name)? Thank you.

From: Trilli Darla J
Sent: Thursday, July 14, 2011 2:51 PM
To: Ghougasian Laurice A; Shoemaker Ronald J; Lieber Theodore R; Salins Mary J; Thomas Cindy M; Megosh Andy
Cc: Trilli Darla J
Subject: July SCRs due 07/22/11
Importance: High

Attached are the June SCRs for July updates. Please send to me by COB July 22nd.

Send with track changes and update the estimated closure date if necessary.

Thanks, Darla

SFC 001929

EO Technical
Significant Case Report
(July 31, 2011)

- ***21 open SCs***

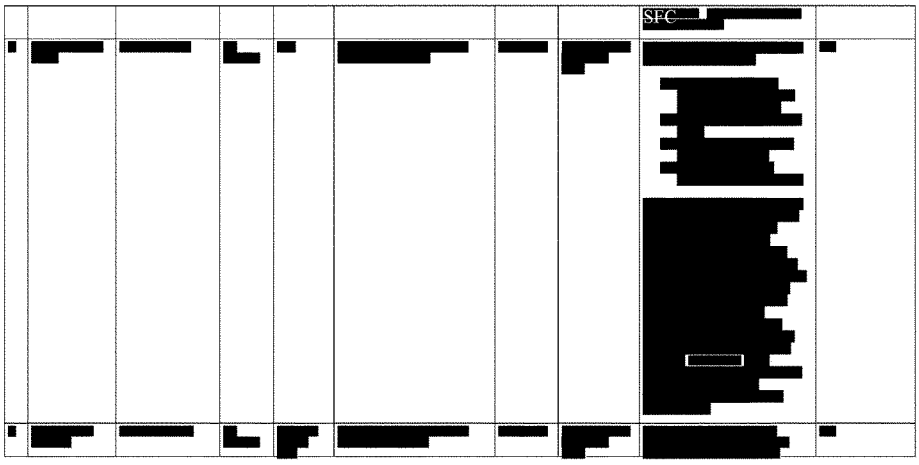
A. Open SCs:

	Name of Org/Group	Group #/Manager	EIN	Received	Issue	Tax Law Specialist	Estimated Completion Date	Status/Next action	Being Elevated to TEGE Commissioner This Month
1.	American Junto and Albuquerque Tea Party, Inc.	T2/Ron Shoemaker	[redacted]	4/2/2010	Whether a tea party organization meets the requirements under section 501(c)(3) and is not involved in political intervention. Whether organization is conducting excessive political activity to deny exemption under section 501(c)(4)	Chip Hull	3/31/2011 (Orig) 05/31/2011 (Rev) 07/31/2011 (Rev) 09/30/2011 (Rev)	Developing both a (c)(3) and (c) (4) cases. Proposed (c)(4) favorable is currently being reviewed. Proposed denial currently being reviewed on (c)(3). Cases were discussed with Judy Kindell on 04/06/11. Judy requested staff to get additional information from taxpayers regarding certain activities. Development letters were sent. Proposed favorable (c)(4) ruling forwarded to Chief Counsel for comments on 05/04/11. Information from (c)(3) organization regarding activities due on 05/18/2011.Waiting on taxpayer response. : Met with Director EO on June 29, 2011. **Next Action:** Waiting on comments from Counsel. Coordinate and help EO Determinations to develop their cases.	No
[redacted]									

[redacted]

SFC 001930

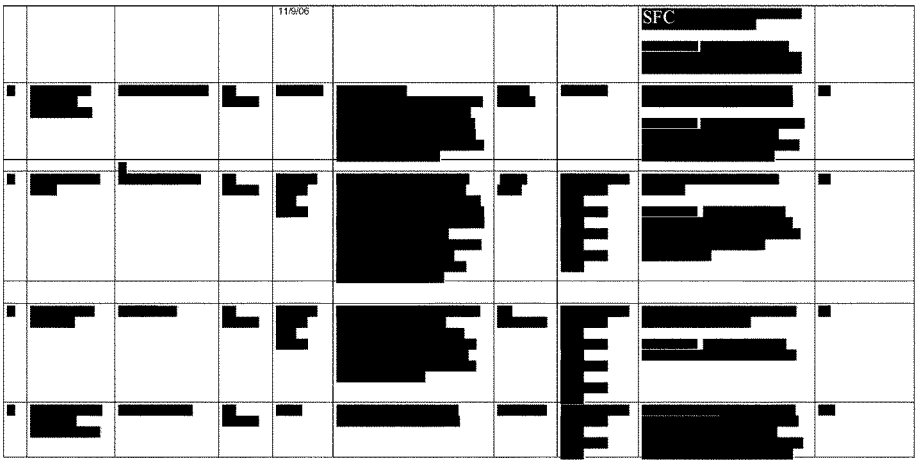
2



IRS0000159756

SFC 001931

3



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SFC 001932

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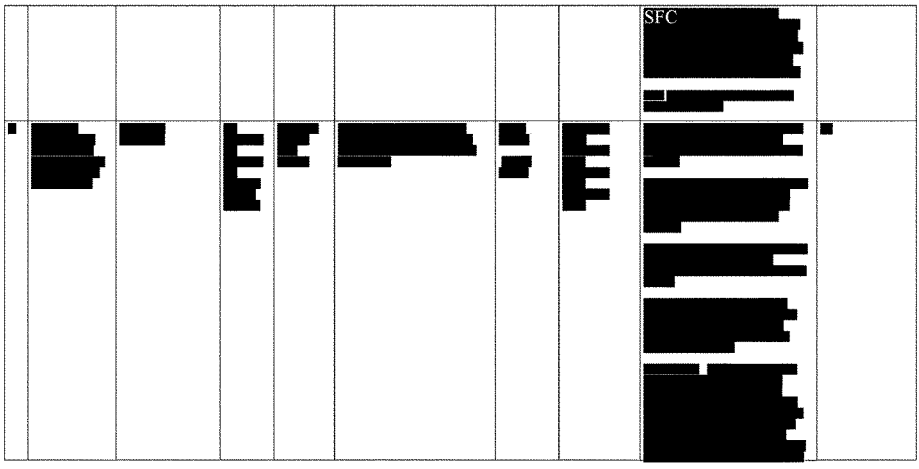

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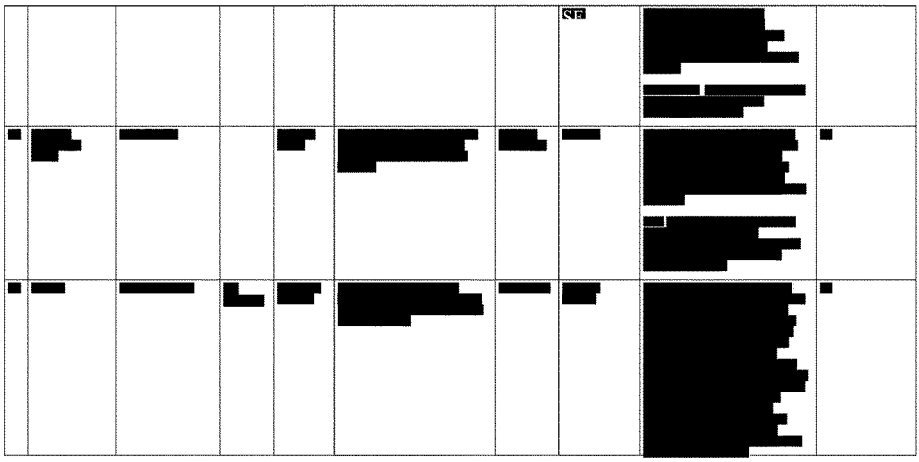
SFC 001934

6



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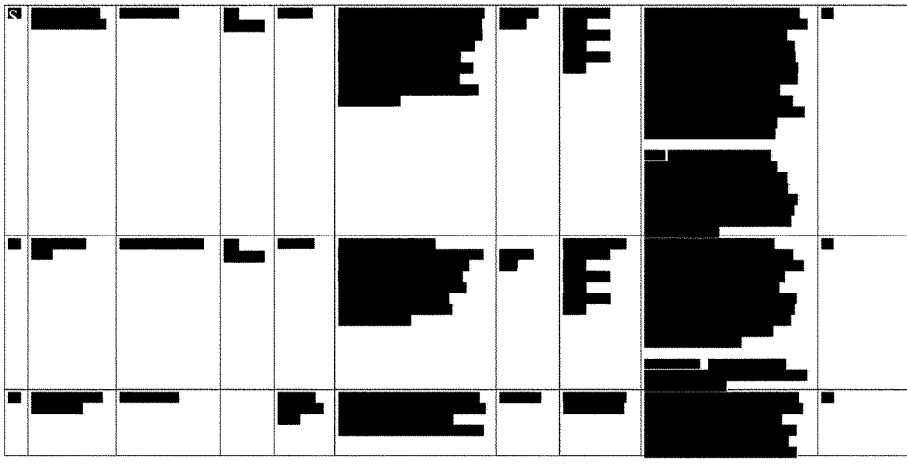
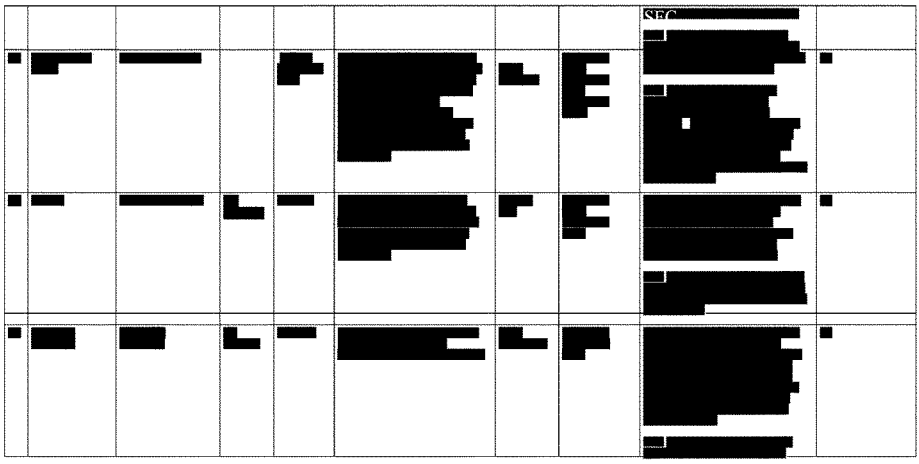


SFC 001936

8



B. Closed SCs- SFC [redacted]

SFC 001938

From: Downing Nanette M
Sent: Friday, April 02, 2010 9:22 AM
To: Lerner Lois G
Cc: Letourneau Diane L; Choi Robert S
Subject: RE: Sensitive Case Reports

EO Exams is taking steps to look at these reports for improvement. But would like some clarification. Mike sent one case back as an example and it was a PACI case. This was the only PACI sensitive case we submitted. We were under the understanding that with PACI sensitive cases they wanted the entire chronology. All other reports were within the 2 pages. Is our understanding on PACI incorrect and we do not need the entire chronology?

From: Lerner Lois G
Sent: Thursday, April 01, 2010 5:53 PM
To: Downing Nanette M; Choi Robert S
Cc: Letourneau Diane L
Subject: Sensitive Case Reports

This week we received negative comments from Mike Daly on both set s of sensitive case reports. Please remember, as director, it is your responsibility to review these and provide feedback and direction to your staff before they go forward. Every office in the IRS puts these together and they go all the way to the Comm issioners office. because they have to read so many, the reports need to be manageable in size and anticipate concerns that might be raised by others less familiar with the issues. If you feel it would be helpful to have Mike speak to you or your staff a bout format and content, let me know.

Lois G. Lerner
Director, Exempt Organizations

SFC 001939

From: Lerner Lois G
Sent: Friday, May 28, 2010 4:52 PM
To: Downing Nanette M; Choi Robert S
Cc: Douglas Akaisha; Letourneau Diane L
Subject: Sensitive Case Reports

Follow Up Flag: Follow up
Flag Status: Flagged

As I rarely have time to read these when submitted, going forward I would like to set up an hour to go over them when they are ready. I have lots of questions that cannot always be answered in the short format of the reports. Akaisha, please work with Rob and Nan to set up the meetings.

Lois G. Lerner
Director, Exempt Organizations

SFC 001940

From: Fish David L
Sent: Tuesday, February 07, 2012 11:16 AM
To: Paz Holly O
Subject: FW: R & A Priorities
Attachments: Cases Pending In Counsel as of 11-7-11.xls; EOT Projects & Non-case work items.xls

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From: Seto Michael C
Sent: Wednesday, November 09, 2011 10:51 AM
To: Fish David L
Cc: Paz Holly O; Trilli Darla J; Neuhart Paige
Subject: FW: R & A Priorities

Attached are 2 documents, an updated list of cases pending in Counsel and a list of non-case work items (projects, technical assistance to EOD, EOQA, and EO Exam)

Here are the summary data for EOT:

1. 13 cases pending in EO Counsel & 5 cases pending in other sections of Counsel - a total of 18 cases

2. We have 48 non-case work items that range from major time/personnel commitment (C&U project, RM revision project, ACA case screening, political advocacy case screening, etc.) to minor time commitment (recognition team, governance project, etc.)

3. 657 open cases beginning in FY12
   a) 446 applications
   b) 155 private letter rulings
   c) 41 TAMs
   d) 15 technical assistance requests

Some of the cases are on hold such as the co-investment PLRs and open sources applications pending counsel review. Of the 657 cases, 163 are two years or older.

From: Lerner Lois G
Sent: Thursday, November 03, 2011 7:13 PM
To: Fish David L; Seto Michael C; Thomas Cindy M; Abner Donna J; Kindell Judith E; Light Sharon P
Cc: Paz Holly O
Subject: R & A Priorities

I'm getting a little nervous about the amount we have on our plate and how we are handling. I know everyone is working hard and juggling, but I am wondering whether the juggling decisions are being made holistically enough. We have only so many resources and things will probably get worse going forward. I worry that decisions about how to use the resources are being made without all the information. A couple things have come up through press accounts and practitioner comments that lead me to believe we should be making prioritization decisions based on EO as a whole, not in our own stovepipes. Something that may not seem important in Cincinnati, may be crucial in DC. Similarly, DC may be prioritizing

its work based on what is sitting in DC when something sitting in Cincinnati should be the focus of DC work. And, in both cases, the hold up might really relate to something sitting in Counsel that we need to move forward.

To get a better handle on this and help you with prioritizing, I'm going to need some reports from you.

Judy and Sharon--a list of all projects you are working on, including work that others are doing and you are overseeing, as well as estimated timeframes for completion if you ha ve them and any barriers to completion.

Cindy and Donna--lists of backlogs of any specific type of cases and what is contributing to the backlog--i.e.--are you waiting for assistance from R & A, are you focusing on something else that impacts your ability to get this piece done. Also, are there kinds of cases that DC has pushed to Cincinnati, but in hindsight, may be better suited to DC

David/Mike--Holly left me a list of cases that are in Counsel. If it needs to be updated please do that--David--I forwarded it last night. I also need a list of everything else we have sent to Counsel and similar information as is in the case list, such as how long it has been there and, if you know, what might be the hang up. Please include things formally at Counsel, as well as things we've asked for informally. If it is informal, can I get who we're dealing with. I'd also like some sense of the inventory that doesn't fall within these categories that looks like it could be problematic--might need to go to Counsel or a category of cases that isn't moving

I'm sure there will be more, but this will give us a good start. I'd like the information by COB next Wednesday please.

Lois G. Lerner
Director of Exempt Organizations

SFC 001942

A. 13 Cases Pending in Counsel CC:TEGE:EO (as of 11/7/11)

*A SCR Case

Taxpayer's Name:	Type of Cases:	TRAC Control #:	Date The Case Referred to Counsel	Date The Case Returned from Counsel	Assigned to:	Status / Comments
EO Technical Group 1 (Steve Grodnitzky, Manager) Cases:						
SFC						
EO Technical Group 2 (Ron Shoemaker, Manager) Cases:						
SFC						
EO Technical Group 3 (Ted Lieber, Manager) Cases:						
SFC						

SFC 001943

EO Technical Group 4 (Mary Jo Saline, Manager) cases:

SEC [redacted]

[redacted]	Type of Taxes:	TRAC Control #:	Date The Case Referred to Counsel	Date The Case Returned from Counsel	Assigned to:	Status / Comments
[redacted]						

SFC 001944

[redacted]	Type of Case(s):	TRAC Control #:	Date The Case Referred to Counsel	Date The Case Returned from Counsel	Assigned to:	Status / Comments
EO Technical Group 3 (Ron Shoemaker, Manager) Cases:						
SEC [redacted]	[redacted]	[redacted]	[redacted]		[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]		[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]		[redacted]	[redacted]
EO Technical Group 4 (Laurice Ghougasian, Acting Manager) Cases:						
SEC [redacted]		[redacted]	[redacted]		[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]		[redacted]	[redacted]

IRS0000162705

Report as of 11/7/11

	A. EO Technical Projects	Personnel Assigned to projects, work items, etc.			
		T1	T2	T3	T4
1	IRM revision	6 See comment section for names	3 See comment section for names	5 See comment section for names	4 See comment section for names
2	Colleges and Universities project	1 (P. Thomas)	1 (J. Zelasko)	1 (P. Holiat)	
3	Section 512(b)(12) Report				1 (R. Cowen)
4	Section 501(c)(10) check sheet project	1 (S. Barnett)		1 (McCray)	
5	EO Exam Mortgage Foreclosure Compliance Project			1 (L. Kastenberg)	1 (E. Berick)
6	EO Exam Section 501(c)(12) Compliance Project				
7	Credit Union Project			1 (D. Moore)	1 (E. Berick)
8	Auto revocation project			1 (S. Robbins)	1 (K. Burns)
9	Gaming Compliance Team	1 (D. Cowen)		1 (E. Kastenberg)	1 (K. Burns)
10	Credit Counseling	1 (D. Cowen)	1 (D. Smith)		
11	Section 501(c)(27)(B) Complinace Project				1 (McNaughton)
12	Governance		1 (Biss)		
13	Community Foundation		1 (Biss)		
14	Conservation Easements		1 (Smith)		
15	ATAT		1 (Phaup)		
16	CIC		1 (Phaup)		
17	Fraud		1 (Phaup)		
18	State Tuition Organizations Project	1 (A. Beckwith)			
19	Jeopardizing Investments Project	1 (A. Beckwith)			
20	Mortgage Foreclosure FTC Agreement	1 (A. Beckwith)			
21	Executive Compensation Transparency Project	1 (E. Mangrum)			
22	PACI	1 (H. Goehausen)			
23	7611 Regulation Project	1 (H. Goehausen)			
24	Private Foundation TEP		1 (J. Zelasko)		
25	SPWG Charter School		1 (J. Zelasko)		
26	Supporting Organization Project		1 S. Copeland)		
27	VEBA Project			1 (O. Chukuanu)	

	Personnel Assigned to projects, work items, etc.			
	T1	T2	T3	T4
B. Guidance Items				
28 Annual Rev. Proc. Update				1 (M. Perdoni)
29 ACA Implementation				2 (M. McNaughton & G. Gluth)
30 Guidance Items relation to PPA		1 (S. Copeland)		
C. Non-Project Work Items				
31 Congressional & general correspondences	2 (J. Mackay & E. Mangrum)		1 (S. Robbins)	
32 FOIA processing	1 (J. Mackay)		1 (Schantz)	
33 Closing agreement on (c)(6) cases			1 (Schantz)	
34 Anti Terrorism Coordination		2 (J. Kovac & D. Smith)		
35 Media Relations Team	1 (P. Thomas)		1 (O. Chukwuanu)	
36 Walk in Closing Agreements	1 (A. Beckwith)			
37 EO E mail Assistance to EOD, EOQA & EO Exam		1 (Chip Hull)		
D. Techincal Case Assistance to EOD or EOQA				
38 Political advocacy case assistance to EOD				
39 Political advocacy guide sheet				
40 Mortgage Foreclosure/Rescue case assistance to EOD and EOQA	1 (A. Beckwith)		1 (E. Kastenberg)	2 (E. Berrick & L. Fischer-Dibacco)
41 ACA Case Screening		1 (J. Kovac)		1 (L. Orcino)
42 Group Ruling cases	1 (P. Thomas)			

		Personnel Assigned to projects, work items, etc.			
		T1	T2	T3	T4
E.	**Technical Assistance to EO Exam**				
43	4958 Assistance to EO Exam agents			1 (P. Holiat)	
F.	**Non-Technical Projects**				
44	Recognition team			1 (D. Moore)	
45	Secured Messaging Pilot team				1 (M. Perdoni)
46	International Commmunication Council				1 (K. Burns)
	EO Business Writing Course Cadre	1 (A. Beckwith)			
	CFC			1 (S. Robbins)	
G.	**Forms - Annual Updates**				
47	Form 990, Schedules D and G Annual Update				1 (K. Burns)
48	Form 990 General			1 (E. Kastenberg)	

SFC 001948

From: Thomas Cindy M
Sent: Thursday, November 03, 2011 9:12 PM
To: Lerner Lois G
Cc: Fish David L
Subject: RE: R & A Priorities
Attachments: Advocacy Orgs Cincinnati.xls

For EO Determinations, there aren't any significant volumes of work that D.C. has pushed to us that are better suited for EOT. We had issues with certain types of cases in the past such as set asides, voter registration, and National Merit Scholarship cases. However, we've worked through these issues.

The backlog of work involves advocacy organizations. As of about a month ago, there were 161 of these cases sitting idle and we probably have more by now. The control dates for these cases go back to the end of 2009 and all through 2010. We've been waiting for EO in D.C. to get us a guidance/reference document with lessons learned from the c4 and c3 cases they worked and coordinated with Judy Kindell and Co unsel. We're getting calls from POAs wanting to know who has put the halt on working these cases and threatening to contact their Congressional offices. Just today, I instructed one of my managers to get an additional information letter out to one of the se organizations --- if nothing else to buy time so he didn't contact his Congressional Office. Soon, we're going to start getting TAO's from TAS or declaratory judgment cases filed ---- then, I guess everyone will decide its time to start moving the case s when we have mounds of additional paperwork to process along with the cases (adding even more work for us to do).

Another area we'd like to see finalized is the guide sheets for Rev. Proc. 96-10 and integrated auxiliary cases. We don't have a backlog of these cases, but we need these documents finalized in order to finalize our IRM so that all the EO Determinations employees have a document where they can go to get procedural information for cases --- will save time and will improve consistency in case work/quality. Also related to this, you sent an email requiring that we send cases to D.C. for review when an organization is asking to be exempt from Form 990 filing requirements by virtue of Rev. Procs. 95-48, 96-10, and integrated auxiliary. If the guidesheets can be finalized, perhaps we wouldn't need to send these cases any longer, which would save time for all involved.

Other than this, it is the group ruling cases and auto revocation cases/issues that we're trying to get through:

A. Regarding the group ruling cases, we spend a lot of clerical time completing research for each sub to see if they are in status 97. And, QA seems to believe that we should be getting documents and checking the website for each sub, which isn't how group ruling cases were ever intended to be worked. All group ruling cases are mandatory review and the group working these cases were doing what QA required; otherwise, they couldn't get the cases closed. I instructed the group to stop doing these things and to follow Rev. Proc. 80-27, and advised that these issues would need to be elevated to the Acting Director, EO R&A to get resolved. We are checking to see whether the subs are in status 97 and will continue to do so until instructed otherwise.

B. Regarding the auto revocation cases, we're working through them and elevating new issues as they come up. Other than cases with lien and/or assessment issues, I'm not aware of us holding any cases waiting for guidance.

The real area of concern in EO Determinatio ns (other than the advocacy cases) is with our Processing Section. They are swamped with correspondence on auto revocation issues; processing cases where organizations submitted a $100 user fee and don't meet the requirements such as PFs, unincorporated o rganizations that incorporated somewhere along the way, and others that have too much income to meet the transitional rules under Notice 2011-43; completing IDRS research for numerous cases to determine whether the application is from an organization that was auto revoked; and, preparing closing letters/documents for all EO cases in Cincinnati now that specialists are on TEDS and can't complete this work (timing issue with TEDS and EDS); processing suspense cases; processing Accelerated Processing cases, et c.

If you need additional information, please let me know.

SFC 001949

From: Lerner Lois G
Sent: Thursday, November 03, 2011 7:13 PM
To: Fish David L; Seto Michael C; Thomas Cindy M; Abner Donna J; Kindell Judith E; Light Sharon P
Cc: Paz Holly O
Subject: R & A Priorities

I'm getting a little nervous about the amount we have on our plate and how we are handling. I know everyone is working hard and juggling, but I am wondering whether the juggling decisions are being made holistically enough. We have only so many resources and things will probably get worse going forward. I worry that decisions about how to use the resources are being made without all the information. A couple things have come up through press accounts and practitioner comments that lead me to believe we should be making prioritization decisions based on EO as a whole, not in our own stovepipes. Something that may not seem important in Cincinnati, may be crucial in DC. Similarly, DC may be prioritizing its work based on what is sitting in DC when something sitting in Cincinnati should be the focus of DC work. And, in both cases, the hold up might really relate to something sitting in Counsel that we need to move forward.

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I'm sure there will be more, but this will give us a good start. I'd like the information by COB next Wednesday please.

Lois G. Lerner
Director of Exempt Organizations

SFC 001950

From: Thomas Cindy M
Sent: Wednesday, November 17, 2010 6:17 AM
To: Camarillo Sharon L
Cc: Bowling Steven F
Subject: Re: emerging issue cases

Sharon,

Steve's email is accurate. I called Holly a couple of weeks ago and she indicated she was going to check into this matter and would get back with me.

I haven't heard back from her so I will follow up and will get back with you.

Sent using BlackBerry

-------Original Message------
From: Sharon Camarillo
To: Steven Bowling
Cc: Cindy M Westcott
Subject: RE: emerging issue cases
Sent: Nov 16, 2010 5:02 PM

Steve, the last communication I have from EOT (Grodnitzky) is that because these TEA PARTY cases are included in an SCR, they will not make any recommendations for closure without coordination with Rob.

Cindy, do you have anything more recent on this issue?

Sharon

From: Bowling Steven F
Sent: Tuesday, November 16, 2010 1:47 PM
To: Camarillo Sharon L
Subject: emerging issue cases
Importance: Low

Sharon,

I the past Chip Hull has requested copies of tea party applications and case development letters from Liz Hofacre and now has requested some development letters from Ron Bell. I know Cindy has contacted Holly Paz about the tea party cases but I don't know or remember if a game plan was established. I believe when this all started the idea was to have EOT take a look at some

of these and provide us with a development letter similar to how we handled Credit Counseling cases. I'm not sure how everyone wants to proceed but I think we need to get a handle on this. Ron is getting phone c alls on these cases and his typical answer is "the case is under review". I just want to make sure that I'm on the same page.

Thank you,

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
SEC
[redacted]

SFC 001952

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: Emerge Maine, Emerge Nevada, and Emerge Massachusetts , Emerge Oregon **TIN/EI** SFC [redacted] **POA:** N/A	**TAX PERIODS:** **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, DC	☐ **INITIAL REPORT** ☒ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☒ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☒ Other (explain in Case Summary)
FORM TYPE(S): 1024	**START DATE:** Emerge Massachusetts: • Determinations: 8/15/08 • Technical: 4/16/09 Emerge Maine: • Determinations: 1/11/08 • Technical: 10/9/08 Emerge Nevada: • Determinations: 12/31/07 • Technical: 10/9/08 Emerge Oregon • Determinations: 2/9/2010 • Technical:4/14/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) :	**CRIMINAL REFERRAL?** No **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

The Emerge cases involve applications filed by four state chapter organizations who recruit women belonging to the Democratic Party to schools that teach campaign -related skills, such as fund-raising, public speaking, etc.

The proposed denial for Emerge Maine is based on the organization's failure to promote social welfare because of substantial private benefit to the Democratic Party. It is similar to the denial to the DLC case, and is based on the rationale in the American Campaign Academy decision. The Emerge Maine proposed denial letter has been reviewed and approved by the group reviewer, EO Tech Group 1 manager, EO Tech acting manager, EO Guidance, and Judy Kindell. The letter is in review with TEGE Counsel to ensure a consistent rationale as to litigation strategies. Once the Emerge Maine proposed denial is finalized, the other three cases can be completed based on the template from Emerge Maine.

CURRENT SIGNIFICANT ACTIONS ON CASE:

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

SFC 001953

TEGE Division Sensitive Case Report
(revised January 2007)

SIGNIFICANT NEXT STEPS, IF ANY: Review comments from TEGE Counsel.	**ESTIMATED CLOSURE DATE:** July 30, 2010
BARRIERS TO RESOLUTION, IF ANY: None.	
SUBMITTED BY: Siri Buller	**MANAGER:** ELLEN BERICK (ACTING)
DATE: May 24, 2010	

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

SFC 001954

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: Emerge Maine, Emerge Nevada, and Emerge Massachusetts, Emerge Oregon **TIN/EI** SFC [redacted] **POA:** N/A	**TAX PERIODS:** **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, DC	☐ **INITIAL REPORT** ☒ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☒ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☒ Other (explain in Case Summary)
FORM TYPE(S): 1024	**START DATE:** Emerge Massachusetts: • Determinations: 8/15/08 • Technical: 4/16/09 Emerge Maine: • Determinations: 1/11/08 • Technical: 10/9/08 Emerge Nevada: • Determinations: 12/31/07 • Technical: 10/9/08 Emerge Oregon • Determinations: 2/9/2010 • Technical:4/14/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) :	**CRIMINAL REFERRAL?** No **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

The Emerge cases involve applications filed by four state chapter organizations who recruit women belonging to the Democratic Party to schools that teach campaign -related skills, such as fund-raising, public speaking, etc.

The proposed denial for Emerge Maine is based on the organization's failure to promote social welfare because of substantial private benefit to the Democratic Party. It is similar to the denial to the DLC case, and is based on the rationale in the American Campaign Academy decision. The Emerge Maine proposed denial letter has been reviewed and approved by the group reviewer, EO Tech Group 1 manager, EO Tech acting manager, EO Guidance, and Judy Kindell. The letter was sent to TEGE Counsel in late April to ensure a consistent rationale as to litigation strategies. Once the Emerge Maine proposed denial is finalized, the other three cases can be completed based on the template from Emerge Maine.

CURRENT SIGNIFICANT ACTIONS ON CASE:

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

SFC 001955

TEGE Division Sensitive Case Report
(revised January 2007)

SIGNIFICANT NEXT STEPS, IF ANY: Review comments from TEGE Counsel , once they are received .	**ESTIMATED CLOSURE DATE:** December 31, 2010
BARRIERS TO RESOLUTION, IF ANY: None.	
SUBMITTED BY: Siri Buller	**MANAGER:** ELLEN BERICK (ACTING)
DATE: June 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.

SFC 001956

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: Emerge Maine, Emerge Nevada, and Emerge Massachusetts, Emerge Oregon **TIN/EI** SFC [redacted] **POA:** N/A	**TAX PERIODS:** **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, DC	☐ **INITIAL REPORT** ☒ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☒ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☒ Other (explain in Case Summary)
FORM TYPE(S): 1024	**START DATE:** Emerge Massachusetts: • Determinations: 8/15/08 • Technical: 4/16/09 Emerge Maine: • Determinations: 1/11/08 • Technical: 10/9/08 Emerge Nevada: • Determinations: 12/31/07 • Technical: 10/9/08 Emerge Oregon • Determinations: 2/9/2010 • Technical:4/14/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) :	**CRIMINAL REFERRAL?** No **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

The Emerge cases involve applications filed by four state chapter organizations who recruit women belonging to the Democratic Party to schools that teach campaign -related skills, such as fund-raising, public speaking, etc.

The proposed denial for Emerge Maine is based on the organization's failure to promote social welfare because of substantial private benefit to the Democratic Party. It is similar to the denial to the DLC case, and is based on the rationale in the American Campaign Academy decision. The Emerge Maine proposed denial letter has been reviewed and approved by the group reviewer, EO Tech Group 1 manager, EO Tech acting manager, EO Guidance, and Judy Kindell. The letter was sent to TEGE Counsel in late April to ensure a consistent rationale as to litigation strategies. Once the Emerge Maine proposed denial is finalized, the other three cases can be completed based on the template from Emerge Maine.

CURRENT SIGNIFICANT ACTIONS ON CASE:

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

SFC 001957

TEGE Division Sensitive Case Report
(revised January 2007)

SIGNIFICANT NEXT STEPS, IF ANY: Review comments, if any, from TEGE Counsel, once they are received.	**ESTIMATED CLOSURE DATE:** December 31, 2010
BARRIERS TO RESOLUTION, IF ANY: None.	
SUBMITTED BY: Siri Buller	**MANAGER:** STEVEN GRODNITZKY
DATE: July 23, 2010	

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

SFC 001958

From: Lerner Lois G
Sent: Tuesday, August 03, 2010 5:52 PM
To: Douglas Akaisha; Choi Robert S; Lieber Theodore R; Neuhart Paige
Cc: Letourneau Diane L
Subject: FW: SCRs for the Month of July
Attachments: SFC [redacted] July TeaParty.doc SFC [redacted]

Follow Up Flag: Follow up
Flag Status: Flagged

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

Lois G. Lerner
Director, Exempt Organizations

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

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

Thanks,

Theodore R. Lieber
Manager
EO Technical Group 3
SFC [redacted]

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

SFC 001959

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

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

SEC
(19) Tea Party
SEC

Any questions, please let me know.

Thanks.

Steve

Steven Grodnitzky
Acting Manager, EO Technical
Rulings and Agreements, TEGE
Internal Revenue Service
SEC

SFC 001960

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EI** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☐ **INITIAL REPORT** ☐ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☐ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☐ Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**
CASE OR ISSUE SUMMARY: 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 ten applications from organizations which have applied for recognition of exempti on under section 501c)(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 in tervention or, alternatively, in nonexempt political activity.	
CURRENT SIGNIFICANT ACTIONS ON CASE: Organization (1) – closed FTE for failure to respond to a development letter. Organization (2) – a second development letter is being drafted. Organization (3) – a development was sent to the organization.	
SIGNIFICANT NEXT STEPS, IF ANY: Send Organization (2) development letter. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** December 31, 2010
BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations are involved in political activities.	
SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2

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

SFC 001961

TEGE Division Sensitive Case Report
(revised January 2007)

DATE: July 26, 2010	

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

SFC 001962

From: Giuliano Matthew L
Sent: Monday, June 14, 2010 12:40 PM
To: Letourneau Diane L; Henchey Amelia E; Neuhart Paige; Fish David L; Seto Michael C; Williams Melinda G; Grodnitzky Steven; Berick Ellen S; Shoemaker Ronald J; Lieber Theodore R; Danzey Rhonda
Cc: Mackay James R
Subject: FOIA request re Tea Party and related organizations
Attachments: Lynn Walsh.pdf; search memo 3617.doc

Please review the attached FOIA search memo and FOIA request:

"the FOIA request asks for documents relating to any training, memos, letters, policies, etc., that details how the "Tax Exempt/Government Entities Division" reviews applications for non-profits, 501(c)(3) and other not for profit organizations specifically mentioning "Tea Party", "the Tea Party", "tea party" and "tea parties"."

Please note that this is a request for internal documents and memoranda about rev iewing applications, not a request for applications themselves. Please respond to Jim Mackay by **COB Monday, June 14th**, if you have any records responsive to this request.

If you have any questions, please let me know.

From: Baker Sharon E
Sent: Friday, June 11, 2010 1:07 PM
To: Giuliano Matthew L
Cc: Seto Michael C
Subject:

Matthew

Attached is a search memo for FOIA request from Lynn Walsh - Control Number 50-2010-3617.
If you have any questions, please call .

Thanks

Sharon Baker
Sr. Disclosure Specialist
Headquarters (HQ) Disclosure Office
SE:S:CLD:GLD:D
NCFB C2-235 ATTN:SBaker
SEC
[redacted]

SFC 001963

GM

INTERNAL REVENUE SERVICE
RECEIVED
JUN 04 2010
MICHIGAN DISCLOSURE OFFICE

Lynn Walsh
[redacted]SFC
SFC
SFC

RECEIVED
DISCLOSURE STAFF
JUN 03 2010
CINCINNATI, OHIO

Internal Revenue Service
Disclosure Office 5
Eva Littlejohn
550 Main Street rm. 7019
Cincinnati OH 45202

Dear Eva Littlejohn:

This is a request under the Freedom of Information Act.

I request that a copy of the following documents be provided to me:

+Documents relating to any training, memo's, letters, policies, etc, that detail how the "Tax Exempt/Government Entities Division" reviews applications for non-profits, 501(c)3's, and other not for profit organizations specifically mentioning "Tea Party," "the Tea Party," "tea party," "tea parties."

In order to determine my status for the applicability of fees, you should know that I am a freelance journalist that focuses on government transparency issues.

As proof of identity I am including a photocopy of my driver's license, notarized declaration, sworn statement, etc.

I am willing to pay fees for this request up to a maximum of $50. If you estimate that the fees will exceed this limit, please inform me first.
Thank you for your consideration of this request.

Sincerely,

Lynn Walsh

SFC 001964

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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

Jun 11, 2010

Response Date:
June 25, 2010

MEMORANDUM FOR OFFICE OF THE DIRECTOR, EXEMPT ORGANIZATIONS

ATTN: MATTHEW GIULIANO

FROM: Marie A. Twarog *Sharon Baker for*
Disclosure Manager
Headquarter (HQ) Disclosure Office

SUBJECT: Freedom of Information Act (FOIA) – Request for Search of Responsive Records 50-2010-3617

The IRS received a FOIA request, received in our office on June 10, 2010 from Lynn Walsh. This information is under your office's jurisdiction. The FOIA request is attached for your review.

Specifically, the FOIA request asks for documents relating to any training, memos, letters, policies, etc., that details how the "Tax Exempt/Government Entities Division" reviews applications for non-profits, 501(c)(3) and other not for profit organizations specifically mentioning "Tea Party", "the Tea Party", "tea party" and "tea parties".

Upon receipt, please contact Sharon Baker to discuss the scope and level of effort required to fulfill this request. We can help to identify responsive records, resolve fee issues, and jointly establish an estimated time for response. Please inform us if you are aware of any records located elsewhere. By law, the IRS must respond to a FOIA request within 20 work days. This 20 day period includes the time needed to complete your search.

Please check within your function and notify HQ Disclosure if responsive documents to the FOIA request relate to a case that is in litigation or a mat ter involving a tax shelter or other abusive transaction.

The FOIA regulations require documentation of the steps taken to search for and retrieve records. To meet these requirements, please have a member of your staff complete Attachment 1, Response to FOIA Search Request. This will document your

search efforts and help us to determine IRS resources expended in processing this request and charge appropriate fees.

The IRS may incur costs up to $50.00. If you anticipate costs will exceed this amount please discontinue processing and advise us immediately. We will be glad to assist you with determining the anticipated costs.
Charges applicable to fulfilling this request will be computed at the following rates:

Photocopies:	$.20 per page]
Search:	$17.00 per hour (or fraction thereof)
Review:	$21.00 per hour (or fraction thereof)

While you are reviewing the file you may determine that two or more documents in the file are duplicates of each other. If the documents are "true" duplicates, a disclosure determination only needs be made with respect to one copy, which will be the only copy considered responsive to the request.

A "true" duplicate is one that is, in all respects, exactly the same as the initial document. The following are examples of duplicates that are **not** "true" duplicates:

- Two copies of the same memo, but one has handwritten notes on it
- Two copies of the same memo, but one has the signature/clearance block filled in
- Two copies of the same document, but one copy is attached to another document that was sent to a different recipient
- An e-mail string that is the same as another until it branches off to a different recipient

This list is not all-inclusive. There are many situations where two copies of the same document are not "true" duplicates. The key to deciding whether a document is a "true" duplicate that does not need to be addressed separately is whether it reflects different or additional information, not only in terms of its content, but its universe of recipients, the context in which it is used, etc.

Please provide two copies of any documents that are responsive to this request; or if possible, send the information in an electronic format. In addition, please include your recommendations for withholding any documents in whole or in part.

In considering whether to recommend release or withholding of any requested document, please remember that we must disclose information to the greatest extent the law permits, as required by IRM 11.3.13.7.1, "The FOIA requires agencies to make the maximum possible information available to the public." and follow the Department of Justice guidance, that openness should generally prevail.

We will work with you to decide what documents are releasable before preparing a final response. Please send the responsive information to Sharon Baker, Sr. Disclosure Specialist, Headquarters (HQ) Disclosure Office, FOI SFC [redacted]

If you require additional time or have questions concerning this request, you may contact Sharon Baker SFC [redacted]. Thank you for your prompt attention to this FOIA request.

Attachments

SFC 001967

Attachment 1

RESPONSE TO FOIA SEARCH REQUEST

TO BE COMPLETED BY HQ FOIA GROUP CASE WORKER		
FOIA CASE #:	50-2010-03617	
NAME OF OFFICE:	Office of the Director, Exempt Organizations	
TO BE COMPLETED BY THE FUNCTION RECEIVING THE FOIA SEARCH MEMO		
PERSON CONDUCTING THE SEARCH:	**NAME:** **TITLE:** **TELEPHONE NUMBER:**	
FILE(S) SEARCHED:	*Example: IDRS, Management Information Systems, etc. Please be specific.*	
METHOD OF ACCESS:	*Check all that apply*	
		Alphabetical
		Name (Individual or Business)
		Subject
		Project Name
		IRC Code Section
		Other – Please specify
TYPE(S) OF RECORDS IDENTIFIED:	*Provide description of document(s) identified as responsive to FOIA request.*	
MANNER OF STORAGE:	*Check all that apply. If electronic files were searched, the FOIA regulations require that we document the system(s) searched. Please complete all fields under the Electronic category.*	
		Paper Documents
		Electronic files: a. Name of the System: b. Type of System (indicate word processing, spreadsheet, database, other): c. Software used to access the data:

INFORMATION ABOUT ELECTRONIC RECORDS	***If the file contains both electronic records (files saved on a CD, DVD, flash drive, etc.) and paper records, provide the following information:*** **Are all electronic records printed and included in the file in paper form?** **Are all paper records included in the electronic file?** **What file format are the electronic records in?** ***If the electronic file is in a format that can't be read by Disclosure, all records must be printed and included in the file in paper form.***
TIME SPENT SEARCHING FOR DOCUMENTS:	
TIME SPENT REVIEWING DOCUMENTS:	
TIME SPENT COPYING DOCUMENTS:	
NUMBER OF PAGES LOCATED:	
NEGATIVE RESPONSES:	*Please advise how you determined that your function does not have records responsive to this FOIA request. (e.g., personal knowledge of the files maintained, physical search, etc.)*
LITIGATION	*I have checked to determine if there is any litigation related to this requester or issue.* ***a. No, there is no related litigation*** ***b. Yes, there is related litigation as follows :***
APPROVAL TO ABOVE INFORMATION:	*Please complete all fields*
	Signature:
	Title:
	Date:

SFC 001969

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: Emerge Maine, Emerge Nevada,Emerge Massachusetts, Emerge Oregon **TIN/EI** SFC [redacted] **POA:** N/A	**TAX PERIODS:** **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, DC	☐ **INITIAL REPORT** ☒ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media o r Congressional attention ☐ Unique or novel issue ☒ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☒ Other (explain in Case Summary)
FORM TYPE(S): 1024	**START DATE:** Emerge Massachusetts: • Determinations: 8/15/08 • Technical: 4/16/09 Emerge Maine: • Determinations: 1/11/08 • Technical: 10/9/08 Emerge Nevada: • Determinations: 12/31/07 • Technical: 10/9/08 Emerge Oregon • Determinations: 2/9/2010 • Technical:4/14/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) :	**CRIMINAL REFERRAL?** No **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

The Emerge cases involve applications filed by four state chapter organizations who recruit women belonging to the Democratic Party to schools that teach campaign -related skills, such as fund-raising, public speaking, etc.

The proposed denial template for the Emerge applications is based on the organization's failure to promote social welfare becau se of substantial private benefit to the Democratic Party. It is similar to the denial of the DLC case, and is based on the rationale in the American Campaign Academy decision. The Emerge proposed denial letter template has been reviewed and approved by the group reviewer, EO Tech Group 1 manager, EO Tech acting manager, EO Guidance, Judy Kindell, and TEGE Counsel to ensure a consistent rationale as to litigation strategies. As a side note, a few state chapters have been granted tax exemption, and Counsel has reviewed those case files.

CURRENT SIGNIFICANT ACTIONS ON CASE: Proposed denial letters were issued to Emerge Maine, Emerge Nevada, and Emerge Massachusetts, which became final when the organizations failed to protest. Final adverse determination letters were issued on April 18, 2011. A proposed denial letter was issued to Emerge Oregon ; the deadline to protest is May 6, 2011.

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

SFC 001970

TEGE Division Sensitive Case Report
(revised January 2007)

SIGNIFICANT NEXT STEPS, IF ANY: Coordinate with EO Tech Group 2 to process the Emerge Oregon application, which may involve a conference of right or just the issuance of a final adverse determination.	**ESTIMATED CLOSURE DATE:** May 31, 2011
BARRIERS TO RESOLUTION, IF ANY: None.	
SUBMITTED BY: Siri Buller	**MANAGER:** DANNY SMITH
DATE: April 25, 2011	

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

SFC 001971

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EIN** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:
The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be invo lved 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 reco gnition 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 501c)(4) as social welfare organizations. Two o rganizations 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.

CURRENT SIGNIFICANT ACTIONS ON CASE:
Met with J. Kindell to discuss organizations (2) and (3) and Service position. Ms. Kindell recommended additional development re: activities , then forward to Chief Council .

Organization (1) – closed FTE for failure to respond to a development letter.
Organization (2) – proposed favorable 501(c)(4) ruling forwarded to Chief Council for comment on 06/16/2011.
Organization (3) – additional information was received. Proposed denial was revised and forwarded for review 07/19/2011 .
Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).

SIGNIFICANT NEXT STEPS, IF ANY: Organization (2) – Wait on comments from Counsel. Organization (3) Await the results of review on the revised proposed denial. .Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** July 31 , 2011
BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations are involved in political activities.	
SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: July 22, 2011	

SFC 001973

From: Goehausen Hilary
Sent: Tuesday, September 27, 2011 9:11 AM
To: Hull Carter C; Shoemaker Ronald J
Subject: FW: September SCR Advocacy Orgs
Attachments: SCR Sept 2011 Advocacy Orgs.doc

From: Goehausen Hilary
Sent: Tuesday, September 27, 2011 8:48 AM
To: Hull Carter C
Cc: Shoemaker Ronald J
Subject: September SCR Advocacy Orgs

Hi Chip,

Attached is the SCR for September for the advocacy organizations. I made only two or three minor edits using track changes to change the wording from tea party to advocacy organizations. Let me know if it looks good to you and I will forward to Steve.

Thanks,
Hilary

Hilary Goehausen
Tax Law Specialist
Exempt Organizations
Technical Group 1
SEC
[redacted]

SFC 001974

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EIN** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

The various "advocacy organizations" are separately organized, but appear to be a part of a national political movement that ma y be involved in political activities. The "advocacy organizations" are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding three applications from organizat ions 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 501c)(4) as social welfare organizations. Two 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 o rganizations are involved in campaign intervention or, alternatively, in nonexempt political activity.

CURRENT SIGNIFICANT ACTIONS ON CASE:

Met with Chief Council on August 10, 2011 to discuss further development of Organization (2). Case returned to EOT for
Additional development.
Organization (1) – closed FTE for failure to respond to a development letter.
Organization (2) – case returned to EOT for additional information; preparing another development letter.
Organization (3) – additional information was received. Proposed denial was revised and forwarded for review 07/19/2011.
Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).

SIGNIFICANT NEXT STEPS, IF ANY: Organization (3) Await the results of review on the revised proposed denial. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** December 31 , 2011
BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations are involved in political activities.	
SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: September 27, 2011	

SFC 001976

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EIN** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

Organization 1 was closed FTE for failure to respond to a development letter . EOT is preparing a third development letter to send to Organization 2. Upon receiving additional information from Organization 3, the proposed denial was revised and forwarded for EOT group review on 07/19/2011. These organizations are "advocacy organizations" and although are separately organized, appear to be a part of a larger national political movement that may be inv olved in political activities. These types of advocacy organizations are being followed closely in national newspapers (such as The Washington Post) almost on a r egular basis. Cincinnati is holdi ng a number of applications from these types of organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and from organizations which have applied for recognition of exemption under section 501(c)(4) as social welfare organizations. Two organizations already have been recognized as exempt under section 501(c)(4). EOT has not seen the case files, but requested copies of them. The issue with Organization 2 and 3 is whether the organizations are involved in campaign intervention or, alternatively, in nonexempt political activity. Organization 2 appears to be engaged in significant political campaign activity but additional information is needed to determine if this is their primary activity.

CURRENT SIGNIFICANT ACTIONS ON CASE:

Organization (1) – closed FTE for failure to respond to a development letter.
Organization (2) – Met with Chief Council on August 10, 2011 to discuss further development of Organization (2). Case returned to EOT f or additional development. Third development letter has been prepared and being reviewed.
Organization (3) – additional information was received. Proposed denial was revised and forwarded for group review on 07/19/2011.
Coordination between HQ and Cincinn ati is continuing regarding information letters to applicants for

exemption under 501(c)(3) and 501(c)(4). Additionally, EOT reviewed approximately 160 cases from EOD to assist in determining the types of activities these organizations may be engaging in.

SIGNIFICANT NEXT STEPS, IF ANY: Organization (3) Await the results of review on the revised proposed denial. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** December 31 , 2011
BARRIERS TO RESOLUTION, IF ANY: Concerns are whether the organizations are involved in political activities.	
SUBMITTED BY: Hilary Goehausen, SE:T:EO:RA:T:1	**MANAGER:** STEVEN GRODNITZKY, SE:T:EO:RA:T:1
DATE: November 15, 2011	

SFC 001978

From: Goehausen Hilary
Sent: Thursday, December 29, 2011 12:09 PM
To: Grodnitzky Steven
Subject: SCRs December
Attachments: SCR December 2011 Advocacy Orgs.doc; SCR December 2011 IS.doc

Hi Steve,

Attached are th SFC and Advocacy Org SCRs for December. I modified the Advocacy Org SCR to reflect our closing of American Junto for FTE. (The file is currently with Liz and she will review everything including the EDS form upon her return next week). The only change I didn't know to make, and which I highlighted in yellow, is the estimated closing date, which we have as December 31, 2011. I didn't know what date to put in, in lieu of Decembe r 31.

There were no changes to th SFC SCR, except for the same issue of the estimated closing date of December 31,which I highlighted in yellow.

Thanks,
Hilary

Hilary Goehausen
Tax Law Specialist
Exempt Organizations
Technical Group 1
SFC
[redacted]

SFC 001979

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EIN** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023 (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

Organization 3 is being closed FTE for failure to respond to a third development letter. EOT prepared a second development letter to Organ ization 2 and is awaiting a response. Organization 1 was closed FTE for failure to respond to a development letter . These organizations are "advocacy organizations" and although are separately organized, appear to be a part of a larger national political movement that may be involved in political activities. These types of advocacy organizations are being followed closely in national newspapers (such as The Washington Post) almost on a r egular basis. Cincinnati is holding a number of applications from these types of organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and from organizations which have applied for recognition of exemption under section 501 (c)(4) as social welfare organizations. Two organizations already have been recognized as e xempt under section 501(c)(4). EOT has not seen the case files, but requested copies of them. The issue with Organization 2 is whether this organizations is involved in political campaign interven tion or, alternatively, in nonexempt political activity.

CURRENT SIGNIFICANT ACTIONS ON CASE:

Organization (1) – closed FTE for failure to respond to a development letter.
Organization (2) – Met with Chief Council on August 10, 2011 to discuss furth er development of Organization (2) – Case returned to EOT for additional development. Third development letter has been prepared and being reviewed.
Organization (3) – being closed FTE for failure to respond to a development letter .
Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4). Additionally, EOT reviewed approximately 160 cases from EOD to assist in determining the types of activities these organizations may be engaging in. EOT will continue to assist EOD with development of these cases

SIGNIFICANT NEXT STEPS, IF ANY: Organization (3): Close FTE for failure to respond to development letter . Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** December 31 , 2011
BARRIERS TO RESOLUTION, IF ANY: Concerns are whether the organizations are involved in political activities.	
SUBMITTED BY: Hilary Goehausen, SE:T:EO:RA:T:1	**MANAGER:** STEVEN GRODNITZKY, SE:T:EO:RA:T:1
DATE: December 29, 2011	

SFC 001981

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EIN** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023 (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

Organization 3 was closed FTE for failure to respond to a third development letter. EOT received a response to a second development letter sent to Organization 2 and is reviewing the material received ;. Organization 1 was closed FTE for failure to respond to a development letter . These organizations are "advocacy organizations" and although are separately organized, appear to be a part of a larger national political movement that may be inv olved in political activities. These types of advocacy organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding a number of applications from these types of organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and from organizations which have applied for reco gnition of exemption under section 501(c)(4) as social welfare organizations. Two organizations already have been recognized as e xempt under section 501(c)(4). EOT has not seen the case files, but requested copies of them.

CURRENT SIGNIFICANT ACTIONS ON CASE:

Organization (1) – closed FTE for failure to respond to a development letter.
Organization (2) – Met with Chief Council on August 10, 2011 to discuss further development of Organization (2) – Case returned to EOT for additional development. A response to EOT's third development letter was received from the applicant. EOT is reviewing the material.
Organization (3) –closed FTE for failure to respond to a development letter .
Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4). Additionally, EOT reviewed approximately 160 cases from EOD to assist in determining the types of activities these organizations may be engaging in. EOT will continue to assist EOD with development of these cases

SIGNIFICANT NEXT STEPS, IF ANY: Organization (2): Review response to third development letter sent to the applicant . Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** May 31, 2012
BARRIERS TO RESOLUTION, IF ANY: Concerns are whether the organizations are involved in political activities.	
SUBMITTED BY: Hilary Goehausen, SE:T:EO:RA:T:1	**MANAGER:** STEVEN GRODNITZKY, SE:T:EO:RA:T:1
DATE: January 19, 2012	

SFC 001983

From: Goehausen Hilary
Sent: Tuesday, February 21, 2012 1:43 PM
To: Grodnitzky Steven
Subject: RE: SCR updates due by Noon Feb 23rd
Attachments: SCR February 2012 Advocacy Orgs.doc; SCR February 2012 IS.doc

Attached are the IS and Advocacy Org SCRs for February.

Thanks,
Hilary

Hilary Goehausen
Tax Law Specialist
Exempt Organizations
Technical Group 1
SFC
[redacted]

From: Grodnitzky Steven
Sent: Tuesday, February 21, 2012 2:31 PM
To: Cundiff Susan M; Beckwith Andrew D; Goehausen Hilary
Subject: FW: SCR updates due by Noon Feb 23rd
Importance: High

Could you please update your SCR by COB on Tuesday, February 22nd and send to me? Sorry for the late notice.

Steve

Steven Grodnitzky
Manager, Technical Group 1
Exempt Organizations, Rulings and Agreements
Tax Exempt and Government Entities Division
U.S. Internal Revenue Service
SFC
[redacted]

From: Trilli Darla J
Sent: Friday, February 10, 2012 1:38 PM
To: Shoemaker Ronald J; Grodnitzky Steven; Lieber Theodore R; Salins Mary J; Thomas Cindy M; Megosh Andy
Cc: Trilli Darla J
Subject: SCR updates due by Noon Feb 23rd
Importance: High

Please update SCRs by Noon Feb 23rd.

Thanks,
Darla

SFC 001984

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EIN** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023 (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:
Organization 3 was closed FTE for failure to respond to a third development letter. EOT received a response to a second development letter sent to Organization 2 and based on the information received is preparing a proposed denial. Organization 1 was closed FTE for failure to respond to a development letter. These organizations are "advocacy organizations" and although are separately organized, appear to be a part of a larger national political movement that may be inv olved in political activities. These types of advocacy organizations are being followed closely in national newspapers (such as The Washington Post) almost on a r egular basis. Cincinnati is holding a number of applications from these types of organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and from organizations which have applied for recognition of exemption under section 501 (c)(4) as social welfare organizations. Two organizations already have been recognized as e xempt under section 501(c)(4). EOT has not seen the case files, but requested copies of them.

CURRENT SIGNIFICANT ACTIONS ON CASE:
Organization (1) – closed FTE for failure to respond to a development letter.
Organization (2) – Met with Chief Council on August 10, 2011 to discuss further development of
Organization (2) – Case retumed to EOT for additi onal development. A response to EOT's second development letter was received from the applicant. Based on the information received, EOT is preparing a proposed denial.
Organization (3) –closed FTE for failure to respond to a de velopment letter.
Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4). Additionally, EOT reviewed approximately 160 cases from EOD to assist in determining the types of activities these organizations may be engaging in. EOT will continue to assist EOD with development of these cases

SIGNIFICANT NEXT STEPS, IF ANY: Organization (2): Review response to third development letter sent to the applicant . Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** May 31, 2012
BARRIERS TO RESOLUTION, IF ANY: Concerns are whether the organizations are involved in political activities.	
SUBMITTED BY: Hilary Goehausen, SE:T:EO:RA:T:1	**MANAGER:** STEVEN GRODNITZKY, SE:T:EO:RA:T:1
DATE: February 21, 2012	

SFC 001986

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EIN** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023 (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

Organization 3 was closed FTE for failure to respond to a third development letter. EOT received a response to a second development letter sent to Organization 2 and based on the information received is preparing a proposed denial . Organization 1 was closed FTE for failure to respond to a development letter. These organizations are "advocacy organizations" and although are separately organized, appear to be a part of a larger national political movement that may be inv olved in political activities. These types of advocacy organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding a number of applications from these types of organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and from organizations which have applied for recognition of exemption under section 501 (c)(4) as social welfare organizations.

CURRENT SIGNIFICANT ACTIONS ON CASE:

Organization (1) – closed FTE for failure to respond to a development letter.
Organization (2) – Met with Chief Council on August 10, 2011 to discuss further development of Case retumed to EOT for additional development. A response to EOT's second development letter was received from the applicant. Organization 2 notified EOT that is has retained counsel, who requested additional time to supplement its response to the second development letter, which EOT granted. The deadline is May 15, 2012.
Organization (3) –closed FTE for failure to respond to a development letter .
Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4). Additionally, EOT reviewed approximately 160 cases from EOD to assist in determining the types of activities the se organizations may be engaging in. EOT will continue to assist EOD with development of these cases . Cincinnati has sent EOT the case file for a section 501(c)(4) applicant to review their proposed favorable determination. EOT and EOG are

currently reviewing the file in order to assist Cincinnati with their determination.

SIGNIFICANT NEXT STEPS, IF ANY: Organization (2): Review response to third development letter sent to the applicant . Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** July 31, 2012
BARRIERS TO RESOLUTION, IF ANY: Concerns are whether the organizations are involved in political activities.	
SUBMITTED BY: Hilary Goehausen, SE:T:EO:RA:T:1	**MANAGER:** STEVEN GRODNITZKY, SE:T:EO:RA:T:1
DATE: March 21, 2012	

SFC 001988

From: Goehausen Hilary
Sent: Tuesday, April 17, 2012 3:19 PM
To: Grodnitzky Steven
Subject: SCRs for April 2012
Attachments: SCR April 2012 IS.doc; SCR April 2012 Advocacy Orgs.doc

Attached are th [redacted] and Advocacy Org SCRs. No changes from last month.

Hilary Goehausen
Tax Law Specialist
Exempt Organizations
Technical Group 1
[redacted]

IRS0000163812

SFC 001989

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EIN** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023 (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

These organizations are "advocacy organizations," and although are separately organized, they appear to be part of a larger national political movement that may be involved in political activities. These types of advocacy organizations are followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati has in its inventory a number of applications from these types of organizations that applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and from organizations that applied for recognition of exemption under section 501(c)(4) as social welfare organizations.

CURRENT SIGNIFICANT ACTIONS ON CASE:

Organization (1) – Closed FTE for failure to respond to a development letter.

Organization (2) – EOT met with Counsel on August 10, 2011 to discuss further development of the case, and Counsel returned the case to EOT for additional development. The applicant submitted a response to the second development letter. Organization 2 notified EOT that it has retained counsel who requested additional time to supplement its response to the second development letter. EOT granted the request and the new deadline to respond to the development letter is May 15, 2012.

Organization (3) –Closed FTE for failure to respond to a development letter .

Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4). Additionally, EOT reviewed approximately 160 cases from EOD to assist in determining the types of activities in which these organizations may be engaging. EOT will continue to assist EOD with development of these cases . Cincinnati has sent EOT the case

file for a section 501(c)(4) applicant to review its proposed favorable determination. EOT and EOG are currently reviewing the file to assist EOD with the determination. EOT is working 9 other advocacy cases in the office.

SIGNIFICANT NEXT STEPS, IF ANY: Organization (2): Review applicant's response to third development letter. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** July 31, 2012
BARRIERS TO RESOLUTION, IF ANY: Concerns are whether the organizations are involved in political activities.	
SUBMITTED BY: Hilary Goehausen, SE:T:EO:RA:T:1	**MANAGER:** STEVEN GRODNITZKY, SE:T:EO:RA:T:1
DATE: April 17, 2012	

SFC 001991

From: Daly Richard M
Sent: Sunday, June 06, 2010 2:44 PM
To: Vozne Jennifer L
Cc: Ingram Sarah H; Grant Joseph H; Giosa Christopher P
Attachments: June TEGE SCRs.zip

Hello, Jennifer:

Here is the current crop of TE/GE's sensitive case reports.

Regards,

Mike

IRS0000163997

SFC 001992

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) Prescott Tea Party, LLC, and (2) Albuquerque Tea Party, Inc. **TIN/EI** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☐ **INITIAL REPORT** ☒ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☐ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☐ Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

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 daily basis.

EO Determinations has three applications from organizations that have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations , and ten applications from organizations that have applied for recognition of exempti on under section 501c)(4) as social welfare organizations.

There are about ten more other organizations that EO Determinations is looking at that may be Tea party cases. Two organizations that might be "tea party" organization s already have been recognized as exempt under section 501(c)(4); this is being confirmed.

The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.

CURRENT SIGNIFICANT ACTIONS:

SIGNIFICANT NEXT STEPS, IF ANY: Review the organizations' responses to the development letters and finish a determination on whether the organization s may be recognized as exempt.	**ESTIMATED CLOSURE DATE:** September 30, 2010

BARRIERS TO RESOLUTION, IF ANY:
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.

SFC 001993

TEGE Division Sensitive Case Report
(revised January 2007)

SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: May 24, 2010	

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

SFC 001994

From: Daly Richard M
Sent: Thursday, July 01, 2010 6:08 PM
To: Vozne Jennifer L; Flax Nikole C
Cc: Ingram Sarah H; Grant Joseph H; Giosa Christopher P
Subject: July 5 SCRs for TE/GE
Attachments: July TEGE SCRs.zip

Hello, Jennifer and Nikole:

The attachment is TE/GE's Sensitive Case Reports that are due July 5.

Have a nice holiday!

Mike
Ex. Ass't., TE/GE
SEC [redacted]

SFC 001995

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) Prescott Tea Party, LLC, and (2) Albuquerque Tea Party, Inc. **TIN/EI** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☐ **INITIAL REPORT** ☐ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☐ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☐ Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

The various "tea party" organizations are separately organized, but appear to be a part of a national political movement.

Cincinnati has three applications from organizations that have applied for 501(c)(3) status as educational organizations, and ten applications from organizations that have applied for 501(c)(4) status as social welfare organizations.

In addition, Exempt Organization Technical is working one (c)(3) and one (c)(4) tea party case out of Washington.

Another two organizations, that might be "tea party" organizations, already have been recognized as exempt under section 501(c)(4).

The issue is whether thes e organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.

CURRENT SIGNIFICANT ACTIONS ON CASE:
EO Technical sent a development letter to the (c)(3) tea party applicant, but the applicant failed to submit information or respond to a message left on its telephone line , and this case was closed Failure To Establish. The 501(c)(4) organization responded to a development letter , and EO Technical is evaluating the information provided.

SIGNIFICANT NEXT STEPS, IF ANY: Review the 501(c)(4) organization's responses to the development letters and determine whether the organization may be recognized as	**ESTIMATED CLOSURE DATE:** September 30, 2010

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

SFC 001996

TEGE Division Sensitive Case Report
(revised January 2007)

exempt under (c)(4).	
BARRIERS TO RESOLUTION, IF ANY: Concerns over whether the organizations are involved in political activities.	
SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: June 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.

SFC 001997

From: Daly Richard M
Sent: Friday, August 06, 2010 6:39 AM
To: Ingram Sarah H; Grant Joseph H; Giosa Christopher P
Subject: FW: SCRs for TEGE for August
Attachments: Aug TEGE SCRs.zip

FYI. TE/GE's SCRs for August.

From: Daly Richard M
Sent: Thursday, August 05, 2010 4:49 PM
To: Flax Nikole C
Subject: SCRs for TEGE for August

Hello, Nikole,

Here's something you're sure to enjoy!

Mike

SFC 001998

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EI** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☐ **INITIAL REPORT** ☐ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**

SENSITIVE CASE CRITERIA:

☒ Likely to attract media or Congressional attention
☐ Unique or novel issue
☐ Affects large number of taxpayers
☐ Potentially involves large dollars ($10M or greater)
☐ Other (explain in Case Summary)

FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

The various "tea party" organizations are separately organized, but appear to be a part of a national political movement.

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 ten applications from organizations which have applied for recognition of exemp tion under section 501c)(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 is requesting copies of them. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.

CURRENT SIGNIFICANT ACTIONS ON CASE:

Organization (1) – closed FTE for failure to respond to a development letter .
Organization (2) – a second development letter is being drafted.
Organization (3) – a development was sent to the organization.

SIGNIFICANT NEXT STEPS, IF ANY: Send Organization (2) development letter. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** December 31, 2010

BARRIERS TO RESOLUTION, IF ANY:

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.

SFC 001999

TEGE Division Sensitive Case Report
(revised January 2007)

SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: July 26, 2010	

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

SFC 002000

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) Prescott Tea Party, LLC, and (2) Albuquerque Tea Party, Inc. **TIN/EI** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☒ **INITIAL REPORT** ☐ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☐ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☐ Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**
CASE OR ISSUE SUMMARY: The various "tea party" organizations are separately organized, but appear to be a part of a national politically convervative 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 daily 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 ten applications from organizations which have applied for recognition of exempti on under section 501c)(4) as social welfare organizations. Two organizations that might be "tea party" organization s already have been recognized as exempt under section 501(c)(4), and one as a (c)(3) also may be a tea party case, but EOT is checking the case file in Cincy. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.	
CURRENT SIGNIFICANT ACTIONS ON CASE: A development letter has been sent to the 501(c)(3) applicant in EOT, and a development letter to the 501(c)(4) applicant in EOT is being prepared. We will coordinate with Cincinnati regarding the development of the cases in that office.	
SIGNIFICANT NEXT STEPS, IF ANY: Review the organizations' responses to the development letters and finish a determination on whether the organization s may be recognized as exempt.	**ESTIMATED CLOSURE DATE:** September 30, 2010
BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations are involved in political activities.	
SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2

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

SFC 002001

TEGE Division Sensitive Case Report
(revised January 2007)

DATE: April 19, 2010	

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

SFC 002002

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EI** SFC an SFC **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☐ **INITIAL REPORT** ☐ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☐ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☐ Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**
CASE OR ISSUE SUMMARY: 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 exempti on under section 501c)(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.	
CURRENT SIGNIFICANT ACTIONS ON CASE: Organization (1) – closed FTE for failure to respond to a development letter. Organization (2) – a second development letter is being drafted and will be ready by 1 1/14/10. Organization (3) – Information was received 07/28/10 and is being evaluated; will coordinate with the subject matter expert. Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).	
SIGNIFICANT NEXT STEPS, IF ANY: Send Organization (2) development letter by 11/14/10. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** March 31, 2011
BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations are involved in political activities .	

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SFC 002003

TEGE Division Sensitive Case Report
(revised January 2007)

SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: 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.

SFC 002004

From: Zelasko James
Sent: Thursday, November 18, 2010 12:16 PM
To: Hull Carter C; Shoemaker Ronald J
Subject: FW: SCR's to be Updated by 11/19
Attachments: SCR Oct 2010 Tea Party.doc

Importance: High

SCR updated.

From: Hull Carter C
Sent: Thursday, November 18, 2010 1:04 PM
To: Zelasko James
Subject: FW: SCR's to be Updated by 11/19
Importance: High

From: Shoemaker Ronald J
Sent: Monday, November 15, 2010 12:53 PM
To: Hull Carter C; Orcino Leonardo M; Henzke Leonard J; Kastenberg Elizabeth C; Berick Ellen S
Subject: FW: SCR's to be Updated by 11/19
Importance: High

Please update SCRs by COB Nov. 17, 2010. Len has 2, Liz has 2 includin [redacted] (right?), Ellen Ha [redacted].

From: Trilli Darla J
Sent: Monday, November 15, 2010 12:42 PM
To: Grodnitzky Steven; Shoemaker Ronald J; Lieber Theodore R; Thomas Cindy M; Salins Mary J
Cc: Trilli Darla J; Paz Holly O
Subject: SCR's to be Updated by 11/19
Importance: High

Please update SCR's and send to me by C.O.B. this Friday. (Nov 19th)

Please leave track changes on or make changes in Red.

Thanks, Darla

SFC 002005

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EI** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☐ **INITIAL REPORT** ☐ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☐ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☐ Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**
CASE OR ISSUE SUMMARY: 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 exempti on under section 501c)(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 organizati ons are involved in campaign intervention or, alternatively, in nonexempt political activity.	
CURRENT SIGNIFICANT ACTIONS ON CASE: Organization (1) – closed FTE for failure to respond to a development letter. Organization (2) – will prepare a propos ed favorable ruling and forward for review by 12/13/2010 Organization (3) – Limited additional will be requested from the organization, reply expected by 12/13/2010 Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).	
SIGNIFICANT NEXT STEPS, IF ANY: Organization (2) Proposed Favorable ruling by 12/13/2010 Organization 3 awaiting additional information by 12/13/2010. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** January 31 , 2011
BARRIERS TO RESOLUTION, IF ANY:	

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SFC 002006

TEGE Division Sensitive Case Report
(revised January 2007)

Concerns whether the organizations are involved in political activities.	
SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: September 22 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.

SFC 002007

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EI** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☐ **INITIAL REPORT** **X FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☐ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☐ Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**
CASE OR ISSUE SUMMARY: 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 exempti on under section 501c)(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 interventio n or, alternatively, in nonexempt political activity.	
CURRENT SIGNIFICANT ACTIONS ON CASE: Organization (1) – closed FTE for failure to respond to a development letter. Organization (2) – a proposed favorable memo forwarded for review on 01/11/2011. Organization (3) –proposed denial forwarded for review 03/02/2011. Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).	
SIGNIFICANT NEXT STEPS, IF ANY: Organization (2) Proposed Favorable ruling by 01/11/2011. Organization 3 proposed denial by 02/28/2011. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** March 31 , 2011
BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations are involved in political activities .	

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SFC 002008

TEGE Division Sensitive Case Report
(revised January 2007)

SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: 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.

SFC 002009

From: Hull Carter C
Sent: Tuesday, May 17, 2011 1:51 PM
To: Shoemaker Ronald J
Subject: RE: May SCR
Attachments: SCR May 2011 Tea Party.doc

Attached.

From: Shoemaker Ronald J
Sent: Wednesday, May 11, 2011 9:53 AM
To: Manasterli Jacqueline B; Carter Jonathan S.; Biss Meghan R; Kastenberg Elizabeth C; Hull Carter C; Orcino Leonardo M
Subject: FW: May SCR
Importance: High

Please submit your updated SCR to me by COB May 18, 2011. Indicate changes in redline (track changes).

Thanks.

From: Trilli Darla J
Sent: Wednesday, May 11, 2011 9:45 AM
To: Smith Danny D; Shoemaker Ronald J; Lieber Theodore R; Thomas Cindy M
Cc: Seto Michael C; Salins Mary J; Trilli Darla J
Subject: RE: May SCR
Importance: High

Hello All - I apologize for forgetting the attachments. (April SCRs) For those who have already submitted for May, thank you.

Darla

From: Trilli Darla J
Sent: Monday, May 09, 2011 3:19 PM
To: Smith Danny D; Shoemaker Ronald J; Lieber Theodore R; Thomas Cindy M
Cc: Trilli Darla J; Seto Michael C; Salins Mary J
Subject: May SCR

Hello All - Please update the SCRs for May and send to me by C.O.B. Friday, May 20th. Please submit with track
changes so I can quickly identify updates from the previous month.

Thanks so much,
Darla

SFC 002010

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EIN** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:
The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be invo lved 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 reco gnition 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 501c)(4) as social welfare organizations. Two o rganizations 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, altematively, in nonexempt political activity.

CURRENT SIGNIFICANT ACTIONS ON CASE:
Met with J. Kindell to discuss organizations (2) and (3) and Service position. Ms. Kindell recommended additional development re: activities , then forward to Chief Council .

Organization (1) – closed FTE for failure to respond to a development letter.
Organization (2) – proposed favorable 501(c)(4) ruling forwarded to Chief Council for comment on 05/04/2011.
Organization (3) – additional development letter dated 04/27/2011 sent to organization re: activities. Information due 05/18/2011 .
Coordination between HQ and Cincinnati is continuing regarding info rmation letters to applicants for exemption under 501(c)(3) and 501(c)(4).

SIGNIFICANT NEXT STEPS, IF ANY: Issue development letters before end of April. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** July 31 , 2011
BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations are involved in political activities.	
SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: May 17, 2011	

SFC 002012

From: Hull Carter C
Sent: Wednesday, August 17, 2011 1:37 PM
To: Shoemaker Ronald J
Subject: FW: SCR August 2011
Attachments: SCR August 2011 Tea Party.doc

Ron,

Updated report forwarded.

Chip

SFC 002013

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EIN** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be invo lved 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 reco gnition 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 501c)(4) as social welfare organizations. Two o rganizations 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.

CURRENT SIGNIFICANT ACTIONS ON CASE:

Met with Chief Council on August 10, 2011 to discuss further development of Organization (2). Case returned to EOT for
Additional development.
Organization (1) – closed FTE for failure to respond to a development letter.
Organization (2) – case returned to EOT for additional information; preparing another development letter.
Organization (3) – additional information was received. Propo sed denial was revised and forwarded for review 07/19/2011.
Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).

SFC 002014

SIGNIFICANT NEXT STEPS, IF ANY: Organization (3) Await the results of review on the revised proposed denial. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** December 31 , 2011
BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations are involved in political activities.	
SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: August 17, 2011	

SFC 002015

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: Emerge Maine, Emerge Nevada, and Emerge Massachusetts, Emerge Oregon **TIN/EI** SFC [redacted] **POA:** N/A	**TAX PERIODS:** **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, DC	☐ **INITIAL REPORT** ☒ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☒ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☒ Other (explain in Case Summary)
FORM TYPE(S): 1024	**START DATE:** Emerge Massachusetts: • Determinations: 8/15/08 • Technical: 4/16/09 Emerge Maine: • Determinations: 1/11/08 • Technical: 10/9/08 Emerge Nevada: • Determinations: 12/31/07 • Technical: 10/9/08 Emerge Oregon • Determinations: 2/9/2010 • Technical:4/14/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) :	**CRIMINAL REFERRAL?** No **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**
CASE OR ISSUE SUMMARY: The Emerge cases involve applications filed by four state chapter organizations who recruit women belonging to the Democratic Party to schools that teach campaign -related skills, such as fund-raising, public speaking, etc. The proposed denial template for the Emerge applications is based on the organization's failure to promote social welfare because of substantial private benefit to the Democratic Party. It is similar to the denial of the DLC case, and is based on the rationale in the American Campaign Academy decision. The Emerge proposed denial letter template has been reviewed and approved by the group reviewer, EO Tech Group 1 manager, EO Tech acting manager, EO Guidance, Judy Kindell, and TEGE Counsel to ensure a consistent rationale as to litigation strategies. As a side note, a few state chapters have been granted tax exemption, and Counsel has reviewed those case files.	
CURRENT SIGNIFICANT ACTIONS ON CASE: Proposed denial letters have been issued to Emerge Maine, Emerge Nevada, and Emerge Massachusetts. Each organization has requested an extension of the deadline to protest, which is now February 28, 2011. Recently, Emerge Oregon has added new information to its website, which will be incorporated into the	

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SFC 002016

TEGE Division Sensitive Case Report
(revised January 2007)

administrative file.	
SIGNIFICANT NEXT STEPS, IF ANY: Review the organizations' protests when they are received and schedule confe rences if they are requested. Coordinate with EO Tech Group 2 to issue the Emerge Oregon proposed denial once additional information is incorporated into the file.	**ESTIMATED CLOSURE DATE:** April 29, 2011
BARRIERS TO RESOLUTION, IF ANY: None.	
SUBMITTED BY: Siri Buller	**MANAGER:** DANNY SMITH
DATE: February 14, 2011	

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

SFC 002017

From: Urban Joseph J
Sent: Tuesday, August 07, 2012 7:03 AM
To: Lowe Justin; Miller Steven T; Fish David L
Subject: FW:: Sensitive case reports
Attachments: SCR Nov 2010 Tea Party.doc; SCR Feb 2011 Tea Party.doc; SCR Dec 2010 Tea Party.doc; SCR Tea Party 10-2010.doc

-----Original Message-----
From: Paz Holly O
Sent: Thursday, April 26, 2012 12:13 PM
To: Marks Nancy J; Urban Joseph J; Malone Robert; Light Sharon P
Subject: Sensitive case reports

Attached are a few of the monthly sensitive case reports on the advocacy cases being worked in EO Technical.

SFC 002018

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EI** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☐ **INITIAL REPORT** ☐ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☐ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☐ Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**
CASE OR ISSUE SUMMARY: 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 exempti on under section 501c)(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.	
CURRENT SIGNIFICANT ACTIONS ON CASE: Organization (1) – closed FTE for failure to respond to a development letter. Organization (2) – will prepare a proposed favorable ruling and forward for review by 01/15/2011 Organization (3) – will prepare a proposed denial and forward for review by 01/31/2011. Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 50 1(c)(4).	
SIGNIFICANT NEXT STEPS, IF ANY: Organization (2) Proposed Favorable ruling by 01/15/2011. Organization 3 proposed denial by 01/31/2011. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** January 31 , 2011
BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations are involved in political activities .	

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SFC 002019

TEGE Division Sensitive Case Report
(revised January 2007)

SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: 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.

SFC 002020

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EI** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☐ **INITIAL REPORT** **X FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☐ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☐ Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**
CASE OR ISSUE SUMMARY: 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 exempti on under section 501c)(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 interventio n or, alternatively, in nonexempt political activity.	
CURRENT SIGNIFICANT ACTIONS ON CASE: Organization (1) – closed FTE for failure to respond to a development letter. Organization (2) – a proposed favorable memo forwarded for review on 01/11/2011. Organization (3) –preparing a proposed denial for review by 02/28/2011. Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).	
SIGNIFICANT NEXT STEPS, IF ANY: Organization (2) Proposed Favorable ruling by 01/11/2011. Organization 3 proposed denial by 02/28/2011. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** March 31 , 2011
BARRIERS TO RESOLUTION, IF ANY: 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.

SFC 002021

TEGE Division Sensitive Case Report
(revised January 2007)

SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: 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.

SFC 002022

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EI** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☐ **INITIAL REPORT** ☐ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☐ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☐ Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**
CASE OR ISSUE SUMMARY: 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 exempti on under section 501c)(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.	
CURRENT SIGNIFICANT ACTIONS ON CASE: Organization (1) – closed FTE for failure to respond to a development letter. Organization (2) – will prepare a proposed favorable ruling and forward for review by 12/13/2010 Organization (3) – Limited additional information will be requested from the organization, reply expected by 12/13/2010 Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).	
SIGNIFICANT NEXT STEPS, IF ANY: Organization (2) Proposed Favorable ruling by 12/13/2010 Organization 3 awaiting additional information by 12/13/2010. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** January 31 , 2011
BARRIERS TO RESOLUTION, IF ANY:	

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SFC 002023

TEGE Division Sensitive Case Report
(revised January 2007)

Concerns whether the organizations are involved in political activities.	
SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: 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.

SFC 002024

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EI** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☐ **INITIAL REPORT** ☐ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☐ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☐ Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**
CASE OR ISSUE SUMMARY: 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 exempti on under section 501c)(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.	
CURRENT SIGNIFICANT ACTIONS ON CASE: Organization (1) – closed FTE for failure to respond to a development letter. Organization (2) – a second development letter is being drafted and will be ready by 1 1/14/10. Organization (3) – Information was received 07/28/10 and is being evaluated; will coordinate with the subject matter expert. Coordination between HQ and Cincinnati is continuing regarding information letters to applicants fo r exemption under 501(c)(3) and 501(c)(4).	
SIGNIFICANT NEXT STEPS, IF ANY: Send Organization (2) development letter by 11/14/10. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** March 31, 2011
BARRIERS TO RESOLUTION, IF ANY: 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.

SFC 002025

TEGE Division Sensitive Case Report
(revised January 2007)

SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: 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.

COORDINATING TEA PARTY CASES Update Memorandum

This memorandum is to bring the file up to date concerning Tea Party Cases in Cincinnati. Exempt Organizations (HQ) is working Tea Party applications in coordination with Cincinnati. The bulk of the cases are under the jurisdiction of Cincinnati. However, HQ is also working a few applications in the Washington, D.C. office. Currently, HQ is working one IRC 501(c)(3) application and one IRC 501(c)(4) application. A development letter was sent to both org anizations and replies have been received. The replies are being evaluated. These two Tea Party cases are the subject of an SCR, updated monthly.

Cincinnati is supplying HQ with copies of the Tea Party files they have identified, along with propose d development letters. The letters are reviewed and comments are made by telephone to the agent in Cincinnati, which then mails out the development letters. Mr. Grodnitzky, Acting Manager EO Technical, and the undersigned looked at the first proposed letter a nd discussed possible comments. The undersigned telephoned Mrs.Hofacre in Cincinnati and passed along the suggested changes. Mrs. Hofacre has continued to fax copies of the administrative files to the undersigned and has emailed copies of proposed develo pment letters. She also mails the revised development letters to the organizations. Mr. Grodnitzy advised that he did not need to review further development letters. The undersigned continues to review Tea Party administrative files and the proposed dev elopment letters, and provide Mrs. Hofacre with suggestions.

There have been three cases assigned to me, with control numbers, here at HQ. They are (1) Prescott Tea Party, LLC (an IRC 501(c)(3) application), (2) Albuquerque Tea Party, Inc. (an IRC 501(c)(4) application), and (3) American Junto, Inc. (an IRC 501(c)(3) application. The Prescott case was closed as failure to respond to the development letter. Albuquerque and Junto have both responded to first development letters, and second development l etters may have to be sent to both organizations. Another case in HQ, League of American Voters, Inc. assigned to Janet Gitterman in Group 2, is similar to the other cases in HQ, but not initially identified as a "Tea Party" case. A proposed exemption letter under IRC 501(c)(4) is currently being reviewed by Siri Buller, the PACI expert in Group 1.

The attached list shows the names of the Tea Party cases currently being worked in Cincinnati, with development letters being reviewed by the undersigned befo re being sent out. The cases marked with an asterisk (*) are applications under IRC 501(c)(3). All others are applications under IRC 501(c)(4).

(1) The column entitled Cinn. Info. Ltr. Date shows the date on the proposed development letters , usually the date the letter was sent to HQ.

(2) The column entitled Ltr.&File Reviewed indicates that the proposed development letter and the file was reviewed in HQ.

(3) The column entitled Ltr.&File Discussed indicates that the HQ comments were passed along to Cincinnati.

Re: COORDINATING TEA PARTY CASES Update Memorandum

(4) The column entitled Reply Reviewed indicates that the applicant has replied to the development letter, and that the reply was evaluated in HQ. Three organizations have replied to the development letters, and the responses are being evaluated.

(5) The column entitled Reply Discussed indicates that the reply was discussed with Cincinnati.

Carter C. Hull
SE:T:EO:RA:T:2
October 18, 2010

SFC 002028

From: Shoemaker Ronald J
Sent: Tuesday, October 19, 2010 8:27 AM
To: Paz Holly O
Cc: Hull Carter C
Subject: FW: Coordinating Tea Party Cases Update Memorandum
Attachments: COORDINATINGTEAPARTYUpdateMemo.doc; COORDINATING TEA PARTY CASES.doc

Follow Up Flag: Follow up
Flag Status: Flagged

Holly, I am sending you a memo describing what Chip is doing with the Tea Party cases. This discusses in more detail than found in the SCR of what is going on in these cases. This information is for your information only. We have not reached any decision on the cases yet.

From: Hull Carter C
Sent: Monday, October 18, 2010 4:03 PM
To: Shoemaker Ronald J
Subject: Coordinating Tea Party Cases Update Memorandum

FYI

SFC 002029

COORDINATING TEA PARTY CASES

	Cinn. Info. Ltr. Date	Ltr. & File Reviewed	Ltr. & File Discussed	Reply Reviewed	Reply Discussed
American Leadership Council *	10/14/2010				
American Patriots Against Government Excess *					
Caldwell County 9.12 Project	08/06/2010	x			
Chattanooga Tea Party	06/21/2010	x	x		
CLTP, Inc.	06/15/2010	x	x		
Coalition for a Conservative Majority, Colorado Springs	10/09/2010				
Conservative Grass Roots	10/14/2010				
Dallas Tea Party, Inc.	10/14/2010				
Everyday Patriots	07/02/2010	x	x		
Freedom and Values Alliance, Inc.	08/06/2010	x	x		
Georgia Tea Party, Inc.	09/28/2010	x			
Grimes County Tea Party	09/20/2010	x			
Hawaii Tea Party	07/26/2010	x	x		
Katy Tea Party	08/03/2010	x	x		
King Street Patriots	09/16/2010	x			
Louisville Grassroots Tea Party, Inc.	10/15/2010				
Manassas Tea Party	07/26/2010	x	x		
Mississippi Tea Party	07/06/2010	x	x		
912 Lane County					
912 Project Fort Worth	09/20/2010	x			
Norcal Tea Party Patriots	06/21/2010	x	x		
North Houston Tea Party Patriots, Inc.	09/28/ 2010				
Ohio Liberty Council Corp	10/14/2010				
Patriots Educating Concerned Americans Now	10/13/2010				
Patriots of Charleston	10/07/2010				
Pennsylvania Coalition for Responsible Government	09/27/2010				
Peoples Tea Party Corp	09/27/2010				
Red River Tea Party , LLC					
Remember Us We The People *	05/28/2010	x	x		

Richmond Tea Party	07/02/2010	x	x
Roane County Tea Party	09/27/2010		
San Angelo TEA Party, Inc.	08/06/2010	x	x
1776 Tea Party	07/26/2010	x	x
Shenandoah Valley Tea Party	09/27/2010		
Take Back Our Country	06/01/2010	x	x
Tea Party Patriots of North Idaho	09/24/2010		
Tri-Cities Tea Party	07/26/2010	x	x
Unite in Action, Inc.			
Waco Tea Party	10/08/2010		
Western Slope Conservative Alliance	09/24/2010		

COORDINATING TEA PARTY CASES Update Memorandum

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Re: COORDINATING TEA PARTY CASES Update Memorandum

(4) The column entitled Reply Reviewed indicates that the applicant has replied to the development letter, and that the reply was evaluated in HQ. Three organizations have replied to the development letters, and the responses are being evaluated.

(5) The column entitled Reply Discussed indicates that the reply was discussed with Cincinnati.

Carter C. Hull
SE:T:EO:RA:T:2
October 18, 2010

SFC 002033

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EI** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☐ **INITIAL REPORT** ☐ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☐ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☐ Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**
CASE OR ISSUE SUMMARY: 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 exempti on under section 501c)(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.	
CURRENT SIGNIFICANT ACTIONS ON CASE: Organization (1) – closed FTE for failure to respond to a development letter. Organization (2) – will prepare a proposed favorable ruling and forward for review by 01/15/2011 Organization (3) – will prepare a proposed denial and forward for review by 01/31/2011. Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 50 1(c)(4).	
SIGNIFICANT NEXT STEPS, IF ANY: Organization (2) Proposed Favorable ruling by 01/15/2011. Organization 3 proposed denial by 01/31/2011. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** January 31 , 2011
BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations are involved in political activities .	

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SFC 002034

TEGE Division Sensitive Case Report
(revised January 2007)

SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: 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.

SFC 002035

TEGE Division Sensitive Case Report
(revised January 2007)

Case Name: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EIN:** SFC [redacted] **POA:** None	**Tax Periods:** 2009 and forward **Earliest Statute Date:**
Function Reporting: EO R&A **POD:** Washington, D.C.	☐ **Initial Report** ☐ **Follow-up Report** ☐ **Final Report**
Sensitive Case Criteria: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☐ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☐ Other (explain in Case Summary)
Form Type(s): (1) Form 1023. (2) Form 1024	**Start Date:** 04/02/2010
Potential Dollars Involved (If > $10M) : Unknown	**Criminal Referral?** Unknown **If yes, when?** **Freeze Code TC 914 (Yes or No)**
Case or Issue Summary: 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 501c)(**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.	
Current Significant Actions on Case: Organization (1) – closed FTE for failure to respond to a development letter. Organization (2) – a second development letter is being drafted. Organization (3) – Information has been received and is being evaluated.. Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4)..	
Significant Next Steps, if any: Send Organization (2) development letter. Continue coordinated review of applications in EO Determinations.	**Estimated Closure Date:** December 31, 2010
Barriers to Resolution, if any: Concerns whether the organizations are involved in political activities.	
Submitted by: Carter C. Hull, SE:T:EO:RA:T:2	**Manager:** Ronald Shoemaker, SE:T:EO:RA:T:2

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

SFC 002036

TEGE Division Sensitive Case Report
(revised January 2007)

Date: August 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.

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 2:54 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Friday, April 02, 2010 10:51 AM
To: Grodnitzky Steven
Subject: RE: two cases

Agree an SCR needs to be completed.

Information I previously received from John Shafer is that we have identified a total of 11 Tea Party cases. Three cases have been approved, two 501(c)(4) and one 501(c)(3). I believe a total of 3 have been sent to EOT. Therefore, we have 5 in Cincinnati pending guidance from EOT.

If you have any other questions/concerns regarding this, please let me know.

From: Grodnitzky Steven
Sent: Friday, April 02, 2010 9:13 AM
To: Thomas Cindy M
Subject: FW: two cases

I think there needs to be an SCR on the Tea party cases, d ue to the high media attention. Actually, you can't turn on the television news without hearing about the movement. I think one SCR is appropriate to include all the cases. Probably more efficient. Do you know how many cases you currently have in EO Dete rminations related to this movement?

From: Elliot Moore Donna
Sent: Friday, April 02, 2010 8:38 AM
To: Grodnitzky Steven; Shoemaker Ronald J
Subject: RE: two cases

The Tea Party movement is covered in the Post almo st daily. I expect to see more applications.

From: Grodnitzky Steven
Sent: Thursday, April 01, 2010 4:04 PM
To: Elliot Moore Donna; Shoemaker Ronald J
Subject: RE: two cases

These are high profile cases as they deal with the Tea Party so there may be media attention. May need to do an SCR on them.

From: Elliot Moore Donna
Sent: Thursday, April 01, 2010 7:43 AM

SFC 002038

To: Grodnitzky Steven; Shoemaker Ronald J
Subject: RE: two cases

I looked briefly and it looks more educational but with a republican slant obviously. Since they're applying under (c)(4) they may qualify.

From: Grodnitzky Steven
Sent: Wednesday, March 31, 2010 5:30 PM
To: Elliot Moore Donna; Shoemaker Ronald J
Subject: RE: two cases

Thanks. Just want to be clear -- what are the specific activities of these organizations? Are they engaging in political activities, education, or what?

Ron -- can you let me know who is getting these cases?

From: Elliot Moore Donna
Sent: Wednesday, March 31, 2010 10:30 AM
To: Grodnitzky Steven
Subject: two cases

Steve:

Re: Two "tea party" cases

Albuquerque Tea Party, Inc. and Prescott Tea Party Inc.

Cases are applying for exemption under section 501(c)(4).

Holly accepted the cases for EO Technical. Copies of email exchanges between Cindy Thomas and Holly in case files.

The concern is potential for med ia attention.

They will be assigned to Group 2.

FYI

Donna

SFC 002039

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 2:55 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST
Attachments: Tea Party 4-5-2010.xls

From: Shafer John H
Sent: Tuesday, April 06, 2010 10:00 AM
To: Thomas Cindy M; Camarillo Sharon L
Subject: FW: Tea Party Cases ACTION

Cindy & Sharon,

Gary has added a few more cases that he discovered. I have all of the status "75" cases in my office.

John Shafer
Group Manager
SE:T:EO:RA:D:1:7838
SFC [redacted]

From: Muthert Gary A
Sent: Monday, April 05, 2010 2:29 PM
Cc: Muthert Gary A; Shafer John H; Shoemaker Ronald J
Subject: RE: Tea Party Cases ACTION

TEA PARTY OR POSSIBLE TP CASES AS OF 4/5/2010

	Name of Organization	EIN	Status		From
1	Prescott Tea Party LLC	SFC [redacted]	**52 - Assigned to 50982 (DC)**	**Applying under 501(c)(3)**	Prescott, Ar
2	Albuquerque Tea Party, Inc.		**52 - Assigned to 50982 (DC)**	Applying under 501(c)(4)	Albuquerqu
3	Amarillo Tea Party Patroits		**Exempt**	Applied under 501(c)(4)	**Amarillo, T**
4	Champaign Tea Party		**Exempt**	Applied under 501(c)(4)	Champaign,
5	Ellas Tea Party		**Exempt**	**Applied under 501(c)(3)**	Phoenix, Ar
6	Chattanooga Tea Party		75	Applying under 501(c)(4)	Ooltewah, T
7	Mississippi Tea Party Inc.		75	Applying under 501(c)(4)	Jackson, Mi
8	Tea Party Patriots of North Idaho		75	Applying under 501(c)(4)	Coeur Dalen
9	Richmond Tea Party Inc.		75	Applying under 501(c)(4)	Richmond,
10	McAllen Tea Party Inc.		75	Applying under 501(c)(4)	**McAllen, T**
11	Take Back Our Country		75	Applying under 501(c)(4)	San Diego,
12	CLTP Inc.		75	Applying under 501(c)(4)	**Seabrook, T**
13	San Angelo Tea Party Inc.		75	Applying under 501(c)(4)	**San Angelo**

1

SFC 002040

14	1776 Tea Party	SFC [redacted]	75	Applying under 501(c)(4)	Riverside, C
15	Roane County Tea Party		75	Applying under 501(c)(4)	Kingston, T
Potential Denials under IRC 501(c)(3)					
16	**American Junto Inc.**		75	**Applying under 501(c)(3)**	Cincinnati,
17	**Remember Us We the People**		75	**Applying under 501(c)(3)**	Ellensburg,
18	**Gov360**		75	**Applying under 501(c)(3)**	Hollywood,

Cases 1 and 2 are currently assigned to T #50982, who is located in Washington D.C.

Status 75 cases are all located in Cincinnati, Ohio and awaiting guidance.

The "Exempt" cases were already granted exemption. The 501(c)(4) organizations are probably not a problem. However, the 501 (c)(3) organiz
Ella's Tea Party Inc. may have to be researched further.

Case 16 - American Junto - a 501(c)(3) applicant, acknowledges that it is engaged in political activities.

Case 17- Remember Us We the People - a 501(c)(3) applicant, is linked to TEA PARTY PATROITS, a 501(c)(4) entity.

Case 18 - Gov360 is applying under 501(c)(3). However, we have not determined if it's a Tea Party entity.

Gary Muthert
TE/GE, ID SEC [redacted]
Screening Group, Group 7838
550 Main Street
Cincinnati, Ohio 45201
SEC [redacted] **Phone**
SEC [redacted] **FAX**

From: Thomas Cindy M
Sent: Monday, April 05, 2010 12:26 PM
To: Muthert Gary A
Cc: Shafer John H; Camarillo Sharon L; Shoemaker Ronald J; Grodnitzky Steven
Subject: Tea Party Cases ACTION
Importance: High

Gary,

Since you are acting for John and I believe the tea party cases are being held in your group, would you be able to gather information, as requested in the email below, and provide it to Ron Shoemaker so that EO Technical can prepare a Sensitive Case Report for these cases? Thanks in advance.

From: Grodnitzky Steven
Sent: Monday, April 05, 2010 12:14 PM
To: Thomas Cindy M
Cc: Shoemaker Ronald J; Shafer John H
Subject: RE: two cases

Cindy,

Information would be the number of cases and the code sections in which they filed under. Also, if there is anything that makes one stand out over the other, like a high profile Board member, etc.., then that would be helpful. Really thinking about possible media attention on a particular case. Just want to make sure that Lois and Rob are aware that there are other cases out there, etc.....

I think once the cases are assigned here in EOT and we have drafted a development letter, we should coordinate wi th you guys so that you can at least start developing them. However, we would still need to let Rob know before we resolve any of these cases as this is a potential high media area and we are including them on an SCR.

Ron-- once you assign the cases and we have drafted a development letter, please let me know so that we can coordinate with Cindy's folks.

Thanks.

Steve

From: Thomas Cindy M
Sent: Monday, April 05, 2010 11:59 AM
To: Grodnitzky Steven
Cc: Shoemaker Ronald J; Shafer John H
Subject: RE: two cases

What information would you like? We are "holding" the cases pending guidance from EO Technical because Holly Paz didn't want all of the cases sent to D.C.

From: Grodnitzky Steven
Sent: Monday, April 05, 2010 11:56 AM
To: Shoemaker Ronald J; Thomas Cindy M
Subject: RE: two cases

Thanks. Can you assign the cases to one person and start an SCR for this month on the cases? Also, need to coordinate with Cincy as they have a number of Tea Party cases as well.

Cindy -- Could someone provide information on the Tea Party cases in Cincy to Ron so that he can include in the SCR each month? Thanks.

From: Shoemaker Ronald J
Sent: Monday, April 05, 2010 11:30 AM
To: Elliot Moore Donna; Grodnitzky Steven
Subject: RE: two cases

One is a c4 and one is a c3.

From: Elliot Moore Donna
Sent: Friday, April 02, 2010 8:38 AM
To: Grodnitzky Steven; Shoemaker Ronald J
Subject: RE: two cases

The Tea Party movement is covered in the Post almost daily. I expect to see more applications.

From: Grodnitzky Steven
Sent: Thursday, April 01, 2010 4:04 PM
To: Elliot Moore Donna; Shoemaker Ronald J
Subject: RE: two cases

These are high profile cases as they deal with the Tea Party so there may be media attention. May need to do an SCR on them.

From: Elliot Moore Donna
Sent: Thursday, April 01, 2010 7:43 AM
To: Grodnitzky Steven; Shoemaker Ronald J
Subject: RE: two cases

I looked briefly and it looks more educational but with a republican slant obviously. Since they're applying under (c)(4) they may qualify.

From: Grodnitzky Steven
Sent: Wednesday, March 31, 2010 5:30 PM
To: Elliot Moore Donna; Shoemaker Ronald J
Subject: RE: two cases

Thanks. Just want to be clear -- what are the specific activities of these organizations? Are they engaging in political activities, education, or what?

Ron -- can you let me know who is getting these cases?

From: Elliot Moore Donna
Sent: Wednesday, March 31, 2010 10:30 AM
To: Grodnitzky Steven
Subject: two cases

Steve:

Re: Two "tea party" cases

Albuquerque Tea Party, Inc. and Prescott Tea Party Inc.

Cases are applying for exemption under section 501(c)(4).

Holly accepted the cases for EO Technical. Copies of email exchanges between Cindy Thomas and Holly in case files.

The concern is potential for media attention.

They will be assigned to Group 2.

FYI

Donna

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 2:58 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

-----Original Message-----
From: Grodnitzky Steven
Sent: Tuesday, July 06, 2010 9:40 AM
To: Thomas Cindy M; Camarillo Sharon L
Cc: Hull Carter C
Subject: FW: Form 1023 Application

EOT is working the Tea party applications in coordination with Cincy. We are developing a few applications here in DC and providing copies of our development letters with the agent to use as examples in the development of their cases. Chip Hull is working these cases in EOT and working with the agent in Cincy, so any communication should include him as well. Because the Tea party applications are the subject of an SCR, we cannot resolve any of the cases without coordinating with Rob.

-----Original Message-----
From: Paz Holly O
Sent: Tuesday, July 06, 2010 8:38 AM
To: Grodnitzky Steven; Thomas Cindy M; Camarillo Sharon L
Subject: FW: Form 1023 Application

Steve,

Can you please let Cindy and Sharon know how we have been handling Tea Party applications the last few months?

Thanks,

Holly

-----Original Message-----
From: Thomas Cindy M
Sent: Saturday, July 03, 2010 9:46 AM
To: Camarillo Sharon L
Cc: Paz Holly O
Subject: Re: Form 1023 Application

Sharon,

We transferred a few tea party cases to EOT, but I believe we are working others in coordination with EOT. If I remember correctly, Liz Hofacre is coordinating these and working with EOT.

You may want to check with Steve Bowling and John Shafer.

Sent using BlackBerry

-------Original Message-------
From: Sharon Camarillo
To: Holly Paz
Cc: Cindy M Westcott
Subject: FW: Form 1023 Application
Sent: Jul 2, 2010 1:28 PM

Holly: We have identified another TEA Party application, a nd may have identified 30 other state chapters that may come in for exemption. We have alerted our Screeners to be on the lookout for these applications. In the past, you had asked that these applications be forwarded to EOT for review.
Do you still want us to forward these to you?

Thank you
Sharon L. Camarillo
EO Determinations Manager, Area 1

9350 E. Flair Drive
El Monte, CA 91731-2885

SEC [redacted]

From: Waddell Jon M
Sent: Friday, July 02, 2010 10:19 AM
To: Camarillo Sharon L; Bowling Steven F; Shafer John H
Subject: FW: Form 1023 Application
Importance: Low

I'm forwarding on some information that Tom found in one of his cases. In short, Tom's applicant, Wisonsin Pr osperity Network, appears to have direct links to Tea Parties. In addition and likely more important, there is likely 30 other state chapters that could come in as well --- all with potential Tea Party linkages. This would likely be a case type to watch f or in screening as well as ulimately add it to our Watch For List on the new combined spreadsheet.

From: Kallman Thomas M
Sent: Friday, July 02, 2010 1:11 PM
To: Waddell Jon M
Subject: Form 1023 Application
Importance: Low

SFC 002045

Jon,

The name of the applicant organization is Wisconsin Prosperity Network, Inc.
(X). Brian Pitlik is a Director and Secretary of X. Brian Pitlik is listed on the "Wisconsin Board of Advisors" of American s for Prosperity, Wisconsin.(AFP, Wisconsin). AFP, Wisconsin is a chapter of Americans for Prosperity, (AFP) a 501(c)(4) organization. AFP lists 30 chapter states.
Consequently, there may be 30 organizations listing the title Americans for Prosperity. AFP, Wisconsin has links to the Taxpayer Tea Party and Tea Party Highlights.

In addition, there is the Americans for Prosperity Fo undation, a section 501(c)(3).

According to one source, AFP was one of the lead organizations behind the Tax Day Tea Party protests 04/15/09.

If you have any questions, please contact me. Thank you.

Tom Kallman

SFC 002046

From: Thomas Cindy M
Sent: Monday, April 05, 2010 10:59 AM
To: Grodnitzky Steven
Cc: Shoemaker Ronald J; Shafer John H
Subject: RE: two cases

What information would you like? We are "holding" the cases pending guidance from EO Technical because Holly Paz didn't want all of the cases sent to D.C.

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Sent: Monday, April 05, 2010 11:56 AM
To: Shoemaker Ronald J; Thomas Cindy M
Subject: RE: two cases

Thanks. Can you assign the cases to one person and start an SCR for this month on the cases? Also, need to coordinate with Cincy as they have a number of Tea Party cases as well.

Cindy -- Could someone provide information on the Tea Party cases in Cincy to Ron so that he can include in the SCR each month? Thanks.

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Subject: RE: two cases

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Sent: Wednesday, March 31, 2010 10:30 AM
To: Grodnitzky Steven
Subject: two cases

Steve:

Re: Two "tea party" cases

Albuquerque Tea Party, Inc. and Prescott Tea Party Inc.

Cases are applying for exemption under section 501(c)(4).

Holly accepted the cases for EO Technical. Copies of email exchanges between Cindy Thomas and Holly in case files.

The concern is potential for media attention.

They will be assigned to Group 2.

FYI

Donna

SFC 002048

TEGE Division Sensitive Case Report
(revised January 2007)

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EI** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: EO RA **POD:** Washington, D.C.	☐ **INITIAL REPORT** ☐ **FOLLOW-UP REPORT** ☐ **FINAL REPORT**
SENSITIVE CASE CRITERIA: ☒ Likely to attract media or Congressional attention ☐ Unique or novel issue ☐ Affects large number of taxpayers	☐ Potentially involves large dollars ($10M or greater) ☐ Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**
CASE OR ISSUE SUMMARY: 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 exempti on under section 501c)(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.	
CURRENT SIGNIFICANT ACTIONS ON CASE: Organization (1) – closed FTE for failure to respond to a development letter. Organization (2) – a proposed favorable memo forwarded for review on 01/11/2011 Organization (3) –preparing a proposed denial and for review by 01/31/2011. Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501 (c)(3) and 501(c)(4).	
SIGNIFICANT NEXT STEPS, IF ANY: Organization (2) Proposed Favorable ruling by 01/15/2011. Organization 3 proposed denial by 01/31/2011. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** January 31 , 2011
BARRIERS TO RESOLUTION, IF ANY: 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 te xt.

SFC 002049

TEGE Division Sensitive Case Report
(revised January 2007)

SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: January 24, 2011	

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

SFC 002050

From: Hull Carter C
Sent: Monday, March 21, 2011 7:59 AM
To: Shoemaker Ronald J
Subject: SCR Feb 2011 Tea Party.doc

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EIN:** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:
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) al most 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 organizati ons which have applied for recognition of exemption under section 501c)(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.

CURRENT SIGNIFICANT ACTIONS ON CASE:
Organization (1) – closed FTE for failure to respond to a development letter.
Organization (2) – a proposed favorable memo forwarded for review on 01/11/2011.
Organization (3) –~~preparing a~~ proposed denial forwarded for review 03/02/2011~~by 02/28/2011~~.
Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).

SFC 002051

SIGNIFICANT NEXT STEPS, IF ANY: Organization (2) Proposed Favorable ruling by 01/11/2011. Organization 3 proposed denial by 02/28/2011. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** March 31 , 2011
BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations are involved in political activities.	
SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: February 24, 2011	

SFC 002052

From: Hull Carter C
Sent: Monday, April 25, 2011 8:50 AM
To: Shoemaker Ronald J
Subject: RE: April SCRs
Attachments: SCR April 2011 Tea Party.doc

Attached. Sorry - read Darla's date and time.

From: Shoemaker Ronald J
Sent: Thursday, April 14, 2011 9:45 AM
To: Carter Jonathan S.; Manasterli Jacqueline B; Biss Meghan R; Kastenberg Elizabeth C; Hull Carter C; Orcino Leonardo M
Subject: FW: April SCRs
Importance: High

Please update your SCR in track changes and get to me by COB April 21.

Thanks.

From: Trilli Darla J
Sent: Thursday, April 14, 2011 8:35 AM
To: Smith Danny D; Shoemaker Ronald J; Lieber Theodore R; Thomas Cindy M
Cc: Salins Mary J; Trilli Darla J
Subject: April SCRs
Importance: High

Please update the attached SCRs for April and send to me by noon on Monday, April 25th.

Thanks,
Darla

SFC 002053

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EIN** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:
The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be invo lved 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 reco gnition 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 501c)(4) as social welfare organizations. Two o rganizations 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.

CURRENT SIGNIFICANT ACTIONS ON CASE:
Met with J. Kindell to discuss organizations (2) and (3) and Service position. Ms. Kindell recommended additional development re: activities.

Organization (1) – closed FTE for failure to respond to a development letter.
Organization (2) – additional development letter re: activities is being drafted.
Organization (3) – additional development letter re: activities is being drafted.
Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).

SIGNIFICANT NEXT STEPS, IF ANY: Issue development letters before end of April. Continue coordinated review of applications in	**ESTIMATED CLOSURE DATE:** July 31 , 2011

EO Determinations.	
BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations are involved in political activities.	
SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: April 25, 2011	

SFC 002055

CASE NAME: (1) Prescott Tea Party, LLC (501(c)(3) applicant), (2) Albuquerque Tea Party, Inc. (501(c)(4) applicant), (3) American Junto (501(c)(3) applicant) **TIN/EIN** SFC [redacted] **POA:** None	**TAX PERIODS:** 2009 and forward **EARLIEST STATUTE DATE:**
FUNCTION REPORTING: **POD:** Washington, D.C.	**INITIAL REPORT** **X FOLLOW-UP REPORT** **FINAL REPORT**
SENSITIVE CASE CRITERIA: Likely to attract media or Congressional attention Unique or novel issue Affects large number of taxpayers	Potentially involves large dollars ($10M or greater) Other (explain in Case Summary)
FORM TYPE(S): (1) Form 1023. (2) Form 1024	**START DATE:** 04/02/2010
POTENTIAL DOLLARS INVOLVED (IF > $10M) : Unknown	**CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?** **Freeze Code TC 914 (Yes or No)**

CASE OR ISSUE SUMMARY:

Organization 1 was closed FTE for failure to respond to a development letter. Organization 2's case has been returned to EOT in order to prepare another development letter. Upon receiving additional information from Organization 3, the proposed denial was revised and forwarded to Chief Counsel for review 07/19/2011. These organizations are "advocacy organizations" and although are separately organized, appear to be a part of a larger national political movement that may be involved in political activities. These types of advocacy organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regul ar 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 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.

CURRENT SIGNIFICANT ACTIONS ON CASE:

Met with Chief Council on August 10, 2011 to discuss further development of Organization (2).
Organization (1) – closed FTE for failure to respond to a development letter.
Organization (2) – case returned to EOT for additional information; preparing another development letter.
Organization (3) – additional information was received. Proposed denial was revised and forwarded to Chief Counsel for review 07/19/2011.
Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).

SFC 002056

SIGNIFICANT NEXT STEPS, IF ANY: Organization (3) Await the results of review on the revised proposed denial. Continue coordinated review of applications in EO Determinations.	**ESTIMATED CLOSURE DATE:** December 31 , 2011
BARRIERS TO RESOLUTION, IF ANY: Concerns whether the organizations ar e involved in political activities.	
SUBMITTED BY: Carter C. Hull, SE:T:EO:RA:T:2	**MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2
DATE: October 19, 2011	

SFC 002057

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

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

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

Thanks SEC [redacted] We need Joe there Lois G.
Lerner---------- Sent from my BlackBerry Wireless Handheld

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

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

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

SEC [redacted]

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

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

SFC 002058

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

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

Lois G. Lerner
Director, Exempt Organizations

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

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

April in EO Technical

Statistics

Cases Received

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

SFC-002059

Paz Holly O

From: Seto Michael C
Sent: Tuesday, June 21, 2011 9:57 PM
To: Paz Holly O
Subject: FW: 501(c)(3)/(c)(4) Political/Lobbying Cases - Briefing for EO Director
Follow Up Flag: Follow up
Flag Status: Yellow

The draft memo from Chip/Liz needs a lot more work than I thought. I may ask for a postponement of the briefing if we can't pull it together by Friday.

From: Seto Michael C
Sent: Tuesday, June 21, 2011 9:55 PM
To: Seto Michael C; Hull Carter C; Lowe Justin; Buller Siri; Goehausen Hilary
Cc: Shoemaker Ronald J; Ghougasian Laurice A; Kastenberg Elizabeth C
Subject: RE: 501(c)(3)/(c)(4) Political/Lobbying Cases - Briefing for EO Director

I read the briefing material this evening, and I think the draft memo needs changes.

Chip, please send the proposed denial on American Junto to me, Justin, Chip, Siri and Hilary (Hilary, my apology for calling you Emily . . . I got confused between you and Emily Mangrum). Also, send us the memo recommending favorable determination for Albuquerque Tea Party Inc. The memo is not in the file.

The purpose of the briefing is to inform the EO Director & R&A Acting Director that we have two organizations that are part of the "Tea Party" movement. The memo should have the following: 1) explain the facts of the two cases, 2) the rationale supporting our positions on the two cases, 3) current status of the two cases, 4) how these cases differ from organizations that have supported the two national political parties (if possible), 4) background information on origins of the cases and the coordination between EOD and EOT. The "Orgins," EO Determinations," and "EO Technical" sections of the draft memo should be re-used.

Here is my suggested structure The memo should be structure as follows:

1. American Junto
   a) Short summary of the Facts
   b) Rationale for the proposed denial

2. Albuquerque Tea Party, Inc.
   a) Short summary of the Facts
   b) Rationale for the proposed denial

3. Differences between these organizations and those that have supported the two national political parties

4. Origins of the cases

5. Coordination between EO Determinations and EO Technical (elaborate what "coordination" means, i.e. EOT review the file and help EOD draft development letters)

The meeting for tomorrow is scheduled at 3:30 PM, but lets move the meeting to 9:30 AM. I am sending a new invitation shortly.

Finally, I forgot to mention below that Liz would also provide support at the briefing. Talk to you all tomorrow.

Thanks,

Mike

Minutes of Group Meeting Group 7838
April 14, 2010

Attendees:

John Shafer	Gary Muthert
Ron Bell - Minutes	Renee Norton -Railey
Nancy Heagney	Jack Koester
Joan Kiser	Roger Vance
Del Trimble	Glenn Collins
Kim Kitchens	Jeffrey Cullen

Absent:

Karl Beckerich
Rochelle Monford

John opened the meeting and:

- Reminded everyone to take the Survey 2010.
- Karl will give out inventory reports weekly from the EDS EO NOCLR system.
- John discussed and the attendees reviewed the inventory reports generated from EDS EO NOCLR.
- John discussed control dates on insufficient user fee cases. Give back the case to John if the case is as signed in error with the original submission date.
- John reminded everyone that correct grades of cases effects promotions to GS -12 and GS 13 per the business objects.
- Close TEDS cases via status 74 and notify Karl if you receive a case that has only pages 1 and 12 in the file. He will notify Sonya A. in processing.
- John suggested everyone add LINUS to their repertoire.
- Apprise John of the case when you send a case to AP to have page 12 signed when IRS has prepared page 12.
- John handed out and discusse d the screening totals for March of 2010.

- John discussed the focus of our next screening workshop scheduled for Wednesday, April 28, 2010. We wi ll focus on a couple of issues. They are:

  "03" closures and what constitutes an "03" closure.

  Processing IP cases and reiterate the IP rules.

  Joan, Jack and Nancy found numerous cases that should have been placed in the IP inventory, but were sent to the 51 inventory in error. They also found that cases were being sent by IP agents to the 51 inventory in error.

  John stated to also emphasize to leave the AP/IP worksheets in the case file during the workshop and to assemble cases correctly on FTE cases.

- John stated the control date as of today was 3/23/10. We had 1309 cases to be assigned and that overti me was helping in getting the dates in line with our goals.

Gary Muthert gave a presentation on "Tea Party Cases." He stated that 3 cases have been approved including one as a 501(c)(3). We are waiting guidance from HQ on these cases. John Shafer is h oulding these cases in his office if you identify one. Give case information to Gary Muthert as well.

Renee gave an update on expedite cases.

John asked the group if there was anything else. No other issues raised.

Meeting Adjourned.

SFC 002062

Screening Workshop
July 28, 2010

IRS0000169695

SFC 002063

Health Care

- Patient Protection and Affordable Care Act
- Health Care and Education Reconciliation Act of 2010

IRS0000169696

SFC 002064

Health Care - Cases

- High Risk Health Insurance Pools
- Promoting Uniformity of Standards in Electronic Transactions
- Health Benefit Exchanges

IRS0000169697

SFC 002065

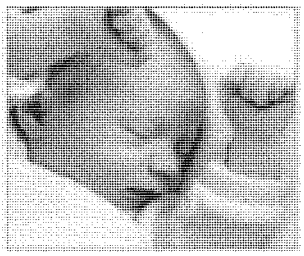
Health Care - Cases

- Qualified Non-Profit Health Insurance Issuers
- Community Health Insurance Advisory Councils
- Reinsurance Entities
- Health Care Sharing Ministries

IRS0000169698

Health Care - Cases

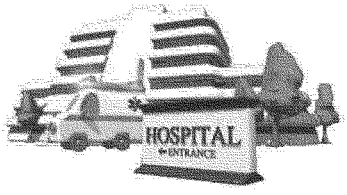
- Freestanding Birth Centers
- Family Planning Services
- Early Childhood Home Visitation Programs



SFC 002067

Health Care - Cases

- Community Health Grant Recipients
- Key National Indicator System
- Requirements for Hospitals



IRS0000169700

SFC 002068

Health Care - Cases

- Multi-State Plans in Exchanges
- Community Service Centers for Pregnant and Parenting Teens

IRS0000169701

SFC 002069

Health Care - Cases

- Sick and Accident Benefits Provided to Members of a VEBA (Group 7824)
- Certain Organizations Providing Health Insurance

IRS0000169702

SFC 002070

Health Care – New Issue

- Accountable Care Organizations
- Provides for additional Medicare payments to physician practices based on quality of care, cost-effectiveness of services, etc.

IRS0000169703

SFC 002071

27 Month Deadline Cases

- Form 1023 where organization was formed more than 27 months prior to filing for exemption
- Form 1023 Part VII, Item 2 is yes
- Form 1024 Part I, Item 6 is yes
- Except - Churches/Church Related Orgs

IRS0000169704

SFC 002072

Form 1023

Part VII Your History

2 Are you submitting this application more than 27 months after the end of the month in which you were legally formed? If "Yes," complete Schedule E.
Yes No

SFC 002073

Form 1024

6 Did the organization previously apply for recognition of exemption under this Code section or under any other section of the Code? **Yes No**
If "Yes," attach an explanation.

IRS0000169706

SFC 002074

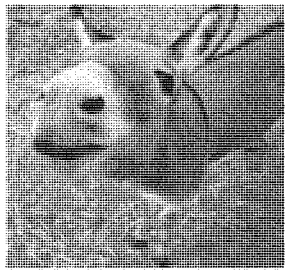
27 Month Deadline Cases

- Forward Case to Group 7822 for Secondary Screening
- Group 7822 conducts IDRS research and assigns "T" number if appropriate

IRS0000169707

Current Activities

- Politics

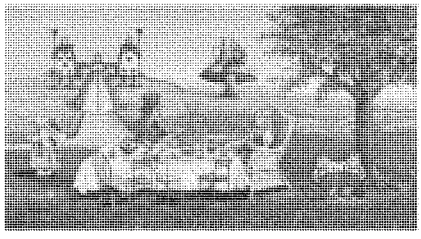


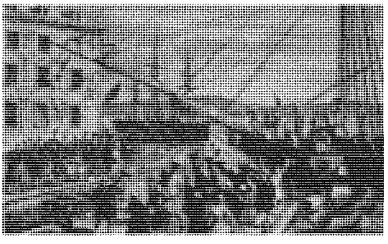
- Look for names like

SFC 002076

Current Activities

- Tea Party



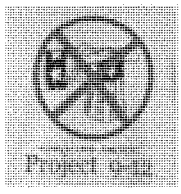


IRS0000169709

SFC 002077

Current Activities

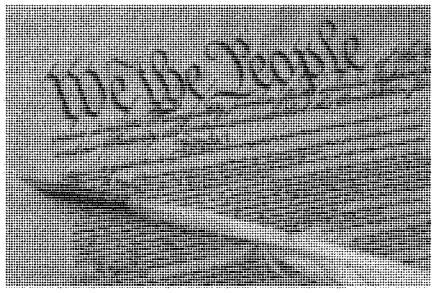
- Patriots
- 9/12 Project
- Emerge



SFC 002078

Current Activities

- Progressive
- We the People



IRS0000169711

SFC 002079

Current Activities

- These organizations may file a Form 1023 or 1024
- Most will file as IRC 501(c)(4)

IRS0000169712

SFC 002080

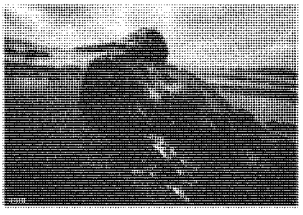
Current Activities

- Concerns: May be more than 50% political, possible PAC (Political Action Committee)

IRS0000169713

Disaster Relief

- Gulf Coast Oil Spill cases may not mention those terms in application
- Terms may include: bird rescue, turtle rescue, tar ball retrieval, etc.



SFC 002082

Disaster Relief

- Forward cases to Group 7824 through Renee/Joan in the Screening Group

IRS0000169715

POAs to the CAF – Cases in Teds

- 06 Closures Only
- Other tax forms (990, 941, etc.)

SFC 002084

POAs to the CAF – Cases in Teds

- Print Form 2848
- Document CCR
- Place Form 2848 in bin in screening area

IRS0000169717

SFC 002085

Closing Sheet

- Please do not cover the organization's name or the EDS number or TEDS number when attaching the closing sheet

IRS0000169718

SFC 002086

Credit Counseling

- Prepare credit counseling checksheet when “buzz words” are used
- Revised credit counseling checklist

IRS0000169719

SFC 002087

Tag Cases

- New Tag List

IRS0000169720

SFC 002088

From: Lerner Lois G
Sent: Monday, May 21, 2012 9:55 AM
To: Stevens Margo
Cc: Witter Kirsten N
Subject: RE: Returning Donor Information

Thanks guys--I appreciate this.

Lois G. Lerner
Director of Exempt Organizations

From: Stevens Margo [SFC [redacted]]
Sent: Monday, May 21, 2012 10:50 AM
To: Lerner Lois G
Cc: Witter Kirsten N
Subject: Returning Donor Information

Lois, I wanted to get back with you with respect to your question whether TEGE could return to those organizations from whom donor names were s olicited in questionnaires following their submission of applications for recognition of their tax exempt status (under 501(c)(4)), now that TEGE has reviewed those files and determined that such information was not needed across-the-board and not used in making the agency's determination on exempt status. As you noted, had such information been relied upon for that determination, such information would be considered a "supporting document" that IRC 6104 would obligate us to make available for public inspe ction.

As we briefly discussed, I am aware that TEGE has not strictly construed the definition of "support document" to mean every item of information that may be requested by the IRS, or received from the applicant, during the course of processing an application. See, e.g., IRM 7.20.2.6.4.

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 return such information. Kirsten, and Beth Levine of her branch, called me t his morning. Based upon our understanding of what occurred here, they have advised me that the information is not a "record" within the FRA and, as such, it may be destroyed or returned, as you deem appropriate.

Accordingly, it would seem to follow tha t, having not used or relied upon the information to grant recognition to a submitting organization, it need not be retained in the file or be made available for public inspection under 6104.

Thanks to Kirsten and Beth for their quick analysis and respons e 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: SFC [redacted] Fax: SFC [redacted]

SFC 002089

From: Zarin Roberta B
Sent: Wednesday, June 13, 2012 7:34 AM
Subject: FW: Mother Jones on (c)(4)s

very interesting reading.

Bobby Zarin, Director

Communications and Liaison

Tax Exempt and Government

Entities

SEC

From: Burke Anthony
Sent: Wednesday,

June 13, 2012 7:35 AM
To: Zarin Roberta B
Cc: Lemons Terry

L
Subject: Mother Jones on (c)(4)s

I don't think we'll

include this in the clips, but I thought you might be

interested:

IRS0000177467

Mother Jones

How Dark-Money Groups Sneak By the Taxman

Gavin Aronsen

June 13, 2012

Here at Mother Jones we talk about "dark money" to broadly describe the flood of unlimited spending behind this year's election. But the truly dark money in 2012 is being raised and spent by tax -exempt groups that aren't required to disclose their financial backers even as they funnel anonymous cash to super-PACs and run election ads.

By Internal Revenue Service rules, these 501(c)(4)s exist as nonpartisan "social welfare" organizations. They can engage in political activity so long as that's not their primary purpose, but skirt that rule by running issue-based "electioneering communications" that can mention candidates

so long as they don't directly tell you to vote for or against them (wink, wink), or by giving grants to other politically active 501(c)(4)s. (Super -PACs, on the other hand, can spend all their money endorsing or attacking candidates, but must disclose their donors.)

Some overtly partisan dark-money groups are better at dancing around these rules than others. Last month, the IRS stripped an organization called Emerge America of its 501(c)(4) status. As it informed the group, which explicitly works to elect Democratic women, "You are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole." Sure enough, Emerge America's mission statement on its 2010 tax form made no attempt to hide this fact: "By providing women across America with a top-notch training and a powerful, political network, we are getting more Democrats into office and changing the leadership -and politics-of America." D'oh!

Emerge America certainly isn't the only 501(c)(4) to walk the line between promoting social welfare and promoting a political party. It just wasn't savvy or subtle enough to not get busted. Other dark-money groups tend to describe their missions in broad terms that are unlikely to raise an auditor's eyebrows. But how they spend their money suggests their actual agendas. A few

examples:

American Action Network

What it is: Conservative dark-money group cofounded by former Sen. Norm Coleman (R-Minn.).

Mission statement (as stated on tax forms): "The American Action Network is a 501(c)(4) 'action tank' that will create, encourage, and promote center-right policies based on the principles of freedom, limited government, American exceptionalism, and strong national policy."

How it walks the line: AAN spent $20 million in the 2010 election cycle targeting Democrats, including producing ads tha t were pulled from local airwaves for making "unsubstantiated" claims, but $15 million of that went toward issue ads. Last week, Citizens for Responsibility and Ethics in Washington claimed that from July 2009 through June 2011 AAN spent 66.8 percent of its budget on political activity, an apparent violation of its tax -exempt status. CREW is calling for an investigation, suggesting that "significant financial penalties might prod AAN to learn the math."

Crossroads GPS

What it is: The 501(c)(4) of Karl Rove's American Crossroads super-PAC

Mission statement: "Crossroads Grassroots Policy Strategies is a non-profit public policy advocacy organization that is dedicated to educating, equipping, and engaging American citizens to take actio n on important economic and legislative issues that will shape our nation's future. The vision of Crossroads GPS is to empower private citizens to determine the direction of government policymaking rather than being the disenfranchised victims of it. Through issue research, public communications, events with policymakers, and outreach to interested citizens, Crossroads GPS seeks to elevate understanding of consequential national policy issues, and to build grassroots support for legislative and policy changes that promote private sector economic growth, reduce needless government regulations, impose stronger financial discipline and accountability on government, and strengthen America's national security."

How it walks the line: The campaign -finance reform group Democracy 21 has called Crossroad GPS' tax -exempt status a "farce," pointing to $10 million anonymously donated to finance GPS' anti -Obama ads. Likewise, the Campaign Legal Center wants the IRS to audit GPS. According to its tax filing s, between June 2010 and December 2011 GPS spent $17.1 million on "direct political spending"-just 15 percent of its total spending. Yet it also spent another 42 percent of its total spending, or $27.1 million, on "grassroots issue advocacy," which included issue ads.

Americans for Prosperity

What it is: Dark-money group of the Americans for Prosperity Foundation (which was founded by David Koch).

Mission statement: "Educate U.S. citizens about the impact of sound economic policy on the nation's economy and social structure, and mobilize citizens to be involved in fiscal matters."

How it walks the line: Since 2010, Americans for Prosperity has officially spent about $1.4 million on election ads. However, t he group's 2010

tax filing shows that $11.2 million of its $24 million in expenses went toward "communications, ads, [and] media." In May, an anonymous donor gave AFP $6.1 million to spend on an issue ad attacking the president's energy policy. Just before Wisconsin's recent recall election, AFP sponsored a bus tour to rally conservative voters. But its state director said the tour had nothing to do the recall: "We're not dealing with any candidates, political parties, or ongoing races. We're just educating folks on the importance of [Gov. Scott Walker's] reforms."

FreedomWorks

What it is: Dark-money arm of former House Majority Leader Dick Armey's Tea Party-aligned super-PAC of the same name

Mission statement: "Public policy, advoca cy, and educational organization that focuses on fiscal on economic issues."

How it walks the line: FreedomWorks' 501(c)(4) hasn't spent any money on electioneering this election, but it has funneled $1.7 million into its super-PAC, which has spent $2.4 million supporting Republican campaigns.

FreedomWorks has focused its past efforts on organizing anti -Obama Tea Party protests and encouraging conservatives to disrupt Democratic town hall meetings to protest the party's health care and renewable energy policies.

Citizens United

What it is: Conservative nonprofit that sued the Federal Election Commission in 2008, resulting in the Supreme Court's infamous Citizens United ruling.

Mission statement: "Citizens United is dedicated to restoring our government to citizens [sic] control. Through a combination of education, advocacy, and grass roots organization, the organization seeks to reassert the traditional American values of limited government, freedom of enterprises, strong families, and national sovereignty and security. The organization's goal is to restore the founding fathers [sic] vision of a free nation, guided by honesty, common sense, and goodwill of its citizens."

How it walks the line: Since its formation in 1988, the nonprofit has released 19 right-wing political documentaries, including films narrated by

Newt Gingrich and Mike Huckabee, a rebuttal to Michael Moore's Fahrenheit 9/11, and a pro-Ronald Reagan production (plus the upcoming Occupy Unmasked). On its 2010 tax filing, Citizens United reported spending more than half of its $15.2 million budget on "publications and film" and "advertising and promotion."

SFC 002098

From: Megosh Andy
Sent: Tuesday, June 19, 2012 2:49 PM
To: Lerner Lois G; Williams Melinda G; Park Nalee
Cc: Marx Dawn R
Subject: RE: 2 things
Attachments: C4pol index.xls

The current crop of letters dealing with c4 political activities starts with control 2012 -25922 (Bountany) on the attached spreadsheet.

A total of 17 letters have gone out - 14 Congressional, 3 non-Congressional.

Eight Congressionals remain open - 4 in review (4 w/Lois-Nikole), 4 still being drafted.

Thirteen non-Congressionals remain open - 11 in review (2 w/Lois), 2 still being drafted.

Let me know if you need anything else.

Andy

From: Marx Dawn R **On Behalf Of** Lerner Lois G
Sent: Tuesday, June 19, 2012 1:39 PM
To: Megosh Andy; Williams Melinda G; Park Nalee
Cc: Lerner Lois G
Subject: FW: 2 things

Lois is in meetings and I wanted to get this request to you. Can you put together the info Nikole is requesting?

Thanks.

Dawn R. Marx

INTERNAL REVENUE SERVICE
ATTN: Dawn R. Marx
TE/GE SE:T:EO
NCA-572
SEC [redacted]

SEC [redacted]

From: Flax Nikole C
Sent: Tuesday, June 19, 2012 12:11 PM
To: Lerner Lois G
Subject: 2 things

SFC 002099

1. can you give me an update on # of letters that have gone out.

2. can you guys work up a response on levin re website , pamphlet we give out, etc. Thanks

TAB	e-trak Control	Correspondent	Incoming Date	Outgoing Date	Comment
	2012-25922	Bousanty	10/6/2011	11/18/2011 3/12/2012	review of operations
	2012-29539	Bennet, etal (7)	2/14/2012	4/26/2012	
	2012-30021	Bousanty	3/1/2012	3/23/2012 4/26/2012	review of operations
	2012-30090	Flores (Rep.)	3/7/2012		[use Levin, Issa q7 language] - In review Cincy application - Bucket 3
	2012-30116	Democacy 21 **	3/9/2012		referral to exam - In review
	2012-30234	Hatch, etal (12)	3/14/2012	4/26/2012	
	2012-30240	Rutkowski **	3/8/2012		referral to exam - In review
	2012-30251	Hawaii Tea Party	2/29/2012		Cincy application - Bucket 1
	2012-30293	Rutkowski **	3/14/2012	4/17/2012	referral to exam
	2012-30298	Forbes (Rep.)	3/13/2012		[use Levin process language] - w/Lois
	2012-30390	CREW **	3/8/2012		referral to exam - In review
	2012-30468	Schumer, etal (7)	3/9/2012	4/25/2012	guidance
	2012-30473	Lungren (Rep.)	3/8/2012		Cincy C3 application - Bucket 4 [use Levin process language] - w/Lois
	2012-30474	Schmdt	3/20/2012	5/9/2012	disclosure of individual in development letter
	2012-30503	Democacy 21 **	7/27/2011 3/22/2012		guidance [use Counsel(Schumer) language]
	2012-30512	Alliance for Justice Action Campaign **	3/16/2012		guidance [use Counsel(Schumer) language]
	2012-30552	Kingsley, Elizabeth **	3/19/2012	4/18/2012	referral to exam
	2012-30672	Issa, Jordan	3/19/2012	4/26/2012 5/4/2012	review of operations
	2012-30710	Rutkowski **	3/22/2012		guidance [use Counsel(Schumer) language]
	2012-30721	Lugar	3/15/2012	5/1/2012	delay in application
	2012-30794	Levin	3/30/2012	6/4/2012	c4s should be 527

	2012-30950	Marchant (Rep.)	3/28/2012		[use Levin process language] - w/Lois
	2012-31070	Welch, etal (32)	3/28/2012	6/14/2012	delay in applications [use Levin process language]
	2012-31425	Rutkowski **	4/17/2012		referral to exam
	2012-31474	Flores, etal (48)	4/23/2012	6/14/2012	delay in applications
	2012-31486	Democacy 21 **	4/17/2012		referral to exam
	2012-31597	Drescher, Paul **	4/23/2012	5/1/2012	referral to exam
	2012-31894	Camp (Rep.)	5/18/2012		copies of c4 apps.
	2012-32702	Wertheimer, Fred **	5/29/2012		
	2012-32813	Groen, Karen **	6/6/2012		w/ Lois
	2012-32884	Smith (Rep.)	6/7/2012		
	2012-32895	Lockshin, Matt **	6/7/2012		
	2012-32925	Sloan, Melanie **	6/8/2012		w/ Lois
	2012-33118	Levin (Sen.)	6/14/2012		
	2012-33220	Hatch (Sen.), etal (11)	6/18/2012		
**	Non-congressional letter to Commissioner				

Issue
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SFC 002103

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SFC 002104

CAMP

TAB	DATE	TYPE
1	3-Jun-11	Incoming
2	1-Jul-11	Outgoing
3	3-Jun-11	Incoming
4	1-Jul-11	Outgoing
5	7-Jul-11	Outgoing
6	25-Jul-11	Outgoing
7	28-Jul-11	Outgoing
8	11-Aug-11	Outgoing
9	18-Oct-11	Outgoing
10	3-Nov-11	Outgoing
11	21-Dec-11	Outgoing
12	6-Jan-12	Outgoing

From: Lerner Lois G
Sent: Monday, July 09, 2012 2:02 PM
To: Flax Nikole C; Downing Nanette M
Cc: Marks Nancy J; Grant Joseph H; Paz Holly O
Subject: STM referral briefing v 2 with jk and sl comments.doc
Attachments: STM referral briefing v 2 with jk and sl comments.doc

Per Steve's request, attached is a memo from Judy, Tom and Sharon based on their review of referrals--these were reviewed as part of the regular process --before Dual-track began. More than half related to allegations of political intervention. As you can see, R & A has provided some limited training to the dual track folks, but I am very uncomfortable on several levels. Based on their meeting with dual track staff, we are less than confident that the ROO, in particular, understands the sensitivity requi red here. In addition, unlike PACI, there is no R & A presence on the referral committee --they have resource folks to call if they would like, but I'm not sure they know when to use them. Finally-apparently the members of the referral committee (not dual track) don't actually meet and discuss the matters --they all do their review independently.

Nan will be here later this week, and she and I will discuss putting some things in place to make this a better process. I know Steve is very sensitive to DC involvement with exam decisions, but I'm thinking, at the very least, that we need someone from R & A involved in the actual discussions going forward.

SFC 002106

To: Lois Lerner

From: Sharon Light, Judy Kindell, Tom Miller

Date: 8/21/2013

Re: Referral Documentation Write-Ups

Issue: Referral documentation write-ups do not always accurately reflect what EO Classification and the Referral Committee considered in evaluating referrals and determining whether they are appropriate for examination.

This issue came to your attention early this year when we reviewed a Referral Committee report on allegations of unrelated business activities that mentioned specific members of Congress, practitioners and political parties—arguably giving the impression that somehow the political leanings of those mentioned were considered in making the ultimate decision. In addition, the justifications provided in the report did not clearly explain the basis of the Committee's recommendation. You asked the three of us to review a large sample of referral committee write-ups to determine the extent of the problem.

We reviewed the Excel spreadsheet documenting the 88 referrals reviewed by the EO Referral Committee between January 01, 2011 and December 31, 2011, and found that the report we reviewed was not an outlier. Some specific observations were as follows:

- The reports often do not objectively describe the allegation.
- The lack of an objective description makes it difficult to evaluate the Committee's referral decision.
- Committee members sometimes recommend against examination because there is not sufficient evidence to establish that a violation had occurred, which is contrary to the IRM, which requires them to recommend a referral for examination if it supports a reasonable belief that a federal tax violation may have occurred or that the allegation appears likely to lead to the discovery of a violation upon examination.
- Some reports indicate that one or more Committee members decided whether to recommend examination for reasons unrelated to the tax issues presented. A sampling of non-tax reasons include: (1) the IRS should not audit because the organization would suffer from bad publicity or loss of donations; (2) the IRS should not audit because allegation is unlikely to result in a change on exam even though it raises a real tax compliance issue; (3) the IRS should audit to force the referred organization to contact non-tax state authorities about possible criminal action by people associated with the organization; and (4) the IRS should not audit because organization has been examined in the past, and was closed no change.
- Tone and word choice are a problem in many reports. Tone can be dismissive or irritated. Alleged facts are sometimes described in such detail that they may create the misimpression of bias. For example, rather than "political party," a referral report might name a particular party.

- Comments raise questions about Referral Committee members' understanding of the applicable legal standards or the role of the committee.

You asked that we provide training to address the problem.

As part of the dual-track training of the ROO and the political activities referral committee last week, Judy and Jason Kall explained the need to be cle ar, concise and sensitive to how others might read a narrative description of the rationale for selecting or non-selecting for examination. They tried to stress the fact that someone who might be reviewing the treatment of referrals would not be reviewing the entire case file. Therefore, a reviewer would have no context for what is contained in the very brief referral write-ups. The trainers emphasized the need to write factual statements and rationales that can stand alone without creating an impression of bias.

Going forward, we recommend on-going checks of a sample of reports to ensure they contain the relevant information required to understand the allegation a nd the rationale for the decision without extraneous and potentially misleading language.

From: Lerner Lois G
Sent: Tuesday, July 24, 2012 10:40 AM
To: Paz Holly O; Megosh Andy; Fish David L; Park Nalee; Williams Melinda G
Cc: Flax Nikole C
Subject: C4

I know you all have received messages independently, but I wanted all to hear same message at same time. Regardless whether language has previously been approved, NO responses related to c4 stuff go out without an affirmative message, in writing from Nikole. Thanks Lois G. Lerner---------- Sent from my BlackBerry Wireless Handheld

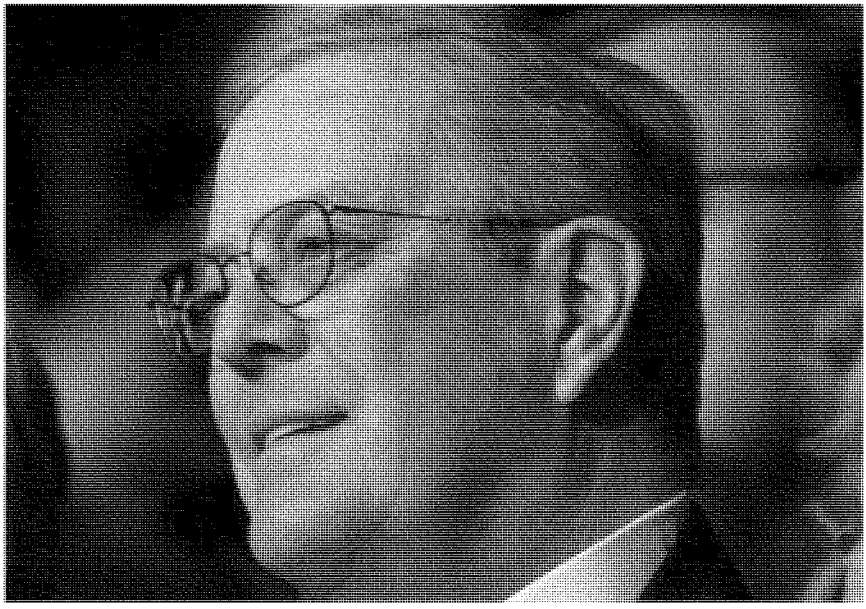
SFC 002109

From: Eldridge Michelle L
Sent: Monday, August 20, 2012 8:26 AM
To: Miller Steven T; Davis Jonathan M (Wash DC); Flax Nikole C; Campbell Carol A; Lerner Lois G
Cc: Lemons Terry L; Zarin Roberta B
Subject: ProRepublica: How Nonprofits Spend Millions on Elections and Call it Public Welfare
Attachments: david koch-950-500.jpg; pactrack-treemap-140-93.jpg; pactrack-sidebar-140-93.jpg; istock freethefiles series 140x94.jpg

Here is the

ProRepublica story on 501c4s. FYI.

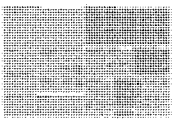
How Nonprofits Spend Millions on Elections and Call it Public Welfare



Billionaire David Koch, chairman of the board of the conservative Americans for Prosperity (AFP) advocacy group, attends a 'Cut Spending Now' rally at AFP's 'Defending the American Dream Summit' in Washington on November 5, 2011. (Nicholas Kamm/AFP/Getty Images)

by Kim Barker
ProPublica, Aug. 19, 2012, 12:25 a.m.

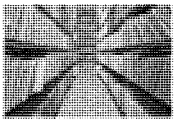
- Who are the Super PACs' Biggest Donors?



PAC Track: What and where are the super PACs spending?

Related Coverage

Free the Files



Watch Kim Barker discuss this investigation on CBS's Face the Nation [2].

Matt Brooks describes the mission of the Republican Jewish Coalition as educating the Jewish community about critical domestic and foreign policy issues.

But the well-dressed crowd that gathered in May for a luncheon on the 24th floor of a New York law firm easily could have figured that the group had a different purpose: Helping Mitt Romney win the presidency.

Brooks, the group's executive director, showed the 100 or so attendees two coalition-funded ads [3] taking aim [4] at President Barack Obama. Then Broo ks made a pitch for a $6.5 million plan to help Romney in battleground states, reminding guests that their donations would not be publicly disclosed by the tax-exempt group.

"Contributions to the RJC are not reported," Brooks told the people sitting around a horseshoe-shaped table. "We don't make our donors' names available. We can take corporate money, personal money, cash, shekels, whatever you got."

The Republican Jewish Coalition and similar organizations enjoy tax -exempt status in exchange for promoting social welfare. In this election, the most expensive in U.S. history, they also have emerged as the primary conduit for anonymous big-money contributions.

Forget super PACs, their much-hyped cousins, which can take unlimited contributions but must name their donors. More money [5] is being spent on TV advertising in

the presidential race by social welfare nonprofits, known as 501 (c)(4)s for their section of the tax code, than by any other type of independent group.

As of Aug. 8, they had spent more than $71 million on ads mentioning a candidate for president, according to estimates by Kantar Media's Campaign Media Analysis Group, or CMAG [6]. Super PACs have spent an estimated $56 million.

Congress created the legal framework for 501(c)(4) nonprofits nearly a century ago. To receive the tax exemption, groups were sup posed to be "operated exclusively for the promotion of social welfare." The IRS later opened the door to some forms of political activity by interpreting the statute to mean groups had to be "primarily" [7] engaged in enhancing social welfare. But neither the tax code nor regulators set out how this would be measured.

In recent years, Democrats and Republicans alike have seized on that seemingly innocuous wording to create the darkest co rner of American political fundraising.

An investigation by ProPublica, drawing on documents filed with the Internal Revenue Service and the Federal Election Commission, offers the most detailed picture to date of how 501(c)(4) groups have used their tax status for purposes likely never intended.

Our examination shows that dozens of these groups do little or nothing to justify the subsidies they receive from taxpayers. Instead, they are pouring much of their resources, directly or indirectly, in to political races at the local, state and federal level.

The 2010 election functioned, effectively, as a dry run, providing a blueprint for what social welfare groups are doing on a larger scale today. Records on what is happening in the 2012 campai gn will not be available until well after the election.

For this story, ProPublica reviewed thousands of pages of filings for 106 nonprofits active during the 2010 election cycle, tracking what portion of their funds went into politics. We watched TV ads bought by these groups, looked at documents from other nonprofits that gave them money, and interviewed dozens of campaign finance experts and political strategists.

We found that some groups said they would not engage in politics when they applied for IRS recognition of their tax -exempt status. But later filings showed they spent millions on just such activities.

On the very day [8] in 2008 that the American Future Fund [9] mailed its application to the IRS, che cking the box for "no" on whether it planned to participate in politics, it uploaded an ad [10] to YouTube praising a Republican senator. The group reported more than $8 million [11] in political spending in 2010.

We also found that social welfare groups used a range of tactics to underreport their political activities to the IRS, a critical measure in determining whether they are entitled to remain tax -exempt.

Many groups told the IRS they spent far less on politics than they reported

to federal election officials. Some classified expenditures that clearly praised or criticized candidates for office as "lobbying," "education" or "issue advocacy" on their tax returns.

One group, the Center for Individual Freedom [9], told election officials that it spent $2.5 million on ads in 2010, when it paid for commercials criticizing Democrats in 10 districts [12]. But it reported to the IRS that it spent nothing [13] to directly or indirectly influence elections, calling those same ads "education" or "legislative activities."

In several instances, nonprofits funneled much of their money to other 501(c)(4)s , which experts say is a way to meet, or appear to meet, IRS requirements for promoting social welfare. Yet records show the recipients of those grants spent much of their money on political activities, whether ads or voter-registration drives.

For example, almost 70 percent of America's Families First's [9] 2010 expenditures went to grants to five social welfare nonprofits [14]. Four spent money on ads supporting Democrats or criti cizing Republicans, including one group that put almost half [15] of its expenditures into political ads.

No one from the Center for In dividual Freedom or the American Future Fund responded to phone calls and emails from ProPublica asking for comment. In a written statement, America's Families First said its primary purpose was "issue

advocacy" but did not answer specific questions abo ut grants.

Campaign-finance watchdogs say the IRS has not clarified rules for social welfare groups or enforced them vigorously.

"The tax laws are being ripped off and the public is being denied information to which they are entitled — namely, who is financing ads that are being run to influence their votes," said Fred Wertheimer, the president of Democracy 21 [16], a watchdog group that has filed repeated complai nts about 501(c)(4)s to regulators.

The IRS declined to answer questions from ProPublica for this story. The agency said in its annual work plan [17] that it would look at "serious allegations of impermissible political intervention" by social welfare groups.

Marcus Owens, who was the director of the IRS' exempt organizations division for 10 years, pointed out that chasing political nonprofits isn't the agency's primary function, nor one for which it is staffed. One measure of this: Between 2001 and 2011, the IRS recognized more than 14,000 501(c)(4)s and turned down 56 applications.

One reason the IRS struggles is that it can't match the speed of politics. B y the time some groups submitted tax returns spelling out the millions they put into the 2010 election, they had stopped operating, or disbanded and reformed under new names, ProPublica found.

The most politically active social welfare groups — former Minnesota

Republican Sen. Norm Coleman's American Action Network and GOP strategist Karl Rove's Crossroads GPS — only filed tax returns covering fall 2010 in the spring of this year.

The Republican Jewish Coalition [9], though formed in 1985, in many ways epitomizes the new breed of political-minded social welfare nonpro fits.

The group's initial IRS application [18] said it would not engage in politics, yet its 2010 tax return says it gave almost $3.8 million [19] to other groups for political activities.

Separately, the Republican Jewish Coalition told the FEC it spent more than $1.1 million on political ads, money that wasn't reported to the IRS. Together, the grants and the political advertising made up almost 40 percent of the total expenditures of the group, which is chaired by GOP super donor and casino magnate Sheldon Adelson [20].

"Our efforts and our expenditures are well within our primary purpose test requirements," Brooks said in an interview. "Everything w e do is strictly within the legal guidelines."

Recent Rulings Embolden Nonprofits

Social welfare nonprofits have emerged as a prime vehicle for political money

for several reasons.

Like super PACs, they can rake in unlimited contributions, support and oppose candidates, and buy ads right up until Election Day. But unlike super PACs, they don't have to disclose their donors.

Although individuals cannot deduct contributions to social welfare nonprofits on their taxes, companies may be able to write off donations as business expenses as long as they aren't earmarked for lobbying or political ads.

Many social welfare nonprofits became more active in politics after a series of recent court rulings, including the Supreme Court's Citizens United decision in January 2010, reshaped the rules of campaign finance.

Previously, laws had barred nonprofits from accepting donations from corporations or unions for political purposes and had mostly restricted 501(c)(4)s to generic "issue" ads that stopped short of calling on people to vote for or against candidates.

Citizens United dismantled this system. In a 5 -4 decision, the high court said corporations and unions enjoyed the free speech rights of any individual. They could spend directly on political ads or give unlimited amounts of money to nonprofits for political activities. Over the next two years, contributions to existing social welfare nonprofits skyrocketed and new ones geared specifically toward elections were formed.

"It really sounded the starting gun for the creation of nonprofits that were strictly political in nature," said Sheila Krumholz, executive dire ctor of the

Center for Responsive Politics, a nonpartisan research group that tracks money in politics.

Some new-style social welfare nonprofits share staff members and offices with super PACs. Their goals are intertwined: Crossroads GPS [9], or Crossroads Grassroots Policy Strategies, and its sister super PAC, American Crossroads, for example, announced t hat together they hoped to spend $200 million on the presidential election. Political operatives often hold key positions: The vice president of policy at Crossroads GPS oversaw the development and passage of the Republican platform in 2008.

Political expenditures by groups that do not disclose their donors — a category that includes trade associations like the U.S. Chamber of Commerce as well as social welfare nonprofits — have jumped dramatically in recent years. In 2006, groups that didn't report their donors made up less than 2 percent of outside spending, excluding party committees, research by the Center for Responsive Politics [21] shows. By 2010, that had grown to m ore than 40 percent.

Most of the money spent by social welfare groups in 2010 came from conservative groups, a pattern holding true so far this year. As of Aug. 8, CMAG estimates show, liberal groups accounted for only $1.6 million of the total spent by such organizations on TV ads for the presidential race. By contrast, the two leading conservative 501(c)(4)s, Crossroads GPS and Americans for Prosperity [9], founded by conservative billionaire brothers David and Charles Koch, had spent about $60 million.

Even as the role of social welfare nonprofits in politics has expanded, the

IRS has not clarified how much time and resou rces they can legally devote to political activities — or what it means to be "primarily" engaged in promoting what the agency terms the "common good and general welfare of the people of the community."

Some groups have interpreted the rules to mean they can spend up to 49 percent of their money on political ads. The IRS has never set a hard limit. The agency has struggled to revoke or deny tax exemptions to groups because of political activity, someti mes having its decisions reversed by courts.

Many established social welfare nonprofits, such as the Sierra Club or the National Right to Life Committee, spend only a fraction of their money on political ads. But a few groups have devoted most of thei r expenditures to ads that have an undeniable political component, ProPublica found.

A group called Economy Forward [9] spent $173,470 on ads in March 2010 praising Senate Majority Leader Harry Reid, the Nevada Democrat, according to a transcript of the ad [22] and public filings with eight TV stations in Nevada. That's almost 99 percent [23] of the total the group told the IRS it spent that year. The group did not respond to repeated requests for comment.

More than three-quarters of the money the American Action Network — former Republican Sen. Coleman's group — told the IRS it spent in its 2010 tax year was for political ads. In an email, A merican Action Network spokesman Dan Conston said the group complied with all laws and government regulations.

"The IRS seems to blink if you push them on this, which is what groups like the American Action Network and Crossroads GPS are probably bett ing on," said Lloyd Hitoshi Mayer, an associate dean and law professor at Notre Dame University who specializes in the intersection of tax and political law.

Groups Say "No" to Politics; Tax Returns Say Otherwise

When groups apply to the IRS for recognition as tax -exempt, they must spell out their plans. They also must swear under penalty of perjury that they believe what they say is true.

Politics is one litmus test the agency uses to determine whether a group has a legitimate social welfare purpose and warrants a tax exemption, experts say. Question 15 on the application asks, "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?"

ProPublica compared applications from 58 501(c)(4)s with tax returns they filed later. We found 24 groups that initially said "no" t o politics then filed tax returns showing they had done the opposite.

Even before mailing its application to the IRS saying it would not spend money on elections, the Alliance for America's Future [9] was running TV ads [24] supporting Republican candidates for governor in Nevada [25] and Florida [26]. It also had given $133,000 to two political

committees directed by Mary [27] Cheney [28], the daughter of the former vice president. No one from the Alliance for America's Future returned calls for comment.

Another group, the Revere America Association [9], launched with the help of former Republican New York Gov. George Pataki [29], told the IRS in May 2010 that it wouldn't spend money [30] to influence elections. But in its 2010 tax return, Revere America said it spent about $2.5 million [31] on political ads.

Marianne Zuk, the group's president, did not return calls or emails about the discrepancy. In a brief interview in December, she said the group was "in the process of winding down." Zuk said a new social welfare nonprofit, Partnership for America [32], had taken over Revere America's activities.

Some nonprofits provided other information in their applications that didn't line up with what they said in later filings.

America's Families First told the IRS in late 2009 that it would spend 50 percent [33] of its time on its website and emails, 30 percent [34] on conferences and 20 percent [35] on grants.

There's no sign America's Families First sponsored any conferences, however. The group's website [36] consists of a photograph of a family holding hands and a single paragraph of text. Its tax return does not specify how much time

the group spent on grants, but most of its expenditures wer e grants to other liberal groups.

Although America's Families First's IRS application said the group would "be funded by contributions from individuals only [37]," tax records show much of its money came from other sources.

The group received $2 million [38] from the Pharmaceutical Research and Manufacturers of America, or PhRMA, the pharmaceutical industry's main trade group, and an additional $3.15 million from the National Education Association [39] teachers union weeks before the election. The contributions became public in late 2011, when PhRMA [38] and the NEA [39] disclosed them.

America's Families First's leadership inc ludes Greg Speed, now the treasurer for Priorities USA Action [40], the super PAC devoted to re-electing Obama.

In a written statement, a spokeswoman for America's Families First sa id the group's application for IRS recognition broadly sketched out its planned activities. "As with all plans, they evolve, we adjusted our execution of activities and fundraising to reflect the changing environment and landscape," she wrote in an ema il.

Social welfare nonprofits can operate without IRS recognition, although most

seek it. Having the agency's approval helps with fundraising and can help insulate groups against sanctions or back taxes later, experts say.

Three groups that spent money on politics in 2010 — Crossroads GPS, Arkansans for Common Sense [9] and the CVFC 501c4, which appears to be related to Combat Veterans for Congress — have applied for IRS recognition but have yet to receive it.

In some cases, however, the IRS first learns about social welfare nonprofits when they file tax returns — by which time they may be inactive or defunct.

Five nonprofits that spent money on politics in 2010 confirmed they never applied for IRS recognition. Another seven groups said on tax returns that they had no application pending; the IRS had no record of recognizing them.

One of the groups never even filed the required tax return. America's Future Fund [41], a Louisiana 501(c)(4) incorporated in June 2009 by lawyer Bryan Jeansonne, spent more than $100,000 in October 2010 sending political mailers to Nevada voters. The following February [42], it dissolved.

In an email, Jeansonne acknowledged the group had not submitted the tax filing, saying its accountant had said it was unnecessary. He did not respond to follow-up questions.

Spending Reported to IRS, FEC Often Doesn't Match

Under state and federal laws, social welfare nonprofits must tell election authorities when they pay for independent expenditures, which are ads, mailings

and phone calls that directly ask for people to vote for or against a candidate.

They also must report spending on electioneering communications — ads that mention candidates and run just before elections but are less explicit, using language like, "Call Candidate X. Tell him to stop killing jobs."

ProPublica identified 103 groups that reported such spending to state and federal election officials in 2010. But in tax filings covering the same period, at least 30 of these groups told the IRS they spent no money to influence elections, either directly or indirectly.

The Women's Voices Women Vote Action Fund [9], for example, told the FEC it spent $250,000 on ads calling for people to vote [43] for a Democrat for Senate in Maine, but it told the IRS it spent nothing [44] on politics. Asked about the disparity, an official with the nonprofit said it was an inadvertent error and the group would amend its tax return.

Other groups reported less spending to the IRS than they acknowledged to election officials. Americans for Tax Reform [9] told the IRS it spent about $1.86 million on campaign activity, less than half of the $4.2 million it told the FEC it spent on ads supporting Republicans and opposing Democrats. The group did not respond to calls or emails asking for comment.

One possible reason for such differences is that the FEC has specific guidelines for what constitutes a political ad, while the IRS goes case by case, looking at the content of ads, when they ran, and how they relate to g roups' other spending. In tax filings, groups are asked to report both direct and indirect political spending.

Yet many social welfare groups have interpreted the IRS guidelines to mean they can report what the FEC considers to be electioneering communications as "education," "lobbying" or "issue advocacy" on tax filings.

Consider the American Action Network [9], which reported spending $25.7 million [45] on its 2010 tax return.

The group told the IRS the bulk of that money, $17 million [46], went for lobbying and only $5 million [47] went to political activity. But that same year, it told the FEC it spent more than $19 million on ads.

Conston, the American Action Network's spokesman, declined to explain the discrepancy, saying that the group had complied with all applicable laws.

Details in FEC filings offer some additional clues. The American Action Network reported $4 million in independent expenditures for 2010. Those ads clearly should be reported to the IRS as political spending, experts say. The group also reported $15.4 million in electioneering communications to the FEC — the only category on its 2010 tax form large enough to cover this amount is lobbying.

Many of the electioneering communication ads ar e no longer accessible online. ProPublica found nine that remain public. These cost more than $4.4 million, FEC records show.

Most criticized Democrats in vulnerable districts for supporting then -House Majority Leader Nancy Pelosi or health care reform. One focused on Nevada Rep. Dina Titus, showing a woman talking to a friend on Skype about the Democratic congresswoman.

"Apparently, convicted rapists can get Viagra paid for by the new health bill," the woman said. Later, she added, "I mean, Viagra for rapists? With my tax dollars? And Congresswoman Titus voted for it."

At ProPublica's request, Ellen Aprill, a law professor and the John E. Anderson chair in tax law at Loyola Law School in Los A ngeles, reviewed the ads to assess whether they fit the IRS definition of political spending.

Criticizing particular lawmakers or candidates makes it likely that the IRS would see such ads as attempts to influence elections, rather than as issue advocacy or lobbying, Aprill said.

"Not simply saying this is bad legislation, but these people hurt you — with the implication, 'Don't send them back to Congress,'" she said.

Even in cases in which it seems clear that nonprofits have not met reporting requirements for political spending, groups sometimes stop operating before regulators can take action.

The Commission on Hope, Growth and Opportunity [9] paid for a series of ads in 2010 that cost an estimated $2.3 million, according to CMAG.

One portrayed a cartoon dance line featuring Obama, Pelosi and an interchangeable Democrat, depending on where the ad ran. "Folks in Washington are living it up," it said. The ad urged viewers to "join" the Republican challenger.

Still, the group reported no spending to the FEC. In its 2010 tax return, it said it put at least $4.6 million [48] — 96 percent of its total expenditures — into advertising, yet insisted it spent nothing [49] to influence elections.

The Commission on Hope, Growth and Opportunity [50] now appears dormant. Calls and emails to the group went unanswered.

"They are, of course, the best example of one of the problems with this: You can go into business and violate the law and then go out of business," said Melanie Sloan, the executive director of the Citizens for Responsibility and Ethics in Washington [51], which filed complaints against the group with the IRS and FEC. "And what's ever going to happen about that? There's no consequence."

Grants to Other Nonprofits Flow Into Politics

One way 501(c)(4) groups appear to fulfill their social welfare obligation is by making grants to other groups that share their tax status. Yet since the recipients also funnel money into politics, it's possible the grant money is ultimately spent on ads or other election -related activities.

According to its tax return, the nonprofit CitizenLink [9] gave a grant of $120,000 [52] to the Susan B. Anthony List [9] to "assist with purchase of TV promotional spots &&election help." CitizenLink did not count this money as political spending [53], the return said. The Susan B. Anthony List then used the money to help buy ads criticizing two Democrats [54] for betraying voters by supporting health care reform, according to FEC reports. (The ads credited CitizenLink for helping pay for them.)

Another group, CSS Action Fund [9], gave a grant [55] of $175,865 to Economy Forward for "promoting health care reform." Economy Forward spent almost all of this on ads promoting Sen. Harry Reid's help for the economy; health care reform wasn't mentioned.

Sometimes, ProPublica found, money passed back and forth between pairs or clusters of nonprofits with similar political agendas. It's not clear if the IRS compares tax filings and observes these patterns.

According to tax returns for 2010, the WMC Issues Mobilization Council gav e

$865,000 [56] to the American Justice Partnership, which in turn gave $205,000 [57] to the WMC Issues Mobilization Council. Both groups backed conservative causes and candidates.

The Republican Jewish Coalition reported making grants [58] to Crossroads GPS and the American Action Network in 2010, giving each group $4 million. Both groups returned the favor, reporting grants to the Republican Jewish Coalition in their 2010 tax years. Crossroads GPS gave the coalition $250,000 [59], while the American Action Network chipped in $200,000 [60].

Some nonprofits claim to stay out of politics but funnel money to other nonprofits that spend heavily on elections.

The Center to Protect Patient Rights, a group led by GOP strategist Sean Noble, reported on its 2010 tax return that it spent no money [61] on politics.

As the Center for Responsive Politics first reported [62], however, almost three-quarters of the group's income — a total of more than $44 million [63] — went to other social welfare groups [64] that were politically active, such as the American Future Fund and the 60 Plus Association [9].

Brooks, the Republican Jewish Coalition's executive director, said grants to other groups should "absolutely count" toward meeting a group's primary social welfare purpose. "It's not obscuring the source of the money because it's fully

reported and disclosed," he said. "We happily support other organizations that share our goals and our work."

Jonathan Collegio, a spokesman for Crossroads GPS, said forming a network of like-minded groups was the only way to change policy. He said Crossroads GPS sent the Republican Jewish Coalition a contribution because it "had a great program of work."

Some experts, however, compared the transactions to Russian nesting dolls, with each layer opening to reveal another, equally inscrutable one underneath. Even if a social welfare nonprofit had to reveal the donors behind an ad, it would be another nonprofit. There would be no way to trace the money to the original source.

For instance, the Independent Women's Voice and Citizens for the Republic, two nonprofits that made disclosures to the FEC about political ads purchased in 2010, identified a new social welfare group, The Annual Fund, as a major contributor.

And where did The Annual Fund [65] get its money? Mostly from yet another social welfare nonprofit, the Wellspring Committee [66], run by the wife of The Annual Fund's founder.

Efforts for More Transparency Fall Short

The new breed of political nonprofits may operate differently from traditional social welfare organizations, but some say they serve a vital purpose in an era of increasingly bitter political partisanship.

Dan Backer, a lawyer who represents several conservative nonprofits, pointed to the Obama team's decision [67] to single out donors like the Koch brothers.

"You have the president of the United States attacking donors," Backer said. "A lot of them have been named in person by the president as bad people. That's horrifying."

Openly taking controversial political positions can be bad for business. Some Democrats and gay-rights groups called for a boycott of Target [68] in 2010 after the company donated $150,000 to a fund supporting a Republican candidate for governor in Minnesota who opposed gay marriage. Company officials swiftly apol ogized.

So far, efforts to impose limits on social welfare groups or demand more transparency from them have mostly failed.

Last summer, after coming under criticism, the IRS abandoned efforts [69] to force five major donors to pay gift tax on contributions to social welfare nonprofits heavily involved in politics. This essentially gave the green light to donors worried about whether their donations could be taxed.

Bills to strengthen disclosure

requirements [70] have failed in the House and the Senate. The Supreme Court [71] opted against reconsidering Citizens United in June.

In July, responding to a court ruling, the FEC sa id social welfare groups would have to identify major donors [72] to electioneering communications. But groups are already finding work-arounds, coming up with different types of ads [73] or making sure the only donors they have to disclose are other nonprofits.

Watchdogs say they are frustrated that neither the IRS nor the FEC has been willing to enforce or even clarify the rules that exist to force transparency.

"I'm relatively pessimistic right now," said Karl Sandstr om, a former FEC vice chairman who's now with the Perkins Coie law firm. "We have agencies that are in some cases silent, in some cases divided and in some cases as slow as they can possibly be."

The IRS appears to be shifting its attention toward wh ether 501(c)(4)s benefit a segment of society, not the public as a whole, another requirement for such groups. In the past 18 months, the IRS rejected the applications of at least four [74] groups [75] and revoked the tax-exempt status of one small Democratic nonprofit [76] and its affiliates for this reason. In most of these cases, the agency concluded the groups were run "primarily for the benefit of a political party and a private group of individuals."

Owens, the former head of the IRS nonprofit division who is now a lawyer at Caplin &&Drysdale, said agents are probably examining other social welfare nonprofits using that framework, asking whether a group like Crossroads GPS benefits the community at large or a subset of politicians.

"Crossroads says its issue is free enterprise," he said. "That's their argument: They're really not carrying water for the Republicans. They're carrying water for free enterprise. It will be interesting to see if they make that argument stick. I think it'll be tough."

The IRS also has yet to make a decision on Crossroads GPS' request for recognition of its tax-exempt status, which news report s say was filed in September 2010 [77]. Owens and others speculate that the IRS may be looking hard at the group.

Collegio, the spokesman for Crossroa ds GPS, said in an email that "without an IRS statement on the matter it is wholly irresponsible and unproductive to speculate."

Most experts do not expect the campaign finance landscape to change much before November, leaving social welfare nonprofi ts and their anonymous backers ample opportunity to influence who wins.

"The candidates and office holders will know where this money came from," said Paul S. Ryan, senior counsel for the Campaign Legal Center. "The political players who are soliciting these funds and are benefiting from the expenditure of these funds will know where the money came from. The only ones in the dark

will be American voters."

SFC 002136

From: Zarin Roberta B
Sent: Friday, September 28, 2012 7:17 AM
To: Lerner Lois G; Paz Holly O; Fish David L; Partner Melaney J; Grant Joseph H; Medina Moises C
Cc: Marx Dawn R
Subject: BNA:TV Transcripts, Denial Letters Latest Attempt To Yank Crossroads GPS Tax-Exempt Status

Exempt Organizations

TV Transcripts, Denial Letters Latest

Attempt
To Yank Crossroads GPS Tax-Exempt Status

By Diane Freda

Democracy 21 and the Campaign Legal Center stepped up their attacks Sept. 27 on pro-Republican Crossroads GPS, providing analysis of the conservative group's TV advertising, and pointing to recent Internal Revenue Service rulings denying tax-exempt status to social welfare organizations on the basis of too much private benefit.

In its ninth letter to IRS on Crossroads, the reform groups pushed the Service to look at Crossroads' actual TV ads going so far as to include a transcript of their content and said the agency should make a determination that the organization was founded by political consultant Karl Rove and Romney presidential campaign adviser Ed Gillespie "to carry out

their private political interests in electing Republicans and defeating Democrats," and not to engage in social welfare activities.

The private benefit argument has carried some weight with IRS over the past several years. Determination letters from April 2011 and March 2 012 deny exemption as a 501(c)(4) to organizations on the basis that their activities did not primarily promote social welfare but benefit private individuals and interests.

"The IRS has realized its easier to apply the private benefit rule than to find true political campaign activity because then they don't have to tie activity to a particular campaign," Ezra Reese, attorney with Perkins Coie, told BNA Sept. 27.

However, Reese said he did not believe IRS is invoking that doctrine any more frequently now than it has in the past.

IRS has been careful in recent weeks to say that it looks at all the facts and circumstances of a particular Section 501(c)(4) case and all of an organization's activities over an entire taxable year to see what percentage of its expenditures are involved in campaign activity before determining if it should be granted or keep its exempt status.

For 2010 and 2011, Crossroads GPS reported that its spending on political campaign and lobbying activities amounted to about 23 percent of its overall spending.

Meanwhile, IRS has also said it is examining more than 70 Section 501(c)(4) organizations, some for political activity, although it cannot disclose who they are.

Evidence Is Clear

The watchdog groups said the evidence is clear that Crossroads GPS fits into the same bucket as other organizations that have been denied tax exemption, because they are reaping too much private benefit.

In addition, the groups said Rove has publicly confirm ed that more than $53 million in ads run by Crossroads GPS are campaign ads run in response to an Obama ad blitz, making them political ads, not issue ads.

"Even the group's founder Karl Rove boasts publicly that Crossroads GPS ad buys of more than $50 million, attacking the President or boosting Mitt Romney, are a response to counter the advertising of the Obama campaign," said J. Gerald Hebert, Campaign Legal Center executive director.

According to Democracy 21 and the Campaign Legal Center, some of the ads identify and criticize Obama on issues that are central to the presidential election the health care law, the stimulus, and national debt.

Ads by other 501(c)(4)s were mentioned in the letter as deserving of examination, such as the pro-Democratic Priorities USA, which was formed by

former Obama staffers, the center-right American Action Network, and Americans Elect, a so-called nonpartisan online presidential primary.

However, the groups were only mentioned, with no analysis, and the vast majority of the letter was devoted to Crossroads GPS.

Democracy 21 President Fred Wertheimer said it appears the other groups are spending money for ads that was raised by their super PACs rather than their 501(c)(4)s.

Crossroads GPS spokesman Jonathan Collegio said Sept. 27 he did not take the allegations very seriously. "Fred is getting a little creepy now," he said.

Collegio said Democracy 21 and the Campaign Legal Center have written nine letters to IRS but the agency has not responded. He said Wertheimer is not getting the message.

Bobby Zarin, Director
Communications and Liaison
Tax Exempt and Government
Entities
[redacted]

SFC 002140

From: Flax Nikole C
Sent: Wednesday, October 17, 2012 9:31 AM
To: Lerner Lois G; Barre Catherine M
Subject: RE: Politico Article on the IRS, Disclosure, and (c)(4)s

this is what I sent Monday that is causing all of the issues

with the letter

From: Lerner Lois G
Sent: Wednesday,

October 17, 2012 10:25 AM
To: Flax Nikole C; Barre Catherine

M
Subject: FW: Politico Article on the IRS, Disclosure, and

(c)(4)s

In case you hadn't seen

Lois G.

Lerner

Director of Exempt Organizations

IRS0000180729

SFC 002141

From: Lowe Justin
Sent: Wednesday,

October 17, 2012 10:21 AM
To: Zarin Roberta B; Lerner Lois G; Paz

Holly O; Partner Melaney J
Subject: Politico Article on the IRS,

Disclosure, and (c)(4)s

A fairly critical

article from Politico on Monday, touching on (c)(4)s, responses to information

requests, and application processing: http://www.politico.com/news/stories/1012/82387.html

From: Lerner Lois G
Sent: Tuesday, July 17, 2012 2:46 PM
To: Eldridge Michelle L; Miller Steven T; Flax Nikole C
Cc: Keith Frank; Lemons Terry L; Williams Grant; Zarin Roberta B
Subject: RE: Heads UP: ProPublica c4 inbound

As I look at this, timing may be wrong for a meeting with the reporter --the hearing is next week. But, we probably need input whether folks would be comfortable with someone talking on background once that is behind us. I think she has an interesting angle and it might be a good thing to explain why an organization might be reporting "political " activity to FEC, but not to IRS. In other words, once an org has hit the FEC threshold for having to file with them, everything they do is presumed to be for the purpose of influencing a federal election and has to be reported. Whereas if an exempt organization --say a c4--conducts several different activities, each activity is judged separately to determine whether it meets the definition of political intervention.

Anyway-- I'll await the "call."

Lois G. Lerner
Director of Exempt Organizations

From: Eldridge Michelle L
Sent: Tuesday, July 17, 2012 2:39 PM
To: Miller Steven T; Flax Nikole C
Cc: Lerner Lois G; Keith Frank; Lemons Terry L; Williams Grant; Zarin Roberta B
Subject: Heads UP: ProPublica c4 inbound

I wanted to give you a heads up on a 501(c)(4) inbound we have received. A reporter from ProPublica is in town this week and has asked to meet and interview Lois Lerner for a story she is writing on c4s. This reporter first came in last October and asked us some basic questions about c4s and we responded by pointing her to some relevant web materials. Over the past 9 months she has been gathering info --she has requested the 1024 forms on over 90 supposed c4s--and she is telling us she has gathered IRS documents and FEC records for more than 70 groups. Based on the a heads up we have received internally as these requests have come in --let me just say that the list of organizations she has requested info on includes all the high -profile social welfare groups that have been in the news over the past year, and then some.

We also know:
-- Part of her story compares spending reported to the IRS with ad spending reported to the FEC.
-- She's also looking at what these organizations told the IRS about their p lans to do campaign intervention versus what they actually did.
-- In addition, she's looking at the organizations' ads and past press releases.

She is hoping to talk to someone on the record, but will to talk to someone on background. I've talked to Lois, and she is willing to talk to the reporter. Given timing considerations, I also wanted to give you the opportunity to weigh in on this. If we do decide to offer someone up --I would recommend a phone interview and on background only. Below you will also find her specific questions. Please let me know if you have comments or concerns. Thanks. --Michelle

SFC 002143

1. I'd like to get someone to explain the rules involved with "social welfare" organizations. In other words, I'd like someone to explain what "primary purpose" means, and how campaign activity is defined, and the definition of when a group operates for the benefit of a private group of people vs. the community as a whole. I understand a lot of this has to do with "facts and circumstances," but if I could get someone to explain this, it would be quite helpful.

2. As part of that question, I'd like someone to help take me through the history of 501(c)(4) nonprofits. My understanding is they were formed by the Tariff Act of 1913 (also k nown as the Revenue Act), and that while there's no statutory record of why they were formed, the consensus is that the U.S. Chamber pushed for the exemption. I'd like to confirm this and understand how the groups have changed over time, and get a sense of why/how they were allowed to engage in political campaign activity.

3. I'd like to understand the potential tax benefits of being a 501(c)(4). My understanding is that donations to these groups are not tax deductible, but that the groups are tax -exempt, meaning they don't have to pay taxes on their net income at year's end, and that donations from businesses can be counted as business expenses, as long as those donations aren't earmarked for political ads or lobbying. As part of this, I'd like to un derstand how the political spending of these groups are taxed.

4. I'd like to put these tax-exempt groups in context with the I.R.S. as a whole such as, how many revenue agents the I.R.S. has, how many of those are grade 13s, and how resources are allocated to auditing tax -exempt nonprofits vs. businesses. If that's too specific, I'd like to get a sense of how many audits the agency completes in a year, and how many of those involve tax-exempt groups. I'd also like to confirm the numbers I've found in annual I.R.S. reports of the number of social -welfare nonprofits that have been audited and that have lost their exemptions. I want to make sure I'm understanding the reports correctly.

5. I'd like someone to explain why c4 groups are allowed to operate without getting approval of their status from the I.R.S.

6. The I.R.S. has signaled it will take a harder look at social -welfare nonprofits this year, saying in its annual work plan that it will investigate "serious allegations of impermissible political intervention." I know the I.R.S. can't talk about specifics, but I'd like to talk to someone more generically what's happening. I've been told by a lawyer for several c4s that an IRS agent informe d him that there was an internal task force looking at these groups. I've also read that the I.R.S. is still in the process of developing a questionnaire for political c4 groups. I'm trying to figure out what's correct.

7. We've found a number of groups that on their initial application to the I.R.S., say that they will not spend money to influence the election of a particular candidate to office. Later, some of these nonprofits change their answer on their 990s, and say they are spending money on p olitics. Is this a problem? If so, why and what can the agency do about it?

8. We've found a number of groups that on their 990s tell the I.R.S. that they are not involved in politics, but tell the F.E.C. that they are spending money on independent expenditures and electioneering communications. Does the I.R.S. check what these groups report to the F.E.C.? Does the discrepancy between political money reported to the I.R.S. and the F.E.C. matter, and if so, how? Is th e regulatory system, as a whole, set up to deal with this? What's the larger effect, if any, if there's a hole in the system in this regard?

9. Recently, it seems as if the I.R.S. is telling certain nonprofits that they don't qualify as 501(c)(4) gr oups because they are operated for the benefit of a private group of people vs. the community as a whole. I'd like someone to explain how this rule works.

Sincerely,

Kim

Kim Barker
Reporter
ProPublica, Inc.

SFC 002145

From: Paz Holly O
Sent: Monday, July 23, 2012 2:04 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 3:35 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Shafer John H
Sent: Wednesday, July 18, 2012 10:08 AM
To: Thomas Cindy M
Subject: FW: High Profile Case EO Technical Would Like It

Per your request.

John Shafer
Group Manager
SE:T:EO:RA:D:1:7838
SFC [redacted]

From: Thomas Cindy M
Sent: Wednesday, March 17, 2010 1:21 PM
To: Shafer John H
Cc: Camarillo Sharon L
Subject: FW: High Profile Case EO Technical Would Like It

John,

Per Holly's e-mail directly below, EOT does not want all of the tea party cases. They only want 2 of them and want us to hold the remainder. We can discuss who should hold them if you would like. Let me know. Thanks.

From: Paz Holly O
Sent: Wednesday, March 17, 2010 12:40 PM
To: Thomas Cindy M
Cc: Grodnitzky Steven
Subject: RE: High Profile Case EO Technical Would Like It

SFC 002146

Cindy,

Thanks for the heads up. We have one Tea Party case up here - that was sent up from Determs just a few weeks ago - but had not yet heard that there were more. I think we should take a few more cases (I'd say 2) and would ask that you hold the rest until we get a sense of what the issues may be. Then when we will work with Determs in working the other cases.

FYI - I will be on maternity leave starting tomorrow. Steve will be acting as head of EO Tech.

Holly

From: Thomas Cindy M
Sent: Wednesday, March 17, 2010 12:10 AM
To: Paz Holly O
Subject: FW: High Profile Case EO Technical Would Like It
Importance: High

Holly,

Did you know about these additional 10 tea party cases? Do you want all of them or do you only want a few and then give us advice as to what to do with the remaining?

From: Shafer John H
Sent: Tuesday, March 16, 2010 9:35 AM
To: Thomas Cindy M
Cc: Camarillo Sharon L
Subject: RE: High Profile Case EO Technical Would Like It
Importance: Low

Cindy,

We have identified a total of 10 Tea Party cases. Three case have been approved, two 501(c)(4) and one 501(c)(3). I have collected the other cases and will forward them to EO Technical.

John Shafer
Group Manager
SE:T:EO:RA:D:2:7838
SFC [redacted]
[redacted]

From: Thomas Cindy M
Sent: Friday, February 26, 2010 8:36 AM
To: Shafer John H
Cc: Camarillo Sharon L
Subject: FW: High Profile Case EO Technical Would Like It

EO Technical would like the case. Please thank Jack for identifying the issue and elevating it. Thanks.

SFC 002147

From: Paz Holly O
Sent: Friday, February 26, 2010 8:23 AM
To: Thomas Cindy M
Subject: RE: High Profile Case Does EO Technical Want It?

I think sending it up here is a good idea given the potential for media interest. Thanks.

From: Thomas Cindy M
Sent: Thursday, February 25, 2010 10:00 PM
To: Paz Holly O
Subject: High Profile Case Does EO Technical Want It?

Holly,

We have a Form 1024 for: Albuquerque Tea Party Inc

We're wondering whether EO Technical wants this case because of recent media attention. More specifics about activities is in the original e-mail below. Let me know your thoughts. Thanks.

From: Camarillo Sharon L
Sent: Thursday, February 25, 2010 5:19 PM
To: Thomas Cindy M
Subject: FW: Case # EO 2010014 000687 Albuquerque Tea Party Inc Case
Importance: Low

Cindy: Please let 'Washington' know about this potentially politically embarassing case involving a 'Tea Party' organization. Recent media attention to this type of organization indicates to me that this is a "high profile" case. In addition to 501(c)(4) typical legisslative activities, the applicant, in answer to Part II, item 15 of the of the 1024 application indicates possible future political candidate support. Shown below are excerpts from the application describing its legislative and possible future political activities.

The case is currently being held in the Screening group, pending a response from EOT.

Sharon L. Camarillo
EO Determinations Manager, Area 1

SFC [redacted]

SFC [redacted]

From: Shafer John H
Sent: Thursday, February 25, 2010 10:14 AM

SFC 002148

To: Camarillo Sharon L
Cc: Koester John J
Subject: FW: Case # EO 2010014 000687 Albuquerque Tea Party Inc Case
Importance: Low

Sharon, this case will be sent to inventory for further development. Political campaigns on behalf or or in opposition to any political candidate do not promote social welfare, but an exempt 501(c)(4) may intervene in political campaigns as long as its primary activity is the promo tion of social welfare and would be subject to the tax imposed by IRC 527. I will hold this case for a decision concerning this type of organization may be considered a "High Profile Case".

Thanks,

John Shafer
Group Manager
SE:T:EO:RA:D:2:7838
SFC [redacted]

From: Koester John J
Sent: Thursday, February 25, 2010 12:51 PM
To: Shafer John H
Subject: Case # EO 2010014 000687 Albuquerque Tea Party Inc Case
Importance: Low

John
Here is the case number for the "Tea Party" application for 501(c)(4) exemption that we discussed this morning. Recent media attention to this type of organization indicates to me that this is a "high profile" case. In addition to 501(c)(4) typical legisslative activities, the applicant, in answer to Part II, item 15 of the of the 1024 application indicates possible future political candidate support. Shown below are excerpts from the application describing its legislative and possible future political activities.
Thanks
Jack

Part II. Activities and Operational Information (Must be completed by all applicants)

Provide a detailed narrative description of all the activities of the organization —past, present, and planned. Do not merely refer to or repeat the language in the organizational document. List each activity separately in the order of importance based on the relative time and other resources devoted to the activity. Indicate the percentage of time for each activity. Each description should include, as a minimum, the following: (a) a detailed description of the activity including its purpose and how each activity furthers your exempt purpose; (b) when the activity was or will be initiated; and (C) where and by whom the activity will be conducted.

1) **Educational Forums: Educational events and Meet and Greets focusing on informing the pubic on current political issues. For example, Health Care Reform and how the legislation will affect small businesses and private persons. This activity to educate has been presented 3 times over the period of 3 months. The forums were held at rented university auditoriums and future forums are being planned on the average of one every I to 2 months. Forums are conducted by the Education Committee Chairperson and select ed panelists, and are considered to comprise 40% of our activity.**
2) Advocacy Training: Training provided to educate the public on how to become more active in the political process, i.e. Lobbying which empowers the public to influence the direction of pol itical office which has a direct impact on the overall welfare of the constituency. This activity has happer.ed to date twice in the past 2 months and will continue on the basis of once every I to 2 months. Trainings are conducted by volunteers selected by the EducationNolunteer Committee and are considered to comprise 30 to 40% of our activity.

4

3) Candidate Forums: Forums providing a non -partisan access of local and state candidates for public office to the general public which allows an opportunity for ca ndidates to make their political platforms known, and allows the public to make informed decisions of support or non -suppol of said candidates. This forum is planned in the future to be held at a rented facility in February and March of 2010 and will be co nducted by the Education Committee Chairperson. It is currently planned to comprise 20% of our activity.
4) Event Rallies: Events which are organized, non -partisan gatherings open to the public with the intent to present an informational event in order to educate and motivate. These events have been conducted twice in 2009 and were lead by the Event Committee Chairperson and members of the Board of Directors. Such events will take place 2 to 3 times a year and are considered to comprise 10% of our activity.
All listed activities ftrther our exempt status because they hform and educate the community on political issues which have significant and far -reaching repercussions regarding the general prosperity and well -being of the American public.

15

Has the organization spent or does it plan to spend any money attempting to influence the selection, nomination, election, or appointment of any pnrson to any Federal, state, or local public office or to an office in a political organization'?,.
Yes

If "Yes," explain in detail and list the amounts spent or to be spent in each case.
No monies have been spent in the past, but an approximate 20% of the organization's budget will be set aside for future considerations.

SFC 002150

From: Thomas Cindy M
Sent: Saturday, March 30, 2013 2:45 PM
To: Paz Holly O
Subject: FW: TIGTA DOCUMENT REQUEST

Email indicating that the cases were being held in the Screening Group.

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 3:51 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Wednesday, March 17, 2010 4:14 PM
To: Shafer John H
Cc: Camarillo Sharon L
Subject: RE: High Profile Case EO Technical Would Like It

Sounds good. Thanks John.

From: Shafer John H
Sent: Wednesday, March 17, 2010 1:48 PM
To: Thomas Cindy M
Cc: Camarillo Sharon L
Subject: RE: High Profile Case EO Technical Would Like It
Importance: Low

I will sent 2 of these cases to EO Technical , one 501(c)(4) & one 501(c)(3). I can hold the remaining cases in my group "75" number unless you want them held some ot her place.

John Shafer
Group Manager
SE:T:EO:RA:D:2:7838
SFC [redacted]

From: Thomas Cindy M
Sent: Wednesday, March 17, 2010 1:21 PM
To: Shafer John H
Cc: Camarillo Sharon L
Subject: FW: High Profile Case EO Technical Would Like It

John,

Per Holly's e-mail directly below, EOT does not want all of the tea party cases. They only want 2 of them and want us to hold the remainder. We can discuss who should hold them if you would like. Let me know. Thanks.

From: Paz Holly O
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FYI - I will be on maternity leave starting tomorrow. Steve will be acting as head of EO Tech.

Holly

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Sent: Wednesday, March 17, 2010 12:10 AM
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Subject: FW: High Profile Case EO Technical Would Like It
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Importance: Low

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John Shafer
Group Manager
SE:T:EO:RA:D:2:7838
SFC [redacted]

From: Thomas Cindy M
Sent: Friday, February 26, 2010 8:36 AM
To: Shafer John H
Cc: Camarillo Sharon L
Subject: FW: High Profile Case EO Technical Would Like It

EO Technical would like the case. Please thank Jack for identifying the issue and elevating it. Thanks.

From: Paz Holly O
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I think sending it up here is a good idea given the potential for media interest. Thanks.

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SFC [redacted]
[redacted]

SFC [redacted]

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Group Manager
SE:T:EO:RA:D:2:7838
SFC [redacted]

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Yes

If "Yes," explain in detail and list the amounts spent or to be spent in each case.
No monies have been spent in the past, but an approximate 20% of the organization's budget will be set aside for future considerations.

From: Paz Holly O
Sent: Monday, July 23, 2012 3:05 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 3:56 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Grodnitzky Steven
Sent: Monday, April 26, 2010 11:35 AM
To: Thomas Cindy M
Cc: Camarillo Sharon L; Melahn Brenda; Brinkley Lynn A; Craig Karen K; Berry Daniel W; Shafer John H; Shoemaker Ronald J; Hull Carter C
Subject: RE: Tea Party Cases

Please have her contact Ron Shoemaker. Thanks.

From: Thomas Cindy M
Sent: Sunday, April 25, 2010 1:00 PM
To: Grodnitzky Steven
Cc: Camarillo Sharon L; Melahn Brenda; Brinkley Lynn A; Craig Karen K; Berry Daniel W; Shafer John H
Subject: FW: Tea Party Cases

Steve,

We are going to have these cases assigned to Liz Hofacre. Liz reports to Joseph Herr in Brenda Melahn's area. After she gets the cases, who in EOT should she contact to coordinate development?

From: Thomas Cindy M
Sent: Saturday, April 24, 2010 6:21 PM
To: Grodnitzky Steven
Cc: Shoemaker Ronald J
Subject: RE: SCR

Steve,

None of these cases have been assigned. They have been sitting in our Screening Group waiting for guidance from EOT. I will discuss with Area Managers to find out who we will have work these cases and will get back with you. Thanks.

From: Grodnitzky Steven
Sent: Friday, April 23, 2010 4:37 PM
To: Thomas Cindy M
Cc: Grodnitzky Steven; Shoemaker Ronald J
Subject: FW: SCR

We are working on the 2 Tea Party cases here in EOT. One development letter has already been issued to the (c)(3) applicant and a development letter is being prepared for the (c)(4) applicant. I understand that you have a number of these cases in Cincy. It may not be a bad idea to coordinate with the individual(s) who have the cases in Cincy so that you can start developing them.

If you have the names of the agents and manager with these cases, please let me know. We should at least have a call and see how we can work together.

From: Shoemaker Ronald J
Sent: Friday, April 23, 2010 3:28 PM
To: Grodnitzky Steven
Subject: RE: SCR

Sorry, I forgot about this one. See the attached document.

From: Grodnitzky Steven
Sent: Friday, April 23, 2010 3:13 PM
To: Shoemaker Ronald J
Subject: SCR

What about the SCR for the Tea Party cases? I believe that Chip has the cases. Can you or Chip make up the SCR, and confer with Cincy to include their information in the SCR? They have a few cases, and I believe that some have even bee n granted exemption. Thanks.

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

From: Flax Nikole C
Sent: Thursday, June 28, 2012 3:35 PM
To: Lerner Lois G
Cc: Paz Holly O
Subject: RE: Returning Donor Information

Thanks - please check to see if we used yet and then we should discuss whether to change if even possible.

From: Lerner Lois G
Sent: Thursday, June 28, 2012 4:30 PM
To: Flax Nikole C
Cc: Paz Holly O
Subject: FW: Returning Donor Information
Importance: High

Sorry--we took you down a slightly wrong path. David's email was slightly different. Margo's rationale is that we didn't use it--which is closer to what Miller would probably feel comfortable saying. I've asked Holly to make sure we have actually sent some of these out --if not we could change verbiage. Before we go there though, we need to think of ramifications -- would that mean we would be setting a precedent for returning every doc we don't use? What would "use' mean? Lots of work I wouldn't want to take on generally.

Lois G. Lerner
Director of Exempt Organizations

From: Paz Holly O
Sent: Thursday, June 28, 2012 4:23 PM
To: Lerner Lois G
Subject: FW: Returning Donor Information

Scratch my prior email - here is her rationale.

From: Stevens Margo [SFC [redacted] V]
Sent: Monday, May 21, 2012 10:50 AM
To: Lerner Lois G
Cc: Witter Kirsten N
Subject: Returning Donor Information

Lois, I wanted to get back with you with respect to your question whether TEGE could return to those organizations from whom donor names were solicited in questionnaires following their submission of applications for re cognition of their tax exempt status (under 501(c)(4)), now that TEGE has reviewed those files and determined that such information was not needed across-the-board and not used in making the agency's determination on exempt status. As you noted, had such information been relied upon for that determination, such information would be considered a "supporting document" that IRC 6104 would obligate us to make available for public inspection.

As we briefly discussed, I am aware that TEGE has not strictly constr ued the definition of "support document" to mean every item of information that may be requested by the IRS, or received from the applicant, during the course of processing an application. See, e.g., IRM 7.20.2.6.4.

Thus, I wanted to touch base with Kirste n Witter, GLS, with respect to any Federal Records Act ("FRA") implications of a decision by TEGE to return such information. Kirsten, and Beth Levine of her branch, called me this morning. Based upon our understanding of what occurred here, they have ad vised me that the information is not a "record" within the FRA and, as such, it may be destroyed or returned, as you deem appropriate.

Accordingly, it would seem to follow that, having not used or relied upon the information to grant recognition to a submitting organization, it need not be retained in the file or be made available for public inspection under 6104.

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
SFC [redacted]

SFC 002159

From: Shoemaker Ronald J
Sent: Wednesday, June 20, 2012 1:37 PM
To: Biss Meghan R; Carter Jonathan S.; Copeland Sadie R; Hull Carter C; Kovacs Joseph; Phaup Lee T; Smith Danny D; Zelasko James
Subject: FW: Additional procedures on cases with advocacy issues - before issuing any favorable or initial denial ruling

FYI

From: Seto Michael C
Sent: Wednesday, June 20, 2012 2:11 PM
To: McNaughton Mackenzie P; Salins Mary J; Shoemaker Ronald J; Lieber Theodore R
Cc: Grodnitzky Steven; Megosh Andy; Giuliano Matthew L; Fish David L; Paz Holl y O
Subject: Additional procedures on cases with advocacy issues before issuing any favorable or initial denial ruling

Please inform the reviewers and staff in your groups that before issuing any favorable or initial denial rulings on any cases with advocacy issues, the reviewers must notify me and you via e-mail and get our approval. No favorable or initial denial rulings can be issued without your and my approval. The e-mail notification includes the name of the case, and a synopsis of facts and denial rationale. I may require a short briefing depending on the facts and circumstances of the particular case.

If you have any questions, please let me know.

Thanks,

Mike

SFC 002160

From: Lerner Lois G
Sent: Wednesday, January 18, 2012 1:45 PM
To: Ghougasian Laurice A; Kall Jason C
Cc: Fish David L; Paz Holly O; Downing Nanette M
Subject: Re: Workplan and background on how we started the self declarer project

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

From: Ghougasian Laurice A
Sent: Wednesday, January 11, 2012 06:15 PM
To: Kall Jason C; Lerner Lois G
Cc: Fish David L; Paz Holly O; Downing Nanette M
Subject: RE: Workplan and background on how we started the self declarer project

I think Cheryl initially was looking only at data on RICS (name, address), but also looked at some returns to see whether they listed their activities, purposes, etc. I don't think she left her research for me, though, in the event you wanted it.

From: Kall Jason C
Sent: Tuesday, January 10, 2012 10:09 PM
To: Lerner Lois G
Cc: Ghougasian Laurice A; Fish David L; Paz Holly O; Downing Nanette M
Subject: Workplan and background on how we started the self declarer project

Lois,

I found the string of e-mails that started us down the path of what has become the c -4, 5, 6 self declarer project. Our curiosity was not from looking at the 990 but rather data on c -4 self declarers.

Jason Kall
Manager, EO Compliance Strategies and Critical Initiatives
SFC [redacted]

From: Chasin Cheryl D
Sent: Thursday, September 16, 2010 8:59 AM
To: Lerner Lois G; Kindell Judith E; Ghougasian Laurice A
Cc: Lehman Sue; Kall Jason C; Downing Nanette M
Subject: RE: EO Tax Journal 2010 130

That's correct. These are all status 36 organizations, which means no application was filed.

Cheryl Chasin
SFC [redacted]

SFC 002161

From: Lerner Lois G
Sent: Thursday, September 16, 2010 9:58 AM
To: Chasin Cheryl D; Kindell Judith E; Ghougasian Laurice A
Cc: Lehman Sue; Kall Jason C; Downing Nanette M
Subject: Re: EO Tax Journal 2010 130

Ok guys. We need to have a plan. We need to be cautious so it isn't a per se political project. More a c4 project that will look at levels of lobbying and pol. activity along with exempt activity. Cheryl - I assume none of those came in with a 1024?
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

From: Chasin Cheryl D
To: Lerner Lois G; Kindell Judith E; Ghougasian Laurice A
Cc: Lehman Sue; Kall Jason C; Downing Nanette M
Sent: Wed Sep 15 14:54:38 2010
Subject: RE: EO Tax Journal 2010 130

It's definitely happening. Here are a few organizations (501(c)(4), status 36) that sure sound to me like they are engaging in political activity:

Faulkner County Tea Party
Paradise Republican Womens Club
Culver PAC
Taxpayersadvocate Org State PAC
Escondido Republican Women Federated
Folsom Republican Women Federated
Alice B Toklas Lesbian & Gay Democratic Club
Obama Democratic Club Of Silicon Valley
National Breast Cancer Coalition Political Action Committee

I've also found (so far) 94 homeowners and condominium associations, a VEBA, and legal defense funds set up to benefit specific individuals.

Cheryl Chasin
SFC [redacted]

From: Lerner Lois G
Sent: Wednesday, September 15, 2010 1:51 PM
To: Kindell Judith E; Chasin Cheryl D; Ghougasian Laurice A
Cc: Lehman Sue; Kall Jason C; Downing Nanette M
Subject: RE: EO Tax Journal 2010 130

I'm not saying this is correct--but there is a perception out there that that is what is happening. My guess is most who conduct political activity never pay the tax on the activity and we surely should be looking at that. Wouldn't that be a surprising turn of events. My object is not to look for political activity --more to see whether self-declared c4s are really acting like c4s. Then we'll move on to c5,c6,c7 --it will fill up the work plan forever!

Lois G. Lerner
Director, Exempt Organizations

From: Kindell Judith E
Sent: Wednesday, September 15, 2010 1:03 PM
To: Lerner Lois G; Chasin Cheryl D; Ghougasian Laurice A
Cc: Lehman Sue
Subject: RE: EO Tax Journal 2010 130

My big concern is the statement " some (c)(4)s are being set up to engage in political activity " - if they are being set up to engage in political campaign act ivity they are not (c)(4)s. I think that Cindy's people are keeping an eye out for (c)(4)s set up to influence political campaigns, but we might want to remind them. I also agree that it is about time to start looking at some of those organizations that file Form 990 without applying for recognition -whether or not they are involved in politics.

From: Lerner Lois G
Sent: Wednesday, September 15, 2010 12:27 PM
To: Chasin Cheryl D; Ghougasian Laurice A; Kindell Judith E
Cc: Lehman Sue
Subject: FW: EO Tax Journal 2010 130

Not sure you guys get this directly. I'm really thinking we d o need a c4 project next year

Lois G. Lerner
Director, Exempt Organizations

From: paul streckfus [mailto:pstreckfus@gmail.com]
Sent: Wednesday, September 1 5, 2010 12:20 PM
To: paul streckfus
Subject: EO Tax Journal 2010 130

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

Email Update 2010-130 (Wednesday, September 15, 2010)
Copyright 2010 Paul Streckfus

Yesterday, I asked, "Is 501(c)(4) Status Being Abused?" I can hardly keep up with the questions and comments this query has generated. As noted yesterday, some (c)(4)s are being set up to engage in political activity, and donors like them because th ey remain anonymous. Some commenters are saying, "Why should we care?", others say these organizations come and go with such rapidity that the IRS would be wasting its time to track them down, others say (c)(3) filing requirements should be imposed on (c)(4)s, and so it goes.

Former IRSer Conrad Rosenb erg seems to be taking a leave them alone view:

"I have come, sadly, to the conclusion that attempts at revocation of these blatantly political organizations accomplish litt le, if anything, other than perhaps a bit of i*n terrorem* effect on some other (usually much smaller) organizations that may be contemplating

similar behavior. The big ones are like balloons squeeze them in one place, and they just pop out somewhere else, largely unscathed and undaunted. The government expends enormous effort to w in one of these cases (on very rare occasion), with little real world consequence. The skein of interlocking 'educational' organizations woven by the fabulously rich and hugely influential Koch b rothers to foster their own financial interests by political means ought to be Exhibit One. Their creations operate with complete impunity, and I doubt that potential revocation of tax exemption enters into their calculations at all. That's particularly true where dedu ctibility of contributions, as with (c)(4)s, is not an issue. Bust one, if you dare, and they'll just finance another with a different name. I feel for the IRS's dilemma, especially in this wildly polarized election year."

A number of individuals said the requirements for (c)(4)s to file the Form 1024 or the Form 990 are a bit of a muddle. My understanding is that (c)(4)s need not file a Form 1024, but generally the IRS won't accept a Form 990 without a Form 1024 be ing filed. The result is that attorneys can create new (c)(4)s every year to exist for a short time and never file a 1024 or 990. However, the IRS can claim the organization is subject to tax (assuming it becomes aware of its existence) and then the organization must prove it is exempt (by essentially filing the information required by Form 10 24 and maybe 990). Not being sure of the correctness of my understanding, I went to the only person who may know more about EO tax law than Bruce Hopkins, and got this response from Ma rc Owens:

"You are sort of close. It's not quite accurate to state that a (c)(4) 'need not file a Form 1024.' A (c)(4) is not subject to IRC 508, hence it is not required to file an application for tax exempt status within a particular period of time after its formation. Such an organization is subject, however, to Treas. Reg. Section 1.501(a) 1(a)(2) and (3) which set forth the general requirement that in order to be exempt, an organization must file an application, but for which no particular time period is specified. Once a would be (c)(4) is formed and it has completed one fiscal year of life, and assuming that it had revenue during the fiscal year, it is required to file a tax return.

"There is no exemption from the return filing requirement for would be (c)(4)s and failing to file anything is flirting with serio us issues. Obviously, few, if any, organizations elect to file a Form 1120 and so file a Form 990 as an alternative and because it comports with the intended tax exempt status. When such a Form 990 arrives in Ogden, it goes 'unpostable,' i.e., there is no pre existing master file account to which to 'post' receipt of the return.

"Master file accounts for tax exempts are created by Cincinnati when an application is filed, hence no prior application, no master file account and no place for Ogden to reco rd receipt of the subsequent 990. Such unpostable returns are kicked out of the processing system and sent to a resolution unit that analyzes the problem (there are many reasons a return might be unpostable, such as a typo in an EIN). The processing unit might create a 'dummy' master file account to which to post the return, it might correspond with the filing organization to ascertain the correct return to be filed, or it might refer the matter to TE/GE where it would be assi gned to an agent to analyze, essentially instigating the process you describe."

My query today: So where are we? Should the IRS ignore the whole mess? Or should the IRS be concerned with the integrity of the tax exemption system?

I think the IRS needs to keep track of new (c)(4)s as t hey appear. I'm assuming most political ads identify who is bringing them to you. That's true of the ones I've seen. When the IRS can not identify on its master file a new organization engaged in politi cking, it should send a letter of inquiry, saying "Who are you? What is your claimed tax status?" In other words, what I'm saying is that the IRS needs to be more pro active, and not await the filing of a Form 1024 or 990. I recognize that most of these (c)(4)s may have little income if they spend what they take in, but the EO function has never been about generating revenue. If (c)(4) status is being abused, the IRS needs to take action. If the IRS does not have the tools to get at the problems, then we need for Congress to step in and strengthen the filing requirements.

My biggest concern is that these political (c)(4)s are operating in tandem with (c)(3)s so that donors can claim 170 deductio ns. Here the IRS needs to have an aggressive audit program in coordination with the Income Tax Division so that 170 deductions are disallowed if a (c)(3) is being used as a conduit to a (c)(4).

I've probably raised new issues, and I've said nothing about section 527. Anyone who wants to fill in some of the blanks, ple ase do so.

SFC 002164

From: Lerner Lois G
Sent: Monday, June 04, 2012 3:12 PM
To: Stevens Margo
Cc: Paz Holly O
Subject: FW: donor info letter.doc
Attachments: donor info letter.doc

Importance: High

Can you please take a look--she forwarded it to me last week, but I just saw it. See Holly's note about destruction vs. returning--thoughts? Thanks!

Lois G. Lerner
Director of Exempt Organizations

From: Paz Holly O
Sent: Friday, June 01, 2012 9:48 AM
To: Lerner Lois G; Marks Nancy J
Cc: Fish David L
Subject: FW: donor info letter.doc

Attached is the letter to applicants that sent us donor info in response to ou r requests. David and I believe that it is preferable to destroy/delete the donor info rather than return it to the TPs. If we return it, the letter returning it and the attachments (the donor info being returned) become part of the record. Moreover, returning it is challenging in a practical sense because of the various ways orgs have submitted the info (attachment versus embedded in a response to our development letter). We believe P&A will be indifferent as to destruction vs. Returning. Lois, I believe you said you would clear this letter with Margo. Is that correct?

Thanks,

Holly

SFC 002165

Dear Applicant:

On [date], we requested additional information regarding your application for recognition of tax-exempt status under section 501(c)(x). Included in this request for additional information was a request for information concerning donors to your organization.

The information regarding donors was requested in error and was not used in the consideration of your application for tax-exempt status. Accordingly, we have destroyed [or deleted] such information and it will not become part of your application file.

If you have any questions regarding this letter, please contact the person ....

SFC 002166

From: Lerner Lois G
Sent: Thursday, November 01, 2012 7:56 AM
To: Downing Nanette M
Subject: Re: Dual track

I looked at the names of the orgs selected and only one is one that had been in the news. I would like to see the list of the ones not selected. Don't plan to talk about this with Steve. He needs to be outside case selection. He's Commissioner now Lois G. Lerner---------- Sent from my BlackBerry Wireless Handheld

----- Original Message -----
From: Downing Nanette M
Sent: Thursday, November 01, 2012 07:07 AM
To: Lerner Lois G
Subject: Re: Dual track

I plan to call in for the briefing.

The PARC reviewed the research completed by the ROO and the recommendation made by the ROO. I would guess that the ROO and PARC found no indication to susbtantiate the allegation of political activities. And the referal must not have had any specific proof. I will see if I can get an example of one before the call.

Yes a post review will be done. Not sure if I can get the other info. Fran is out with no power. She lives in NJ. But wil I see if I can get something.

Sent using BlackBerry

----- Original Message -----
From: Lerner Lois G
Sent: Wednesday, October 31, 2012 10:14 PM
To: Downing Nanette M
Subject: Dual track

I am briefing Miller at 10. If you can get back to me before then re: my questions, I would greatly appre ciate it. If not, don't worry. My questions On the one pager:
Do you have any sense why of the 88 referrals reviewed by the PARC they only recommended 33 for Exam? Considering the allegations, that surprises me. Were any others selected for compliance che cks or anything? Do you know how many were selected because allegations related to a prior year where the return has already been filed vs orgs with no filing that have been around for over a year? (See step 3b of your memo. to exam mangers) Also, do we kn ow whether they were selected for high or medium priority? Are the ones selected cases from prior years or do we have to wait for a return to come in? Do we plan to do a post review of the PARC decisions?
Thanks
Lois G. Lerner---------- Sent from my BlackBerry Wireless Handheld

SFC 002167

From: Giosa Christopher P
Sent: Thursday, December 06, 2012 11:25 AM
To: Lerner Lois G; Marks Nancy J; Biss Meghan R
Cc: Grant Joseph H
Subject: Political Data
Attachments: Trends in 501(c)(4) Donations 20121206.docx

Lois, Nan, and Meghan,

Here is my opening look at data that might be available on 501(c)(4), 501(c)(5), 501(c)(6) and 527 organizations.

I also received a message from Susan Cunningham at OCA. They seem ready to get involved.

We should probably circle our troops here again to discuss our plan before inviting OCA into the room, but I would hate to miss this opportunity of their offer to help.

My initial suggestion might be to ask their consultants to research the viability these and other data sources and crunch any numbers we may need.

But let's talk first!

Thanks,

Chris

Tax Exempt and Government Entities Division

SEC

Trends in Donations to, and the Political Activities of Certain Nonprofit Corporations
Background on What Data May be Available

Hypothesis

The Supreme Court ruling in *Citizens United v. Federal Election Commission* decided on January 21, 2010 has led to increased donations to, and political activities of nonprofit corporations organized IRC sections 501(c)(4), 501(c)(5), and 501(c)(6).

Citizens United

Prior to 2010, Federal campaign law prohibited corporations and unions from making independent expenditures for speech that is an electioneering communications or for speech that expressly advocates the election or defeat of a candidate. This law was partially overturned by the Supreme Court in *Citizens United v. Federal Election Commission*. Citizens United was a nonprofit corporation organized under IRC section 501(c)(4) which released a film named "Hillary: The Movie" In January 2008. While the Court concluded the film advocated the defeat of a candidate, the Court held that barring corporations from making independent expenditures and electioneering communications is an unconstitutional burden on the right to free speech.

Impact Determination

- What are the trends in the number of each type of exempt organization conducting political activities – 501(c)(4), 501(c)(5), 501(c)(6), and 527? Does the number vary with election cycle?
- What are the trends of how many of these organizations affiliate themselves with specific political parties and specific issues?
- What are the trends in total contributions (number of contributions and dollar amount) to these organizations? How do contributions vary with election cycle?
- What are the trends in number and dollar amount of contributions to these organizations by donor type – e.g. individual, corporation etc.
- How has the size of the contributions changed by donor type and by type of organization? How do they vary with election cycle?
- How has the activity type of organizations changed – those that are mostly advocate for or against an issue versus those that advocate for or against candidates?
- What are the trends in total expenditures of section 501(c)(4), 501(c)(5) and 501(c)(6) organizations compared with their expenditures targeted in support of political activity?
- How has more specific expenditure activities of the organizations changed – e.g. expenditures on television media buys versus other expenditure activities.

IRS Data

Form 990 Schedule B

Any organization that received during the year contribution of money or property, whether for charitable purpose or not, of $5,000 or more from any one contributor is required to complete Form 990 Schedule B, *Schedule of Contributors*. This included IRC section 501(c)(4) social welfare organizations, section 501(c)(5) labor organizations, and section 501(c)(6) business leagues among those that must report their large donors to the IRS. Organizations should itemize the name of the donor, the donor's address, contribution amount, and if noncash, a description of the property given for each gift of $5,000 or more on Schedule B. Organizations should indicate that they file Schedule B on Part IV of their Form 990 which is open to public disclosure. While information on Form 990 indicating whether an organization filed Schedule B is transcribed, no information from the Schedule B is transcribed or open to public disclosure.

Questions

- Form 990-EZ does not have a comparable checkbox for the organization to indicate it is attaching Schedule B. Do we have a transcribed indicator for paper Form 990 -EZ filers they attached a Schedule B.
- How many IRC section 501(c)(4) organizations file annually and how many of those file electronically?
- How many IRC section 501(c)(5) organizations file annually and how many of those file electronically?
- How many IRC section 501(c)(6) organizations file annually and how many of those file electronically?
- Is electronically-filed Schedule B information readily available for anal ysis?

Political Organizations

Political organizations organized under IRC section 527 are generally a party, committee or association that is organized and operated primarily for the purpose of influencing the selection, nomination or appointment of any individual to any federal, state or local public office, or office in a political organization. All political committees that register and file reports with the Federal Election Commission are 527 organizations, but not all 527 organizations are required to file with the FEC if there primary purpose is not the election of candidates. Those organizations not required to file with the FEC should reports with the IRS. These political organizations may have to file one or m ore forms with the IRS – Form 1120-POL, Form 8871, and Form 8872. These forms may assist in identif ying the universe of political organizations and in the case of Form 8872, offer information on donations.

Form 1120-POL

A political organization with political taxable income is required to file Form 1120 -POL, *U.S. Income Tax Return for Political Organiz ations*. Exempt function income, which generally includes contributions, membership dues, fundraising proceeds and other items related to the

organization's exempt function, is not included in political taxable income. While most of the items of income, deductions, and tax on the Form 1120-POL are transcribed, organizations do not report exempt function income on the form.

For 2012, 6,543 Forms 1120-POL have been filed with the IRS through December 2, 2012. Only 59 have been filed electronically.

Form 8871
Some political organizations are required to file Form 8871, *Political Organization Notice of Section 527 Status* when they are established. This form is open to public disclosure. For calendar year 2012 through December 3, 2012, 2,724 Forms 8871 hav e been made available on the IRS web site. Electronically-filed forms and scanned images of forms filed on paper are available on the IRS web site.

Form 8872
Unless one of several exceptions applies, a tax-exempt section 527 political organization must file for Form 8872, *Political Organizations Report of Contributions and Expenditures* . Organizations itemize the name, address, and contribution amount from any donor whose aggregate contribution was at least $200 during the calendar year. Organizations must also list recipients to whom it made expenditures during the calendar year of at least $500 along with the purpose of the expenditure. This form is open to p ublic expenditure. For calendar year 2012 through December 3, 2012, 975 Forms 8872 had been added to the IRS web site. Organizations with contributions or expenditures exceeding $50,000 are required to file electronically.

Questions
- Is the electronically filed data in a format that can be readily used for analysis?
- Do political organizations without political taxable income typically file Form 1120 -POL or not?
- Once you run a search and view the form for an organization, you cannot return to your search to view another organization. One must go back re-enter the search criteria. Can we fix that?

Federal Election Commission

As noted above, many political organizations file reports with the Federal Election Commission (FEC). Political organization that file reports with the FEC are generally not required to file Form 8872 with the IRS. Part of the FEC's mission is to disclose campaign finance information. Information filed with the FEC is available at www.FEC.gov at their Campaign Finance Disclosure Portal. The website has a lot of data available for download including on individual contributions and organization expenditures.

Individuals, groups, corporations, unions, that do not create committees but make independent expenditures using their own funds should file reports with the FEC. These

Independent Expenditures reports include detailed information about the expenditures and may include information about donations made to pay for the expenditures. In addition to making independent expenditures, groups that are not PACs may make electioneering communications under *Citizens United.* Electioneering communications are broadcast ads (radio, television, cable or satellite) sponsored by individuals or groups that are not political committees (i.e. not campaigns, PACs or parties) within 30 days of a primary election or 60 days of the general election that make reference to a federal candidate and are targeted to that candidate's electorate. (Unlike independent expenditures, electioneering communications don't advocate a candidate's election or defeat.) In general, each time a 501(c)(4), 501(c)(5), 501(c)(6) and 527 organization not subject to FEC political committee reporting, spends in aggregate in excess of $10,000 on electioneering communications in calend ar year, the organization must report to the FEC the amount and identity of the entity to which each disbursement of more than $200 was made in connection with the electioneering communication. Any donations made specifically to pay for these communications will also be disclosed if they meet certain thresholds.

The Department of Labor

The Department of Labor requires labor organizations to disclose annually any contributor giving $5,000 or more within a 12-month reporting period including the purpose, date, and the amount of contribution. Labor organizations must also disclose annually the recipients of political disbursements intended to influence elections, appointments and referenda. For each disbursement in excess of $5,000, the purpose, date, and amount of the disbursement must also be disclosed. Union annual financial reports can be found at www.union-reports.dol.gov.

Third-Party Data

The Center for Responsible Politics provides data at www.OpenSecrets.org they downloaded and archived from the FEC and IRS. The data can be readily downl oaded for non-commercial use in exchange for attribution. They have segregated the data in some interesting ways. They provide lists of organizations contributing and expending funds by various categories. Some receipts and expenditures are delineated a s Federal focused and then further broken down by "industry" – e.g. Republican/Conservative, Democratic/Liberal, Unions, Women's Issues, Human Rights, Pro-Choice, Hospitals, etc.

The Center for Responsible Politics also shares some of their research on the OpenSecrets.org web site, include a look at the impact of *Citizens United.* Some of their findings include:

- The percentage of spending coming from groups that do not disclose their donors has risen from **1 percent** to **47 percent** since the 2006 midterm elections
- Section 501(c) non-profit spending increased from **zero** percent of total spending by outside groups in 2006 to **42 percent** in 2010.
- **Seventy-two percent** of political advertising spending by outside groups in 2010 came from sources that were prohibited from spending money in 2006

From: Lerner Lois G
Sent: Tuesday, December 18, 2012 4:41 PM
To: Downing Nanette M
Subject: Another Scary Situation
Attachments: SecureZIP Attachments.zip

Take a look at the two letters attached. Steve Clarke brought to my attention that EOCA was getting ready to make calls to orgs that had not responded to the Group Ruling Questionnaire and then send out letters. I had no clue they actually called everyon e that doesn't respond. In the past the number of non-responders has been small, so it was doable, but I am concerned there may be a much larger number and I don't think we should be making a lot of calls. Steve tells me we have 100 outstanding responses at this point. But they don't think like that--they just do whatever they've always done. No one even raises the issue about whether this is different so we might want to take a different tact.

I asked to see the letter they are sending and Steve gave me the attached copy. As you can see, it is totally inappropriate for this compliance check --it's the letter you would send on a " true" compliance check relating to specific questions on the 990. To begin with, it tells the person to send their questionnaire response in to a mail box. As the questionnaire can only be completed on-line, it is impossible to do. It also sounded very threatening to me. In any event, I've asked Steve to draft a new letter focusing on letting them know they should fill it out to avoid being referred for possible exam. As we have no planned exams for this project, no one will be examined unless they don't fill it out. I told him to provide an option for cases where we will be doing some exams, but those who don't fill i t out will be referred for possible exam.

I have also made changes to Steve's draft. take a look and give us your thoughts. It will, of course, have to go through the approval process and get a number. Steve tells me he told them I don't like the letter because it isn't reflective of what we're doing. The response he got was they know it's a little harsh, but for the sake of efficiencies they just want to use the same letter in all cases.

I don't even know what to say. Obviously, these folks have very little ability to apply any judgment. I don't care how efficient it is --it doesn't make sense to the TP getting it. Not only that, but in this very sensitive area, it could result in calls from Congress people. How would I respond to those calls? You asked earlier why R & A folks weren't steering exam folks in the right direction? Well, here's a situation where Steve tried and got a pointy headed bureaucratic response. Steve is not their manager. I'm not really sure where Exam management is on the projects. They aren't reporting to you about the progress --who are they reporting to? Who, in Exam, is responsible for oversight of the projects? More and more I'm feeling like it's me, and that doesn't work. You wouldn't know any of this if I weren't telling you about it.

I think you need to plan on coming up here after the New Year. We have several very sensitive matters on-going and more being developed. We need to figure out how to get a handle on this so we don't get ourselves in trouble.

Lois G. Lerner
Director of Exempt Organizations

From: Clarke Stephen M
Sent: Tuesday, December 18, 2012 3:51 PM
To: Lerner Lois G
Cc: Giuliano Matthew L; Fish David L
Subject: Group Rulings Questionnaire Follow Up No Response Letter revised 12/18

Lois,

I've attached both the revised follow-up letter for Group Return Questionnaire non-responders (with today's revisions highlighted) and the standard follow-up letter that EOCA mails for compliance check follow-ups.

I'm also copying Matthew and David so they can review the revised follow-up letter.

Please let me know if you need any further information or edits.

Steve

From: Lerner Lois G
Sent: Monday, December 17, 2012 1:48 PM
To: Clarke Stephen M
Subject: RE: Group Rulings Questionnaire Follow Up No Response Letter revised letter

Can I see the original letter we send with the questionnaire please?

Lois G. Lerner
Director of Exempt Organizations

From: Clarke Stephen M
Sent: Monday, December 17, 2012 1:40 PM
To: Lerner Lois G
Subject: Group Rulings Questionnaire Follow Up No Response Letter revised letter

Lois,

There isn't any language in the original follow-up letter about the organization not being required to complete the questionnaire. So I used language from Pub. 4386 in the following new paragraph that I've inserted in the attached, revised letter:

"Although your organization may refuse to complete the compliance check questionnaire without penalty, we have the option of opening a formal examination, whether or n ot your organization agrees to complete the questionnaire. For more information on compliance checks, see the attached Publication 4386, *Compliance Checks*."

Please let me know whether you'd like me to make any further changes. Should I forward this on to EOCA (which would then forward it on to CE&O and Publishing for approval), or would you like anyone else to review it?

Thanks,

Steve

From: Lerner Lois G
Sent: Friday, December 14, 2012 5:19 PM
To: Clarke Stephen M
Subject: RE: Group Rulings Questionnaire letter 3854 Follow Up No Response (Rev 3 2007)

Please add in something reminding them that while they are not required to complete the questionnaire, they may be referred for exam if they don't==whatever the language in the original letter is. thanks

Lois G. Lerner
Director of Exempt Organizations

From: Clarke Stephen M
Sent: Friday, December 14, 2012 9:14 AM
To: Lerner Lois G
Subject: RE: Group Rulings Questionnaire letter 3854 Follow Up No Response (Rev 3 2007)

Lois,

I've attached a draft, revised version of the follow-up letter for your review. We might be able to turn this into a form letter we could use for future compliance check questionnaires (e.g., self-declarers) as well.

Regards,

Steve

From: Lerner Lois G
Sent: Thursday, December 13, 2012 12:17 PM
To: Clarke Stephen M
Subject: RE: Group Rulings Questionnaire letter 3854 Follow Up No Response (Rev 3 2007)

OMG!!!! This letter might be appropriate for a regular compliance check --not even sure that's true--but certainly not for one we where we told them on the questionnaire that they don't have to fill it out!!!! Yikes--thanks Steve. I'll forward on to Nan and we'll see where to go from here. None of these should go! In the meantime, can you please take a crack at drafting something we'd want to send? I assume you are working from home today --I called and left you a message to send me the latest draft on c456 to send to Nikole. I found the last one we sent and sent again. When you get in, you need to change your out of office message --it is out of date.

Lois G. Lerner
Director of Exempt Organizations

SFC 002175

From: Clarke Stephen M
Sent: Thursday, December 13, 2012 11:55 AM
To: Lerner Lois G
Subject: Group Rulings Questionnaire letter 3854 Follow Up No Response (Rev 3 2007)

Lois,

Next week, EOCA is planning to begin contacting organizations that received the group rulings questionnaire, but hav e not yet responded, as it's now been 60 days since EOCA sent the first batch of letters. EOCA's plan is to initially make phone calls, then send letters to organizations that it is unable to reach by phone. I asked EOCA to send me the follow -up letter they plan to send (see attached). This is a generic letter that is apparently used for follow -up on all compliance checks, but it strikes me as being a little harsh for our questionnaire and somewhat misleading. For instance, it includes the following statements:

"We need the information in order to reach a decision regarding that issue."

"Failure to comply with our request for information could result in the loss of your tax -exempt status."

"If you fail to reply by the above date, we will forward your case for examination consideration."

This is an optional questionnaire, but these statements make it sound like it's mandatory, and that the organization will get in trouble if it fails to respond. I s that the kind of message we want to send?

I asked EOCA if the language can be changed, but apparently it cannot be (without creating an entirely new letter) because its a numbered letter. So we have a few options: (1) allow EOCA to follow standard p rocedures and send out this letter to nonresponders that it cannot reach by phone; (2) develop a new letter, which I think would need to go through Publishing for approval; or (3) ask EOCA to follow up only by phone calls, not by letter. What course would you prefer to take?

Thanks,

Steve

From: Johansen Ryan J
Sent: Thursday, December 13, 2012 10:20 AM
To: Clarke Stephen M
Cc: Johansen Ryan J; Hanks Justin D; Griffiths Margo M
Subject: FW: 3854 Follow Up No Response (Rev 3 2007)

Steve,

This would be the letter that we issue to those who do not response. Unfortunately, it is a numbered letter so it can not be changed. If you feel very strongly about having a softer letter, then we would need to get something submitted for approval. With the holidays, I really don't know how long this could take. We will start making follow ups next week so if this is what you want we will need to act right away.

As Margo points out below, our first attempt is to contact the EO via phone. I can't say how many we will have to issue letters as this type of questionnaire is pretty new territory for us.

Thanks,

Ryan Johansen

Acting Group Manager

EO Examinations, Group 7985

SFC [redacted]

[redacted]

From: Griffiths Margo M
Sent: Thursday, December 13, 2012 7:24 AM
To: Johansen Ryan J
Subject: RE: 3854 Follow Up No Response (Rev 3 2007)

Hi!

This letter is generic & used for all compliance checks. We rarely send it, since we generally try to call, if possible. The language is intentionally strong, because we want the organization to respond. The situations with these particular questionnaires may not fit the letter, but at this point it's what we have & we can't change it. If they want a new letter, we can draft one & send it for approval.

margo

From: Johansen Ryan J
Sent: Wednesday, December 12, 2012 3:48 PM
To: Griffiths Margo M
Subject: FW: 3854 Follow Up No Response (Rev 3 2007)

Margo,

Is L3854 the correct letter for questionnaire no responses? I looked through the letters and it seemed to be the best fit but I'm not 100% sure. I know that we can't change the letter, I just want to make sure that I referenced the correct one.

Thanks,

Ryan Johansen

Acting Group Manager

EO Examinations, Group 7985

SFC [redacted]

[redacted]

From: Clarke Stephen M
Sent: Wednesday, December 12, 2012 2:54 PM
To: Johansen Ryan J
Subject: RE: 3854 Follow Up No Response (Rev 3 2007)

Ryan,

Thanks for forwarding this on. It looks good overall, but there are a few sentences that are problematic because they suggest that we believe the organization is noncompliant, that responses to the questionnaire are mandatory, and/or that the IRS will take punitive action against the organization if it does not submit responses:

--in the first paragraph, "We need the information in order to reach a decision regarding that issue." isn't true. It's not like we need their responses to reach any kind of decision on any particular issue. Also, it sounds slightly threatening.

--in the second paragraph, "Failure to comply with our request for information could result in the loss of your tax-exempt status." is also misleading. We don't currently have any exams planned for this project, let alone any plans to revoke exempt status just because they don't respond to an optional questionnaire. Also, it sounds very threatening.

--in the fifth paragraph (last paragraph on page 1), "If you fail to reply by the above date, we will forward your case for examination consideration." is not necessarily true. We may or may not consider these non-responders for exam--I don't think Lois and Nan have made that decision yet.

Otherwise, it looks fine.

Is there any way to delete these sentences from the follow -up letter for no-responders before EOCA mails it out?

Thanks,

Steve

From: Johansen Ryan J
Sent: Wednesday, December 12, 2012 2:55 PM
To: Clarke Stephen M
Subject: 3854 Follow Up No Response (Rev 3 2007)

This is our generic no response letter that we use for our questionnaires.

Thanks,

Ryan

SFC 002179

[Compliance Check Questionnaire Follow -Up Letter; on IRS letterhead]

[organization's name and address]

[date]
[contact person/ID number: /]
[contact phone numbers:]
[response due date:]

Employer identification number:
Tax period(s):
Re: [Group Rulings Questionnaire]

Dear Sir or Madam:

We recently asked your organization to complete a [Group Rulings Questionnaire], but we have not yet received your responses to the questionnaire. Although your organization may choose not to complete and submit the questionnaire, we may refer your organization for an examination if it does not do so.

[To avoid the possibility of being referred for examination], we encourage you to respond to the questionnaire on-line, using the instructions provided in the enclosed copy of the questionnaire letter we sent to you earlier. You can access the questionnaire at www.IRS.gov/charities. First click on the [Group Rulings Questionnaire] link, then click on the [click here to complete questionnaire] link. You can view the questionnaire by clicking on the [click here to view and print out a reference -only copy of the questionnaire] link.

Also, in the spaces below, please provide the name, title, and telephone number of an officer of your organization whom we can contact about the questionnaire, and the most convenient time for us to call this officer.

Name of officer: **Title:**
Telephone number: **Best time to contact:**

If you have any questions, please contact the person named in the heading of this letter. For more information on compliance checks, see the attached Publication 4386, *Compliance Checks*.

To receive Exempt Organizations' EO Update, an e-mail newsletter with information for tax-exempt organizations and tax practitioners who represent them, go to www.irs.gov/charities and click on "EO Update."

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures: **Copy of questionnaire letter**
Publication 4386, *Compliance Checks*

SFC 002180

IRS

Department of the Treasury
Internal Revenue Service
Mail Stop 1112, PO Box 12307
Ogden, UT 84412

Date:

Contact Person/Id Number:
/
Contact Telephone Numbers:
Toll Free 1-877-767-2501
Long Distance 1-801-620-
Response Due Date:

Employer Identification Number:
Tax Period(s):
Form(s):

Dear Sir or Madam:

We recently requested information from your organization regarding a compliance check issue. Unfortunately, we have not heard from you. We need the information in order to reach a decision regarding that issue.

Section 1.6033-2(i)(2) of the Income Tax Regulations provides, in part, that every organization exempt from tax shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status. Failure to comply with our request for information could result in the loss of your tax-exempt status.

Using the instructions below, provide us with the information requested in the enclosed copy of the original letter.

Attach a copy of this letter to the front of the requested informatio n and send the information to us, by the due date shown above, using one of the following methods:

- Mail your reply to the address shown in the heading of this letter.
- Fax your reply to 801-620-3409.

Failure to use the above mailing address or fax number may result in processing delays. If you fail to reply by the above date, we will forward your case for examination consideration. See Publication 4386, *Compliance Checks*.

SFC 002181

Also, in the spaces below, please give us an officer's name, title, telephone number and most convenient time for us to call should we need to speak with someone.

Name of officer: _____ Time: _____

Title: _____ Telephone Number: ( )_____

If you have any questions, contact the person named in the heading of this letter.

To receive Exempt Organizations' EO Update, an e-mail newsletter with information for tax-exempt organizations and tax practitioners who represent them, go to www.irs.gov/charities and click on "EO Update."

Thank you for your cooperation.

Sincerely,

Nanette M. Downing

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 4386
Copy of Original Letter

SFC 002182

Compliance Checks

Examination, Audit or Compliance Check?

Tax Exempt and Government Entities Division

- **What is an examination? What is an audit?**

  An examination is a review of an organization's books and records. In addition an examination may involve the questioning of third parties to determine the organization's tax liabilities. Another term for an examination is an audit.

- **What is a compliance check?**

  A compliance check is a review conducted by the IRS to determine the following:

  - Whether an organization is adhering to recordkeeping and information reporting requirements.
  - Whether an organization's activities are consistent with their stated tax -exempt purpose.

  It is a review of information and forms that we require organizations to fil e or maintain - for example, Forms 990, 990-T, 940, 941, W-2, 1099, or W-4. The check is a tool to help educate organizations about their reporting requirements and to increase voluntary compliance.

  The 990 series of forms are used by tax-exempt organizations, including charities, private foundations and other nonprofit organizations, to provide information required by section 6033 of the Internal Revenue Code, which includes information about their programs and activities. Information on these returns i s generally disclosable to the public as provided by law.

  It should be noted a compliance check is not an examination ; it does not directly relate to determining a tax liability for any particular period.

- **What occurs during a compliance check?**

  At the beginning of a compliance check, we will inform the officer or director that the review is a compliance check and not an examination. We will not ask to examine any books and records or ask questions regarding tax liabilities. We may ask the organization whether they understand or have questions about filing obligations for required forms. We may also ask questions about an organization's activities. If, during a compliance check, we decide an examination is appropriate, we will notify the organization that we are commencing an examination before asking questions related to tax liability.

- **Is there a penalty for refusing to submit to a compliance check?**

  No. The officer or director may refuse to participate in a compliance c heck without penalty. However, we have the option of opening a formal examination, whether or not the organization agrees to participate in a compliance check.

- **How often can the IRS do compliance checks?**

  Because a compliance check only reviews whether a n organization is adhering to record keeping and information reporting requirements and/or whether an organization's activities are consistent with its stated tax-exempt purpose and is not an examination, it is possible to have more than one compliance che ck for a tax year if facts and circumstances warrant.

IRS Department of the Treasury Publication 4386 (4 2006)
Internal Revenue Service Catalog Number 38771G
www.irs.gov

SFC 002183

From: Lerner Lois G
Sent: Friday, December 21, 2012 2:37 PM
To: Megosh Andy
Subject: RE: Senator SEC Issue

Thanks soooo much!

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Megosh Andy
Sent: Friday, December 21, 2012 11:47 AM
To: Lerner Lois G
Subject: RE: Senator SEC Issue

Debbie C. just told me the letter was faxed t SEC. She is the attorney on the Power of Attorney.

Andy

-----Original Message-----
From: Lerner Lois G
Sent: Friday, December 21, 2012 11:26 AM
To: Amato Amy; Barre Catherine M
Cc: Megosh Andy; Paz Holly O
Subject: RE: Senator SEC Issue

I just got in-so will check status--we will notify you.

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Amato Amy
Sent: Friday, December 21, 2012 10:01 AM
To: Lerner Lois G; Barre Catherine M
Cc: Megosh Andy; Paz Holly O
Subject: RE: Senator SEC Issue

SEC

Once you send them, please let me know and I'll close the loop wit SF s staff.

Thanks!

IRS0000185655

-----Original Message-----
From: Lerner Lois G
Sent: Thursday, December 20, 2012 4:20 PM
To: Barre Catherine M; Amato Amy
Cc: Megosh Andy; Paz Holly O
Subject: RE: Senator SEC Issue

Yep.

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Barre Catherine M
Sent: Thursday, December 20, 2012 4:12 PM
To: Lerner Lois G; Amato Amy
Cc: Megosh Andy; Paz Holly O
Subject: Re: Senator SEC Issue

Thank you! If we get you a fax number can they send it by fax?

Sent using BlackBerry

------Original Message------
From: Lois Lerner
To: Amato Amy
Cc: Megosh Andy
Cc: Barre Catherine M
Cc: Paz Holly O
Subject: Senator SEC Issue
Sent: Dec 20, 2012 4:10 PM

Our guys took a real close look at this and we now think it is an approval and will be able to get the letter out tomorrow.

Lois G. Lerner
Director of Exempt Organizations

From: Fish David L
Sent: Friday, March 29, 2013 11:45 AM
To: Marks Nancy J; Daly Richard M
Cc: Lerner Lois G; Paz Holly O; Biss Meghan R; Light Sharon P; Kindell Judith E; Clarke Stephen M; Megosh Andy
Subject: FW: Guidance proposals
Attachments: TEGE guidance proposal - co-investment.doc; Amend 501(c)(4) regulations to include substantial part limitation.doc; 2004-6--2007-41 guidance proposal.doc; 2006-109 successor guidance proposal.doc; Revoke 81-43 guidance proposal.doc; Revoke 75-435 guidance proposal.doc

Attached are new proposals. We did not add anything for carryovers, ACA, or for finishing up supporting organizations. Priority wise:

(1) Amend 501(c)(4) regulations to incorporate substantial part limitation (this is far and away the most important)
(2) 2006-109 successor guidance (this is also critical)
(3) 2004-6/2007-41 combination
(4) Co-investment
(5) Revoke RR 81-43
(6) Revoke RR 75-435

We realize the last two are long shots. However, we believe we should not let guidance sit out there that is blatantly contrary to the statute and/or regulations. Let us know if you have any questions.

TE/GE Published Guidance Suggestion – 2012-2013 PGP

1. Shorthand name people are using to describe project (e.g., Couriers, Collectively Bargained VEBAs, etc.).

Factors that should be considered when determining whether activities constitute political intervention.

2. Description of the issue.

Revenue Rulings 2004-6 and 2007-41 identify the types of factors that should be considered when determining whether activities constitute political intervention. However, 2004-6 seemingly only applies to organizations other than 501(c)(3)'s, and 2007-41 seemingly only applies to 501(c)(3) organizations. Proposed guidance would clarify that the factors in both revenue rulings apply to all types of organizations.

3. Code section(s) involved.

501

4. Why guidance is needed. (Describe as fully as possible why you think we need to issue guidance, e.g., we get a lot of phone calls on the issue, the issue is coming up in audits or litigation, etc.)

Public needs guidance on what constitutes political intervention for purposes of all 501(c) paragraphs and this would clarify that existing guidance applies across the board.

5. Date by which guidance is needed and why needed by that date (e.g., statutory deadline, sunset of temp regs, commitment in other guidance, e tc.)

6. History related to the issue. (Describe relevant history relating to the issue, including whether the issue is currently in inventory (e.g., do we have an underlying PLR, TAM, litigation item that includes this issue), published or pending related guidance, proposed legislation and whether the issue has been previously recommended for published guidance.)

7. Suggested form of the guidance (e.g., regulations, rev. rul., rev. proc., notice, announcement).

Revenue Ruling

8. Potential impact of guidance (e.g., large number of taxpayers affected, big dollars involved, savings of Service resources).

Affects all organizations that engage in political intervention or activities that are not clear may constitute political intervention.

9. Client organization(s) we will need to coordinate with on the issue (e.g., TEGE, SBSE, LMSB, WI, Appeals).

10. Other Associate offices we will need to coordinate with on the issue:

11. Person to contact on the proposal (name and telephone number).

David Fis SFC

12. Any additional comments you would like to make on the suggestion (e.g., is there a more limited scope project that could be done if suggested project can't be done due to resource limitations).

Tentative agreement with Counsel, TEGE, and working level at Treasury for this guidance.

TE/GE Published Guidance Suggestion – 2012-2013 PGP

1. Shorthand name people are using to describe project (e.g., Couriers, Collectively Bargained VEBAs, etc.).

Transitional reliance rules for PF's and DAF's making grants to supporting organizations

2. Description of the issue.

Notice 2006-109 provided reliance rules for PF's and DAF's making grants to supporting organizations. These rules allowed reliance on grantee affidavits and opinions of counsel, because at the time of PPA enactment what was then Pub. 78 did not track 509(a)(3) status or SO type. Our systems now can track 509(a)(3) status and SO type. Notice 2006-109 expired when final SO regulations were issued.

3. Code section(s) involved.

4945, 4966

4. Why guidance is needed. (Describe as fully as possible why you think we need to issue guidance, e.g., we get a lot of phone calls on the issue, the issue is coming up in audits or litigation, etc.)

The general rule going far back to the inception of former Pub. 78 was that the public could rely on ***an IRS determination***. The same rule should apply for SO status and type. There is a huge amount of public misunderstanding as to the reliance rules generally and why the IRS promulgated Notice 2006-109. Transitional reliance rules are necessary to bridge the gap between the expiration of Notice 2006-109 and making SO's subject to the reliance rules that are applicable to ***all other 501(c)(3) organizations.***

5. Date by which guidance is needed and why needed by that date (e.g., statutory deadline, sunset of temp regs, commitment in other guidance, etc.)

Notice 2006-109 has expired. Taxpayers are still erroneously relying on those procedures.

6. History related to the issue. (Describe relevant history relating to the issue, including whether the issue is currently in inventory (e.g., do we have an underlying PLR, TAM, litigation item that includes this issue), published or pending related guidance, proposed legislation and whether the issue has been previously recommended for published guidance.)

7. Suggested form of the guidance (e.g., regulations, rev. rul., rev. proc., notice, announcement).

Revenue Procedure

8. Potential impact of guidance (e.g., large number of taxpayers affected, big dollars involved, savings of Service resources).

Affects all SO's that wish to receive grants.

9. Client organization(s) we will need to coordinate with on the issue (e.g., TEGE, SBSE, LMSB, WI, Appeals).

10. Other Associate offices we will need to coordinate with on the issue:

11. Person to contact on the proposal (name and telephone number).

David Fis SFC

12. Any additional comments you would like to make on the suggestion (e.g., is there a more limited scope project that could be done if suggested project can't be done du e to resource limitations).

Guidance is drafted and has been vetted in TEGE and Counsel.

TE/GE Published Guidance Suggestion – 2012-2013 PGP

1. Shorthand name people are using to describe project (e.g., Couriers, Collectively Bargained VEBAs, etc.).

Amend 501(c)(4) regulations to include substantial part limitation on non -social welfare activities

2. Description of the issue

While courts have applied the "the presence of a single non-[exempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly [exempt] purposes" holding to the mea ning of exclusively under §501(c)(3) (*e.g., IHC Health Plans, Inc. v. Commissioner*, 325 F.3d 1188, 1194 (10th Cir. 2003); *St. David's Health Care System v. United States,* 349 F.3d 232, 237 (5th Cir. 2003)); and §501(c)(4) (*e.g., Commissioner v. Lake Forest*, 305 F.2d 814, 820 (4th Cir. 1962); *Contracting Plumbers v. United States*, 488 F.2d 684, 686 (2d Cir. 1973)), the language of the §501(c)(3) and §501(c)(4) regulations are not consistent.

The language of §501(c)(4) regulations should be revised to be consistent with the statute and how the same language is interpreted in §501(c)(3) and the court decisions, e.g., an organization will not be described in 501(c)(4) if more than an insubstantial part of its activities is not in furtherance of its exempt purpo se.

3. Code section(s) involved

501(c)(4)

4. Why guidance is needed. (Describe as fully as possible why you think we need to issue guidance, e.g., we get a lot of phone calls on the issue, the issue is coming up in audits or litigation, etc.)

The existing regulations need to be clarified as to the standard to be applied to the non - exempt purpose activity of 501(c)(4) organizations. Significant congressional and public interest.

5. Date by which guidance is needed and why needed by that date (e.g. , statutory deadline, sunset of temp regs, commitment in other guidance, etc.)

6. History related to the issue. (Describe relevant history relating to the issue, including whether the issue is currently in inventory (e.g., do we have an underlying PLR , TAM, litigation item that includes this issue), published or pending related guidance, proposed

legislation and whether the issue has been previously recommended for published guidance.)

7. Suggested form of the guidance

Revised Regulations

8. Potential impact of guidance (e.g., large number of taxpayers affected, big dollars involved, savings of Service resources).

9. Client organization(s) we will need to coordinate with on the issue (e.g., TEGE, SBSE, LMSB, WI, Appeals).

10. Other Associate offices we will need to coordinate with on the issue:

11. Person to contact on the proposal (name and telephone number).

Andy Megos SFC
David Fis SFC

12. Any additional comments you would like to make on the suggestion (e.g., is there a more limited scope project that could be done if suggested project can't be done due to resource limitations).

TE/GE Published Guidance Suggestion – 2012-2013 PGP

1. Shorthand name people are using to describe project (e.g., Couriers, Collectively Bargained VEBAs, etc.).

Revoke Rev. Rul. 75-435

2. Description of the issue.

170(b)(1)(A)(vi) organizations must receive a substantial part of their support from a "governmental unit referred to in section 170(c)(1)" or from the general public. Revenue Ruling says organization is described in 170(b)(1)(A)(vi) that received a substantial part of its support from a foreign government. 170(c)(1) defines governmental unit as states or United States or possessions or political subdivisions thereof. It does not include foreign governments.

3. Code section(s) involved.

170(b)(1)(A)(vi); 170(c)(1)

4. Why guidance is needed. (Describe as fully as possible why you think we need to issue guidance, e.g., we get a lot of phone calls on the issue, the issue is coming up in audits or litigation, etc.)

Revenue ruling is contrary to statute. Later issued GCM points out the error.

5. Date by which guidance is needed and why needed by that date (e.g., statutory deadline, sunset of temp regs, commitment in other guidance, etc.)

6. History related to the issue. (Describe relevant history relating to the issue, including whether the issue is currently in inventory (e.g., do we have an underlying PLR, TAM, litigation item that includes this issue), published or pending related guidance, proposed legislation and whether the issue has been previously recommended for published guidance.)

ACT report suggested that we confirm that the revenue ruling is correct and pointed out the contrary GCM. There is considerable uncertainty in the sector. Given that the ruling is clearly in conflict with the statute, it would give clear guidance to the sector to revoke the ruling. No other guidance is necessary.

7. Suggested form of the guidance (e.g., regulations, rev. rul., rev. proc., notice, announcement).

8. Potential impact of guidance (e.g., large number of taxpayers affected, big dollars involved, savings of Service resources).

9. Client organization(s) we will need to coordinate with on the issue (e.g., TEGE, SBSE, LMSB, WI, Appeals).

10. Other Associate offices we will need to coordinate with on the issue:

11. Person to contact on the proposal (name and telephone number).

David Fis SFC [redacted]

12. Any additional comments you would like to make on the suggestion (e.g., is there a more limited scope project that could be done if suggested project can't be done due to resource limitations).

GCM 38327--Upon reconsideration, it is our tentative conclusion that the position set forth in G.C.M. 36115 and Rev. Rul. 75-435 is incorrect and should be reversed. The most obvious problem is that neither the statute nor the regulations provide direct support for the position. The statute looks only to support by section 170(c)(1) domestic governmental units.

TE/GE Published Guidance Suggestion – 2012-2013 PGP
Draft of 19 March 2012, 1100 hrs

1. Shorthand name people are using to describe project (e.g., Couriers, Collectively Bargained VEBAs, etc.).

Revenue Ruling 81-43 Revocation

2. Description of the issue.

Whether a group of separate funds that satisfy the requirements for treatment under Reg. §1.170A-9(f)(11) as a single, aggregated entity, may be classified as a supporting organization to a separate publicly supported organization.

Rev. Rul. 81-43 concludes that—

> The *M* community trust, under the circumstances described above, is a supporting organization described in section 509(a)(3) of the Code and thus is not a private foundation.

The statement of facts in Rev. Rul. 81-43 begins—

> M is exempt from federal income tax under section 501(c)(3) of the Code and *is a community trust* described in section 1.170A-9(e)(11) of the Income Tax Regulations. *M does not qualify as a publicly supported organization described in sections 170(b)(1)(A)(vi) and 509(a)(1).* S is a 'community chest' operating in Z city and is a publicly supported organization described in sections 170(b)(1)(A)(vi) and 509(a)(1). (Emphasis added.)

The statement of facts goes on to say that the taxpayer's purpose is to hold permanently endowed charitable funds for use in a stated geographic area and to distribute its income to support tax-exempt public charities located in that geographical area that are described in § 509(a)(1) or (2). A majority of the taxpayer's trustees are appointed by the governing body of the publicly supported organization that created taxpayer, which is one of the tax-exempt public charities located in the stated geographic area.

The "law and analysis" portion of Rev. Rul 81-43 focus on the rules for qualifying as a supporting organization under §509(a)(3) relationship of the taxpayer to the publicly supported charitable organization that created the taxpayer and whether the taxpayer satisfying the requirement that its governing instrument name its supported organizations. Rev. Rul. 81-43 does not analyze the aggregation rules of the section 170 regulations, nor does it apply those rules to the taxpayer. Rather, Rev. Rul. 81-43 simply states as a fact that the taxpayer is a community trust.

3. Code section(s) involved.

170(b)(1)(A)(vi)
509(a)(3)

4. Why guidance is needed. (Describe as fully as possible why you think we need to issue guidance, e.g., we get a lot of phone calls on the iss ue, the issue is coming up in audits or litigation, etc.)

The aggregation rules of Reg. §1.170A-9(f)(11) are special rules that allow a group of commonly controlled, separate charitable entities to be considered as a single entity for purposes of determin ing whether the single entity satisfies 170(b)(1)(A)(vi). Organizations that do satisfy the aggregation rules are referred to as "community trusts" for purposes of these regulations. These special community trust aggregation rules are intended only for purposes of applying the public support tests. They are not intended to, and do not, apply in the context of classifying an organization as a section 509(a)(3) supporting organization. Describing the taxpayer in Rev. Rul. 81-43 as a community trust described in the §170 regulations implies that the community trust rules can be employed in connection with a status determination under §509(a)(3), which it cannot.

5. Date by which guidance is needed and why needed by that date (e.g., statutory deadline, sunset of temp regs, commitment in other guidance, etc.)

6. History related to the issue. (Describe relevant history relating to the issue, including whether the issue is currently in inventory (e.g., do we have an underlying PLR, TAM, litigation item that includes this issue), published or pending related guidance, proposed legislation and whether the issue has been previously recommended for published guidance.)

We have issued one PLR based on this erroneous ruling, and another PLR based on the revenue ruling is being withdrawn on separate grounds.

7. Suggested form of the guidance (e.g., regulations, rev. rul., rev. proc., notice, announcement).

Revoke revenue ruling

8. Potential impact of guidance (e.g., large number of taxpayers affected, bi g dollars involved, savings of Service resources).

9. Client organization(s) we will need to coordinate with on the issue (e.g., TEGE, SBSE, LMSB, WI, Appeals).

This should be of interest only to the EO division of TE/GE and the TEGE division of Chief Counsel.

10. Other Associate offices we will need to coordinate with on the issue:

None.

11. Person to contact on the proposal (name and telephone number).

David Fis SFC [redacted] 9 (or Mike Repas SFC [redacted]).

12. Any additional comments you would like to make on the suggestion (e.g., is there a more limited scope project that could be done if suggested project can't be done due to resource limitations).

No.

TE/GE Published Guidance Suggestion – 2012-2013 PGP

1. Shorthand name people are using to describe project (e.g., Couriers, Collectively Bargained VEBAs, etc.).

Co-investment organizations.

2. Description of the issue

The foundation's transfer of property to a disqualified person partnership in exchange for a partnership interest, or transfer of a partnership interest in exchange for property (a redemption), constitutes a "sale or exchange" for purposes of §4941 and therefore is self-dealing.

3. Code section(s) involved

4941

4. Why guidance is needed. (Describe as fully as possible why you think we need to issue guidance, e.g., we get a lot of phone calls on the issue, the issue is coming up in audits or litigation, etc.)

To correct previously issued PLRs and provide transition relief.

5. Date by which guidance is needed and why needed by that date (e.g., statutory deadline, sunset of temp regs, commitment in other guidance, etc.)

6. History related to the issue. (Describe relevant history relating to the issue, including whether the issue is currently in inventory (e.g., do we have an underlying PLR, TAM, litigation item that includes this issue), published or pending related guidance, proposed legislation and whether the issue has been previously recommended for published guidance.)

- Approximately 20 previous private letters rulings and field service advice over the course of 22 years were issued in error stating that such transaction, for various reasons, was not self - dealing.
- We have 16 pending ruling requests
- Other private foundations that did not receive a private letter ruling may have relied on the prior issued rulings.

7. Suggested form of the guidance

notice.

8. Potential impact of guidance (e.g., large number of taxpay ers affected, big dollars involved, savings of Service resources).

9. Client organization(s) we will need to coordinate with on the issue (e.g., TEGE, SBSE, LMSB, WI, Appeals).

10. Other Associate offices we will need to coordinate with on the issue:

11. Person to contact on the proposal (name and telephone number).

Ward Thoma SFC
Lee Phau SFC

12. Any additional comments you would like to make on the suggestion (e.g., is there a more limited scope project that could be done if sugge sted project can't be done due to resource limitations).

SFC 002199

From: Lerner Lois G
Sent: Thursday, April 25, 2013 8:06 AM
To: Thomas Cindy M
Cc: Paz Holly O; Seto Michael C
Subject: Not Sure I was clear

Need to get the application thru screening right away and up to R and A. Under regular procedures, R and A will look at the expedite and respond. Would like it today, if possible. Thanks Lois G. Lerner ---------- Sent from my BlackBerry Wireless Handheld

SFC 002200

From: Marx Dawn R on behalf of Lerner Lois G
Sent: Tuesday, May 14, 2013 3:36 PM
To: Paz Holly O; Marks Nancy J; Light Sharon P
Cc: Lerner Lois G
Subject: FW: Letter to Director Lerner
Attachments: 2013-05-14 DEI & Jordan to Lerner-IRS - conservative groups due 5-17.pdf

This just came from Cathy.

From: Barre Catherine M
Sent: Tuesday, May 14, 2013 4:19 PM
To: Lerner Lois G; Sterner Christopher B; Miller Steven T; Flax Nikole C; Vozne Jennifer L
Subject: Fw: Letter to Director Lerner

Sent using BlackBerry

From: Blase, Bria [redacted]
Sent: Tuesday, May 14, 2013 03:52 PM Eastern Standard Time
To: Barre Catherine M
Subject: Letter to Director Lerner

Hi Cathy

Attached is a letter from Chairmen Issa an d Jordan to Lois Lerner. The letter requests a briefing from Ms. Lerner tomorrow. Please confirm receipt of the letter and let me know if you have any questions.

Thanks,
Brian

Brian Blase
Senior Professional Staff Member
Oversight and Government Reform Committee
Darrell E. Issa, Chairman
[redacted]

SFC 002201

DARRELL E. ISSA, CALIFORNIA
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RON DeSANTIS, FLORIDA

LAWRENCE J. BRADY
STAFF DIRECTOR

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6143

Majority (202) 225-5074
Facsimile (202) 225-3974
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May 14, 2013

Ms. Lois G. Lerner
Director, Exempt Organizations Division
Internal Revenue Service
11 Constitution Avenue, NW, Room 3000
Washington, D.C. 20224

Dear Ms. Lerner:

The revelation that IRS targeted hundreds of conservative groups for additional scrutiny of their applications for tax-exempt status is startling. The actions of the IRS are unconscionable and appalling. All groups, regardless of political ideology, have the right to free speech, free expression, and equal treatment by their government. In addition to IRS's admission of serious wrongdoing, we are concerned that information you have provided to the Committee related to this matter on prior occasions was false or misleading. We write to request your immediate cooperation with the Committee's oversight of IRS's efforts to single out conservative groups applying for tax exempt status for additional, and seemingly unprecedented, scrutiny.

According to information provided to the Committee by the Treasury Inspector General for Tax Administration (TIGTA), the IRS began to single out conservative and Tea Party groups for extra scrutiny in March of 2010.[1] According to TIGTA, IRS employees used words or phrases including "Tea Party," "Patriots," "9/12," "We the People," and "Take Back the Country" to flag tax-exempt applications for extra scrutiny.[2] According to TIGTA, the IRS's Determinations Unit management requested its specialists be on the lookout for Tea Party applications.[3] TIGTA also informed the Committee that these criteria were in place until July 2011 when you directed that the criteria be immediately changed.[4]

According to TIGTA, the criteria were changed again in January 2012 in a way that once again singled out conservative groups.[5] TIGTA informed the Committee that the criteria changed to "Political action type organizations involved in limiting/expanding government,

[1] Telephone conference between Committee staff and the Treasury Inspector General for Tax Administration (May 10, 2013).
[2] *Id.*
[3] *Id.*
[4] *Id.*
[5] *Id.*

educating on the Constitution and Bill of Rights, social economic reform/movement" based on the Determinations Unit concerns that the July 2011 criteria was too generic.[6] During May 2012, the criteria were once again changed in a way that does not appear to explicitly target conservative groups.[7] It is troubling that between January and May of 2012, Determinations Unit staff was able to continue targeting political groups despite the fact that it had been told that such targeting was not appropriate.[8]

At a briefing on May 13, 2013, IRS officials informed Committee staff that Tea Party and other applications flagged from early 2010 to early 2012 were not appropriately read and individually considered on their merits by IRS reviewers.[9] At the briefing, IRS officials confirmed these flagged applications were essentially placed in a state of purgatory where they often languished without action for periods as long as two years.[10] IRS officials also confirmed to Committee staff that all groups with Tea Party, Patriots, 9/12, or other trigger words in their names were treated in the same inappropriate fashion by IRS. Moreover, even though you were definitely aware of the discriminatory criteria by June 2011, IRS officials at yesterday's briefing stated that there was no discussion at any point about taking groups identified for extra scrutiny through the screening process out of the bucket of applications where they were initially placed.[11]

Eventually, IRS would send follow-up letters to the organizations flagged for extra scrutiny. These follow-up letters made onerous requests for voluminous and sensitive information, such as names of all donors and amounts of all their donations, a list of all issues important to the groups and the groups' position on these issues, and all e-mails sent to members of the groups.

According to IRS officials, approximately 300 groups received additional scrutiny as of May 2012. As of today, that number has grown to 471 groups.[12] Thus, it is unclear whether conservative and Tea Party groups are continuing to be targeted even today. In addition, while it appears that no IRS employees have been disciplined for their actions, IRS officials indicated that one individual involved in reviewing applications in the Cincinnati office received a promotion or "career enhancement."[13]

The information provided to the Committee by TIGTA and IRS officials in recent days conflicts with statements you made to the Committee last year. First, during a February 24, 2012, briefing on the onerous follow-up letters received by some conservative organizations, Committee staff asked you whether the criteria for evaluating tax exempt applications changed at any point.[14] You responded that the criteria had not changed.[15]

---

[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] Briefing by IRS staff to Committee staff (May 13, 2013).
[10] *Id.*
[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] Briefing by Ms. Lois Lerner and IRS staff to Committee staff (Feb. 24, 2012).

Following the briefing, a March 8, 2012, article in *Roll Call*,[16] and additional complaints from many groups, we sent you a letter on March 27, 2012, asking for information related to the reports that conservative groups applying for tax-exempt status were receiving extra scrutiny from IRS.[17] During a phone call on April 4, 2012, you told Committee staff that the information IRS was requesting in the additional follow-up letters was not out of the ordinary.[18] On April 26, 2012, in your first written response to our letter, you wrote that the letters to those organizations were "in the ordinary course of the application process to obtain the information as the IRS deems necessary to make a determination whether the organization meets the legal requirements for tax-exempt status."[19] At no point during this period did you inform the Committee that on February 29, 2012, you issued a 60-day extension to all groups who had received the onerous follow-up letters or that you directed that all further development letters be stopped.[20]

In our March 27, 2012, letter we asked you to provide justification for IRS's authority, rationale, and precedent for 16 commonly asked pieces of information that IRS asked of conservative groups in the follow-up letters which seemed beyond the scope of typical IRS inquiries. In your second written response on May 4, 2012, you provided justification for all of the 16 areas.[21] You even provided justification for IRS's request to targeted groups for a complete list of donors with corresponding donation amounts. During a briefing with Committee staff yesterday, IRS officials, including Nikole Flax, Chief of Staff for the Office of the IRS Commissioner, could not identify any other time during the agency's history when IRS asked groups for a complete list of donors with corresponding donation amounts.[22] According to TIGTA, however, at some point in May 2012, IRS identified seven types of information asked of conservative groups, including the donor information, in IRS's follow-up letters that were inappropriate.[23] We are concerned that your answer to the Committee on May 4, 2012, was misleading because of the considerable overlap between the types of information we identified as problematic and the types of information IRS would subsequently identify as inappropriate. Especially troubling is the fact that in June of 2011 – nearly a year before you provided these answers to the Committee – you were briefed on the "be on the look-out" memo being used by the Determinations Unit and instructed that it be changed immediately.[24]

---

[15] *Id.*
[16] Janie Lorber, *IRS Oversight Reignites Tea Party Ire: Agency's Already Controversial Role Is In Dispute After Questionnaires Sent to Conservative Groups*, ROLL CALL, Mar. 8, 2012.
[17] Letter from Hon. Darrell Issa, Chairman, H. Comm. on Oversight and Gov't Reform & Hon. Jim Jordan, Chairman, Subcomm. on Reg. Affairs, Stimulus Oversight & Gov't Spending, to Ms. Lois Lerner, Director of Exempt Organizations Division, IRS (Mar. 27, 2012).
[18] Telephone conference between Committee staff and Lois Lerner and IRS staff (Apr. 4, 2012).
[19] Letter from Lois Lerner, Director of Exempt Organizations Division, IRS, to Hon. Darrell Issa, Chairman, H. Comm. on Oversight and Gov't Reform & Hon. Jim Jordan, Chairman, Subcomm. on Reg. Affairs, Stimulus Oversight & Gov't Spending (Apr. 26, 2012).
[20] Briefing by IRS staff to Committee staff (May 13, 2013).
[21] Letter from Lois Lerner, Director of Exempt Organizations Division, IRS, to Hon. Darrell Issa, Chairman, H. Comm. on Oversight and Gov't Reform and Hon. Jim Jordan, Chairman, Subcomm. on Reg. Affairs, Stimulus Oversight & Gov't Spending, (May 4, 2012).
[22] Briefing by IRS staff to Committee staff (May 13, 2013).
[23] *Supra* note 1
[24] Briefing by IRS staff to Committee staff (May 13, 2013).

Therefore, it appears that you provided false or misleading information on four separate occasions last year in response to the Committee's oversight of IRS's treatment of conservative groups applying for tax exempt status. Providing false or misleading information to Congress is a serious matter, with potential criminal liability.[25] Moreover, despite repeated questions from the Committee over a year ago and despite your intimate knowledge of the situation, you failed to inform the Committee of IRS's plan, developed in early 2010, to single out conservative groups and how that plan changed over time. You also failed to inform the Committee that IRS launched its own internal review of this matter in late March 2012, or that the internal review was completed on May 3, 2012, finding significant problems in the review process and a substantial bias against conservative groups.[26] At no point did you or anyone else at IRS inform Congress of the results of these findings.[27]

It is imperative that IRS provide full and complete information to Congress and the American people about the development of the agency's plan to single out conservative groups, the revisions of its plan over time, and the methods IRS employed to implement its plan. We respectfully request that you brief Committee staff about this matter tomorrow, May 15, 2013, and that you produce the following information as soon as possible, but by no later than 5:00 p.m. on May 17, 2013:

1. All documents and communications referring or relating to IRS's evaluation of applications for tax exempt status between January 1, 2009, and the present that contain the following words or phrases:

    a) Tea Party
    b) Patriot
    c) 9/12
    d) Constitution
    e) Bill of Rights
    f) Debt
    g) We the People
    h) Government Spending
    i) America a better place to live
    j) Take back the country

2. All documents and communications between January 1, 2009, and the present referring or relating to processes, procedures, or criteria for evaluating applications for tax exempt status, including but not limited to all documents between or among Lois Lerner, Steve

[25] *See* 18 U.S.C. § 1001, which states in pertinent part:

> [W]hoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully . . . makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under this title, imprisoned not more than 5 years. . . .

[26] Briefing by IRS staff to Committee staff (May 13, 2013).

[27] *Id.*

Miller, and Douglas Shulman. For purposes of this request, the Committee is not seeking information about any specific entity's application for tax exempt status at this time.

When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

If you have any questions about this request, please contact Christopher Hixon or Brian Blase the Committee Staff at (202) 225-5074. Thank you for your attention to this matter.

Sincerely,

Darrell Issa
Chairman

Jim Jordan
Chairman
Subcommittee on Economic Growth,
Job Creation, and Regulatory Affairs

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

The Honorable Matthew A. Cartwright, Ranking Minority Member
Subcommittee on Economic Growth, Job Creation and Regulatory Affairs

DARRELL E. ISSA, CALIFORNIA
CHAIRMAN

SFC 002206

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.

3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.

4. Documents produced in electronic format should also be organized, identified, and indexed electronically.

5. Electronic document productions should be prepared according to the following standards:

   (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

   (b) Document numbers in the load file should match document Bates numbers and TIF file names.

   (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

   (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

   BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT,CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,

CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.

8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.

9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.

10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.

11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.

13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.

14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.

15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.

16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been

located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.

18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Schedule Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.

6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.

7. The term "employee" means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.

SFC 002210

From: Lerner Lois G
Sent: Wednesday, May 15, 2013 11:08 AM
To: Barre Catherine M; Miller Steven T; Flax Nikole C; Tucker Beth; Sterner Christopher B; Vozne Jennifer L
Subject: Re: Letter to Director Lerner

I am not ready to respond. I need to talk to some people first Lois G. Lerner ---------- Sent from my BlackBerry Wireless Handheld

----- Original Message -----
From: Barre Catherine M
Sent: Wednesday, May 15, 2013 12:01 PM Eastern Standard Time
To: Lerner Lois G; Miller Steven T; Flax Nikole C; Tucker Beth; Sterner Christopher B; Vozne Jennifer L
Subject: Fw: Letter to Director Lerner

Please let me know if there is any additional info I should provide back to Brian. Thanks.

Sent using BlackBerry

----- Original Message -----
From: Blase, Bria [redacted]
Sent: Wednesday, May 15, 2013 11:59 AM Eastern Standard Time
To: Barre Catherine M
Cc: Millspaw, Tega [redacted]; Grimm, Tyle [redacted]; Marin, Mark [redacted]; Hixon, Christophe [redacted]
Subject: RE: Letter to Director Lerner

Thank you, Cathy.

-----Original Message-----
From: Barre Catherine [redacted]
Sent: Wednesday, May 15, 2013 11:59 AM
To: Blase, Brian
Cc: Millspaw, Tegan; Grimm, Tyler; Marin, Mark; Hixon, Christopher
Subject: Re: Letter to Director Lerner

Brian-

I am forwarding your email to Ms Lerner who is out on previously scheduled leave.

Best,

Cathy

Sent using BlackBerry

SFC 002211

----- Original Message -----
From: Blase, Bria [redacted]
Sent: Wednesday, May 15, 2013 11:27 AM Eastern Standard Time
To: Barre Catherine M
Cc: Millspaw, Tega [redacted]; Grimm, Tyle [redacted]; Marin, Mark [redacted]; Hixon, Christophe [redacted]
Subject: RE: Letter to Director Lerner

Hi Cathy -

The Chairman instructed me to ask Ms. Lerner that she respond by noon tomorrow to the Committee's invitation to next week's hearing. Also, Committee staff requested a briefing from Ms. Lerner prior to the hear ing. We can be very flexible with the time for this briefing. Thanks for your timely attention to this matter.

Brian

-----Original Message-----
From: Barre Catherine M [redacted]
Sent: Tuesday, May 14, 2013 7:38 PM
To: Blase, Brian
Subject: Re: Letter to Director Lerner

Brian-

I have forwarded your email to Lois. It is my understanding that she is out on previously scheduled leave this week.

Cathy

Sent using BlackBerry

----- Original Message -----
From: Blase, Bria [redacted]
Sent: Tuesday, May 14, 2013 04:26 PM Eastern Standard Time
To: Barre Catherine M
Subject: RE: Letter to Director Lerner

Thanks, Cathy. Can you get back to me as soon as p ossible with times for a briefing tomorrow?

-----Original Message-----
From: Barre Catherine [redacted]
Sent: Tuesday, May 14, 2013 4:20 PM
To: Blase, Brian
Subject: Re: Letter to Director Lerner

Thanks Brian I will pass it alon g.

Cathy
------Original Message------
From: Brian. Blase
To: Barre Catherine M

SFC 002212

Subject: Letter to Director Lerner
Sent: May 14, 2013 3:52 PM

Hi Cathy

Attached is a letter from Chairmen Issa and Jordan to Lois Lerner. The letter requests a briefing from Ms. Lerner tomorrow. Please confirm receipt of the letter and let me know if you have any questions.

Thanks,
Brian

Brian Blase
Senior Professional Staff Member
Oversight and Government Reform Committee Darrell E. Issa, Chairman
SFC [redacted]

Sent using BlackBerry

IRS0000189626

SFC 002213

From: Marks Nancy J
Sent: Friday, December 14, 2012 12:40 PM
To: Flax Nikole C
Cc: Paz Holly O; Lerner Lois G; Thomas Cindy M
Subject: FW: Confirmation re securing of TEDs access

The employee's computer is in the office (she remains out) and her access to TEDs has been locked and will remained locked pending the investigation. The office understands that it is important to the investigation (as well as for the employee's own protection) that she not have access to any of the files or systems involved until a careful and appropriate review can be done. I've copied Cindy Thomas who is the manager in Cinncinatti ensuring that these steps are taken.

As to what was disclosed we have confirmed that the supplemental information elicited in the back and forth of case development is not in TEDs so it could not have been printed and disclosed from that source. In addition neither of the two specialists working on the case (Joseph Herr in Cinncinatti and Andy Megosh in DC) were asked to produce any of that supplemental information in response to the reporter's request. Therefore while normally a disclosure on a closed case includes all of the material on th e right (disclosable) side of the file which would include the back and forth it appears increasingly likely that on this open case the disclosure did not include the supplemental back and forth materials. That said the managers in Cinncinatti continue t o look into this.

From: Thomas Cindy M
Sent: Friday, December 14, 2012 12:41 PM
To: Lerner Lois G; Marks Nancy J; Paz Holly O
Cc: Flax Nikole C
Subject: RE: Follow Up Letter Sent Attached

Confirmed that the tax examiner has a desktop computer, that no back and forth information for Crossroads GPS was input to TEDS, and the tax examiner's TEDS account has been locked.

We're in the process of getting other letters scanned and will email the file in a few minutes.

From: Lerner Lois G
Sent: Friday, December 14, 2012 12:35 PM
To: Thomas Cindy M; Marks Nancy J; Paz Holly O
Cc: Flax Nikole C
Subject: RE: Follow Up Letter Sent Attached

Just spoke to Cindy--there are several cover letters --the general one covering the copies she gave the reporter and individual ones covering situations where we couldn't locate a file --like if it was old and we can't find the micro -fiche. She is scanning and sending. So, the main letter that covers what the reporter received is dated Nov 28

Lois G. Lerner
Director of Exempt Organizations

From: Thomas Cindy M
Sent: Friday, December 14, 2012 12:23 PM

SFC 002214

To: Lerner Lois G; Marks Nancy J; Paz Holly O
Subject: FW: Follow Up Letter Sent Attached
Importance: High

Attached is the letter sent to the Reporter. I'll respond to other questions in a bit (as soon as I get off conference calls).

From: Lerner Lois G
Sent: Thursday, December 13, 2012 6:13 PM
To: Thomas Cindy M
Cc: Paz Holly O
Subject: Follow Up
Importance: High

I have a couple of follow-ups from the meeting.

1. Can I get the transmittal cover letter for the larger request--you sent the smaller one, but not that.
2. What is the process when a reporter requests an open application --what do we say back?

3. What is the review process when a response goes out to a reporter?

4. Are open cases in TEDS available to everyone in Cincinnati?

5. Could TEDS be programmed to allow printability only for approved applications--this may not be a question you can answer.

Everyone understands that mistakes happen, but because this is a disclosure, we will be referring to TIGTA. They will come in and want to talk to folks --we should all be transparent and open with regard to their questions. When you get the chance to talk to the employee, let her know we understand mistakes happen--

Lois G. Lerner
Director of Exempt Organizations

SFC 002215

From: Ruth.Madrigal [redacted]
Sent: Friday, December 14, 2012 12:47 PM
To: Lerner Lois G; Judson Victoria A
Cc: Marks Nancy J; Grant Joseph H
Subject: Re: Meeting with Democracy 21 and Campaign Legal Center

Next week is not possible, and the following week is tight. I'd prefer January - the first week is good

From: Lerner Lois G [redacted]
Sent: Friday, December 14, 2012 01:18 PM
To: Judson, Victoria A; Madrigal, Ruth
Cc: Marks Nancy [redacted]; Grant Joseph [redacted]
Subject: RE: Meeting with Democracy 21 and Campaign Legal Center

I'm thinking Jan. also--I'll wait to hear from Ruth--thanks
Lois G. Lerner
Director of Exempt Organizations

From: Judson Victoria A [redacted]
Sent: Friday, December 14, 2012 1:12 PM
To: Lerner Lois G; Ruth Madrigal [redacted]
Cc: Marks Nancy J; Grant Joseph H
Subject: RE: Meeting with Democracy 21 and Campaign Legal Center

I could come in on the 28 or 29th, but next week won't work given the reg projects I have that need to get out by the end of the year. First week of January would also work.

Victoria A. Judson
Division Counsel/Associate Chief Counsel (TEGE)
[redacted]

From: Lerner Lois G [redacted]
Sent: Friday, December 14, 2012 12:48 PM
To: Judson Victoria A; Ruth Madrigal [redacted]
Cc: Marks Nancy J; Grant Joseph H
Subject: FW: Meeting with Democracy 21 and Campaign Legal Center
Importance: High

Before I respond, I thought I'd bring you into the loop. I have no problem listening to them, but would prefer not to do it without you in the room. Not sure they understand guidance is a joint effort, and he has been very vocal in the past. Are you willing to join me in a meeting and, if so, what is your timing--they are asking for next week, if possible. Thanks
Lois G. Lerner
Director of Exempt Organizations

SFC 002216

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

Dear Ms. Lerner,

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

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

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

Kathryn Beard

Communications & Research Director
Democracy 21

SFC [redacted]

SFC 002217

From: Marks Nancy J
Sent: Tuesday, May 14, 2013 5:44 PM
To: Lerner Lois G
Subject: Re: Letter to Director Lerner

Lois call me [redacted] No matter how late.

Sent using BlackBerry

From: Lerner Lois G
Sent: Tuesday, May 14, 2013 05:13 PM Eastern Standard Time
To: Paz Holly O; Marks Nancy J; Light Sharon P
Subject: Re: Letter to Director Lerner

So what do they expect from me?
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

From: Lerner Lois G
Sent: Tuesday, May 14, 2013 04:35 PM Eastern Standard Time
To: Paz Holly O; Marks Nancy J; Light Sharon P
Cc: Lerner Lois G
Subject: FW: Letter to Director Lerner

This just came from Cathy.

From: Barre Catherine M
Sent: Tuesday, May 14, 2013 4:19 PM
To: Lerner Lois G; Sterner Christopher B; Miller Steven T; Flax Nikole C; V ozne Jennifer L
Subject: Fw: Letter to Director Lerner

Sent using BlackBerry

From: Blase, Bria [redacted]
Sent: Tuesday, May 14, 2013 03:52 PM Eastern Standard Time
To: Barre Catherine M
Subject: Letter to Director Lerner

Hi Cathy

Attached is a letter from Chairmen Issa and Jordan to Lois Lerner. The letter requests a briefing from Ms. Lerner tomorrow. Please confirm receipt of the letter and let me know if you have any questions.

Thanks,

Brian

Brian Blase
Senior Professional Staff Member
Oversight and Government Reform Committee
Darrell E. Issa, Chairman
SFC [redacted]

SFC 002219

From: Marks Nancy J
Sent: Wednesday, May 15, 2013 11:28 AM
To: Lerner Lois G
Subject: RE:

Yes indeed in fact let me know if you want it at the house I could always do a drop off.

-----Original Message-----
From: Lerner Lois G
Sent: Wednesday, May 15, 2013 12:25 PM
To: Marks Nancy J
Subject: Re:

Once I get back, I assume I can get the entire thing --unredacted and the letters?
Lois G. Lerner---------- Sent from my BlackBerry Wireless Handheld

------Original Message------
From: Nancy Marks
To: Lois Call in Number
Subject: FW:
Sent: May 15, 2013 12:21 PM

The actual language on bolo changes so you can annotate the redacted version (sorry could only send that)

Will also send you the full TIGTA report and timeline electronically for further background.

-----Original Message-----
From: Light Sharon P
Sent: Tuesday, May 14, 2013 1:11 PM
To: Marks Nancy J; Paz Holly O
Subject: RE: What is the third bolo change?

Here is holly's email:

6/2012-present Current Political Issues - 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) organizations with indicators of significant amounts of political campaign intervention (raising questions as to exempt purpose and/or excess private benefit). Note: advocacy action type issues (e.g., lobbying) that are currently listed on the Case Assignment Guide (CAG) do not meet this criteria.

01/2012-6/2012 Current Political Issues - Political action type organizations involved in limiting/expanding government, educating on the constitution and bill of rights, $oci al economic reform / movement. 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.

7/2011-1/2012 Advocacy Orgs - Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4).

2/2011-7/2011 Tea Party - Organizations involved with the Tea
Party movement applying for exemption under 501(c)(3) or 501(c)(4). [EO Determinations specialists indicated that they interpreted this as including organizations meeting any of the following criteria: 1. 'Tea Party', 'Patriots' or '9/12 Projec t' is referenced in the case file. 2. Issues include government spending, governmen t 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.]

08/2010-2/2011 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). [EO Determinations specialists indicated that they interpreted this as including organizations meeting any of the following
criteria: 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.]

-----Original Message-----
From: Marks Nancy J
Sent: Tuesday, May 14, 2013 1:10 PM
To: Paz Holly O; Light Sharon P
Subject: Re: What is the third bolo change?

I was using tigta report which has two problem change points

Sent using BlackBerry

------Original Message------
To: Holly Paz
Subject: What is the third bolo change?
Sent: May 14, 2013 1:08 PM

Sent using BlackBerry

SFC 002221

From: Lerner Lois G
Sent: Friday, February 08, 2013 12:42 PM
To: Paz Holly O
Subject: RE: Time/Date availability for a call with a House Representative about the status of a tax exempt application

Follow Up Flag: Follow up
Flag Status: Flagged

I'm guessing you know this only makes me a little bit happy. I have to talk to the Congressman about why it takes so long for case to be assigned and worked. based on this case my answer is because we are incompetent! We screwed up on 2 counts.

What are we going to do going forward to at least attempt to deal with this delay and misclassification. As I told you--almost every time I ask them to go back and look at a case that has been sitting--it miraculously gets closed on merit--after it has been sitting for months and months awaiting full development. And then on this one, we add that we didn't even do what we were supposed to do if it had been classified correctly. Is there any explanation of how it got "lost" in AP/IP yet?

Lois G. Lerner
Director of Exempt Organizations

From: Paz Holly O
Sent: Friday, February 08, 2013 11:59 AM
To: Lerner Lois G
Subject: FW: Time/Date availability for a call with a House Representative about the status of a tax exe mpt application

The latest on outstanding Congressional request for a call.

From: Thomas Cindy M
Sent: Friday, February 08, 2013 11:54 AM
To: Paz Holly O
Subject: RE: Time/Date availability for a call with a House Representative about the status of a tax exempt application

Holly,

John Shafer asked one of his experienced grade 13 classifiers to take another look at this case and it is going to be approved on merit. The case should be closed early next week and the letter issued. Let me know if you need anything further.

From: Paz Holly O
Sent: Thursday, February 07, 2013 6:08 AM
To: Thomas Cindy M
Subject: FW: Time/Date availability for a call with a House Representati ve about the status of a tax exempt application

See below - do you have a rough guess?

From: Lerner Lois G
Sent: Wednesday, February 06, 2013 6:50 PM
To: Paz Holly O
Cc: Marx Dawn R
Subject: RE: Time/Date availability for a call with a House Representative about the status of a tax exempt application

it would be good to be able to tell them when the org will hear from AP/IP folks about what they still need.

Lois G. Lerner
Director of Exempt Organizations

From: Paz Holly O
Sent: Wednesday, February 06, 2013 4:22 PM
To: Lerner Lois G
Cc: Marx Dawn R
Subject: FW: Time/Date availability for a call with a House Representative about the status of a tax exempt application

Info on the other Congressional where they have requested a call. Cindy had the case assigned this week. Looks like some system glitch caused a slight delay in assignment (this case is from July and we are now assigning cases from August but for some reason this one was not assigned). Let me know if you need any more info.

From: Thomas Cindy M
Sent: Tuesday, February 05, 2013 10:47 PM
To: Paz Holly O
Subject: RE: Time/Date availability for a call with a House Repres entative about the status of a tax exempt application

Holly,

We had this case assigned this afternoon. I have no idea why it wasn't already assigned. The Classification Manager is checking with Nick Reinhardt to see whether he can shed any light on where this case was in the system --- other than human error (meaning someone didn't run the query correctly when assigning cases).

I asked to be kept informed as to what decision is made regarding this case and will let you know.

From: Thomas Cindy M
Sent: Tuesday, February 05, 2013 11:23 AM
To: Paz Holly O
Subject: RE: Time/Date availability for a call with a House Representative about the status of a tax exempt application

I'm going to ask someone to find this case ASAP. I don't know why it hasn't been assigned yet. We're assigning IP cases from 8/17/2012.

From: Paz Holly O
Sent: Tuesday, February 05, 2013 4:49 AM
To: Thomas Cindy M
Subject: FW: Time/Date availability for a call with a House Representative about the status of a tax exempt application

SFC 002223

The EIN SEC
Name of Org SEC

According to TEDS, this is an IP case received in July 2012. We correctly denied expedite before. My question for you is - if they now meet expedite and we grant that, how many other expedited IP cases would be in front of it? Thanks!

From: Lerner Lois G
Sent: Monday, February 04, 2013 4:57 PM
To: Paz Holly O
Cc: Marx Dawn R
Subject: RE: Time/Date availability for a call with a House Representative about the status of a tax exempt application

If they could meet expedite tomorrow, where would they be in the line of 16,000?

Lois G. Lerner
Director of Exempt Organizations

From: Paz Holly O
Sent: Sunday, February 03, 2013 4:25 PM
To: Lerner Lois G
Cc: Marx Dawn R
Subject: FW: Time/Date availability for a call with a House Representative about the stat us of a tax exempt application

I have not seen any further email traffic on this case (this is not the case with all the emails on Friday and a call set for Tuesday) so I don't know whether a call has been set up or not. I had Andy check the status on this one, and it is an IP case awaiting assignment. Because of the shift in focus to full development cases, we have over 16,000 IP cases awaiting assignment. Based on the attached correspondence, we correctly denied expedite treatment but perhaps the organization's circumstances have now changed.

From: Burch Stephanie C
Sent: Wednesday, January 30, 2013 12:34 PM
To: Lerner Lois G; Paz Holly O
Cc: Sandifer Theodora
Subject: Time/Date availability for a call with a House Representative about the status of a tax exempt application

Lois,
I have Representativ SEC wanting to talk with someone on the application status for a tax exempt organization, and possibly the reasons it takes awhile for an application to be assigned.

I have worked wit SEC an SEC for the staff and the Representative; They have been so helpful to me and I have attached my latest email correspondence with them. The organization submitted its application in July 3, 2 012, and were originally denied expedite process. I do not know if the organization submitted more information.

Thank you for your assitance. Please let me know if you'd like to take the call or you'd like to assign someone else. Please find the attachments. Page 6 of the .pdf is the disclosure that I have with the Representative's office. Please let me know if you need anything further.

The EIN SEC
Name of Org SEC

I hope to schedule something soon, Friday of this week or Thursday/Friday of next week (I'm out through Monday - Wednesday of next week). I just talked with Theodora about your schedule so I could get some approximate times for availability late this week or late next week, as I know you (or the person who takes the call) will want to have some review time of the case. Please let me know when I can schedule a call or who can take this call, if not you.

As always, thank you,
Stephanie

Stephanie Burch
Legislative Affairs, Internal Revenue Service
SEC [redacted]

From: Kowalczyk Chadwick A
Sent: Tuesday, May 18, 2010 11:12 AM
To: Abner Donna J; Camarillo Sharon L; Melahn Brenda; Brinkley Lynn A
Cc: Thomas Cindy M; Berry Daniel W
Subject: CPE Room Locations
Please disseminate to your staff accordingly.

Below is a chart that provides attendees with the classroom locations for the upcoming CPE:

Week of:	Cincinnati Room Number	Instructors	Outside POD's	POD Room Number	Instructors
June 7th	5519	Donna Abner Jon Waddell			
June 14th	4519	Faye Ng Peggy Combs	El Monte	2nd Floor Conference Room B	Mike Tierney Jon Waddell
June 21st	5519	Faye Ng Peggy Combs	Laguna Nigel	Classroom 2402C	Mike Tierney Steve Bowling
June 28th	5519	Donna Abner Jon Waddell			
July 12th	5519	Faye Ng Steve Bowling			
July 19th			Baltimore	Classroom Charles South	Donna Abner Peggy Combs

As a reminder: Monday and Friday will be travel days. The actual CPE instruction will take place on Tuesday, Wednesday and Thursday.

Chad A. Kowalczyk
Acting Training Coordinator
EO Determinations
SFC [redacted]

SFC 002226

From: Paz Holly O
Sent: Monday, April 15, 2013 10:40 AM
To: Fish David L
Subject: FW: Read Ahead for OCA/TEGE Project Discussion, Monday, April 15, 2013 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).
Attachments: 501(c)(4) Trend Presentation.zip

From: Abold Justin L
Sent: Friday, April 12, 2013 5:26 PM
To: Lerner Lois G; Downing Nanette M; Paz Holly O; Biss Meghan R; Lowe Justin; Rogers Peter; Schweikert Eric; Weber Michael E
Subject: Read Ahead for OCA/TEGE Project Discussion, Monday, April 15, 2013 2:00 PM 3:00 PM (UTC 05:00) Eastern Time (US & Canada).

Hello

I have attached a read ahead for Monday's discussion. It is very similar to the presentation we discussed with Meghan and Justin on Wednesday but with their feedback incorporated. (Of course, any errors or omissions are mine!) We really appreciated the chance to iterate our first draft with both of them.

The presentation is data rich (which is the OCA value-added, we hope) but hopefully brings together a variety of useful analytic perspectives. Pete has done a great job with the analysis, and it has been super to have him detailed here from TEGE Research.

If you have any questions or concerns, please let me know. I know Eric, Pete and I are all very much looking forward to the discussion and the continuing opportunity to iterate the preliminary findings with the experts in TEGE.

Best regards

Justin

Justin Lewis Abold
Initiative Director
Office of Compliance Analytics
SEC [redacted]

SEC [redacted]

SFC 002227

Working draft – for discussion only

Baseline Analysis of 501(c)(4) Form 990 Filers with Schedule C *Political Campaign and Lobbying Activities*

April 15, 2013

PARTNERSHIP BETWEEN
TE/GE AND OCA

IRS

Official Use Only – Sensitive But Unclassified

IRS0000195667

SFC 002228

Preliminary draft – for discussion

This presentation examines the trends in 501(c)(4) Form 990 filers with Schedule C *Political Campaign and Lobbying Activities* from TY2008 – TY2011

Agenda

- Background and problem statement
- Executive summary
- Detailed preliminary findings
- Next steps and potential analytic risks
- Appendix
  - Tax year definition
  - Initial focus on 501(c)(4) Form 990 filers with Schedule C and > $10M in revenue
  - Instructions for Schedule C (Extract)
  - Detailed charts showing political campaign activity expenses for TY2009 TY2011
  - Number of 501(c)(4) Form 990 filers with Schedule C, both greater than and less than $10M in total revenue
  - Charts showing expenses characterized as "other" on Form 990
  - Initial analysis of exact name match between IRS and FEC data
  - Data Constraints

Preliminary draft – for discussion

[redacted]

Background and Problem Statement

Background

- Since Citizens United (2010) removed the limits on political spending by corporations and unions, concern has arisen in the public sphere and on Capitol Hill about the potential misuse of 501(c)(4)s for political campaign activity due to their tax exempt status and the anonymity they can provide to donors.

Problem statement

- The public purpose of 501(c)(4)s may be diluted by political campaign activities as an unintended of consequence of Citizens United.

Potential Analytic Indicators

- Are the number of 501(c)(4)s with political campaign activity increasing?
- Is the amount of political expenditures by 501(c)(4)s increasing?
- Is the number of 501(c)(4)s engaging in political campaign activities and then ceasing activity after an election increasing?

Notes for subsequent slides:
- Not all Form 990s for TY2011 have been received by the IRS
- TY2012 filing is largely incomplete and therefore not included
- Trends span both election years and non-election years
- TY2008 data is included in most but not all analyses

SFC 002230

Preliminary draft – for discussion

[redacted]

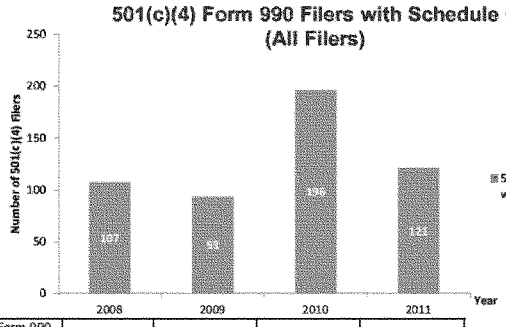
Executive Summary

Questions	Preliminary Findings
• Has there been an increase in the number of 501(c)(4) organizations engaging in political campaign activity?	The number of 501(c)(4) Form 990 filers with a Schedule C increased from 93 in TY2009 to 196 in TY2010; this outpaced an overall rise in the number of 501(c)(4) filers in the same period
• Has there been an increase in the relative financial size of 501(c)(4) organizations engaging in political campaign activity?	The number of 501(c)(4) Form 990 filers with Schedule C and >$10M in revenue increased from 11 in TY2009 to 22 in TY2010; total expenditures also increased largely due to 3 HMOs
• Has there been an increase in political expenditures either directly or as grants to other organizations?	Total estimated Schedule C expenses for all 501(c)(4) Form 990 filers with >$10M in revenue increased from ~$1M in TY2009 to at least $43.8M in TY2010; this is around 0.57% of total expenses for large Schedule C filers
• Has there been an increase in "one year" 501(c)(4) organizations who are engaged in political campaign activity?	For TY2008 TY2011, 28 out of 299 501(c)(4) Form 990 filers with Schedule C file only once with the IRS during that period; 50% of "one time" 501(c)(4) Form 990 filers are actually former EZ filers

SFC 002231

Preliminary draft – for discussion

Filers with a Schedule C increase from 93 in TY2009 to 196 in TY2010; this increase outpaces year-on-year increase in overall 501(c)(4) Form 990 filers



Number of 501(c)(4) Form 990 Filers w/ Schedule C in a Given Year	107	93	196	121
Year-on-Year Percent Change in Number of Sched C Filers	--	(13%)	210%	(38%)
Total 501(c)(4) Form 990 Filers in a Given Year	8,962	9,133	11,486	9,444
Year-on-Year Percent Change in Number of Form 990 Filers	--	2%	26%	(18%)

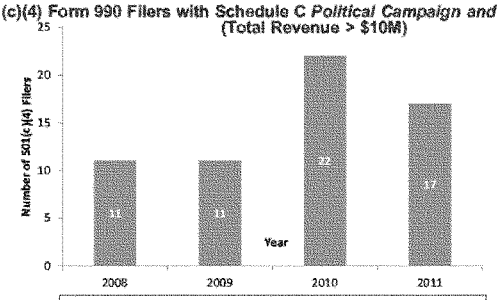
Source: Returns Inventory and Classification System (RICS)
Note: Not all Form 990s for TY2011 have been received by the IRS

SFC 002232

Preliminary draft – for discussion

For Schedule C filers, those with over $10M in revenue represent 95%[1] of total expenses and present a small universe to explore.

501(c)(4) Form 990 Filers with Schedule C *Political Campaign and Lobbying Activities*
(Total Revenue > $10M)



	Total Revenue > $10M			
501(c)(4) Form 990 Filers, with Schedule C in a Given Year	11	11	22	17
501(c)(4) Form 990 Filers without a Schedule C in a Given Year	274	269	258	221
Total 501(c)(4) Form 990 Filers, in a Given Year	285	280	280	238
Percentage of 501(c)(4) Form 990 Filers w/ Schedule C	3.86%	3.93%	7.86%	7.14%

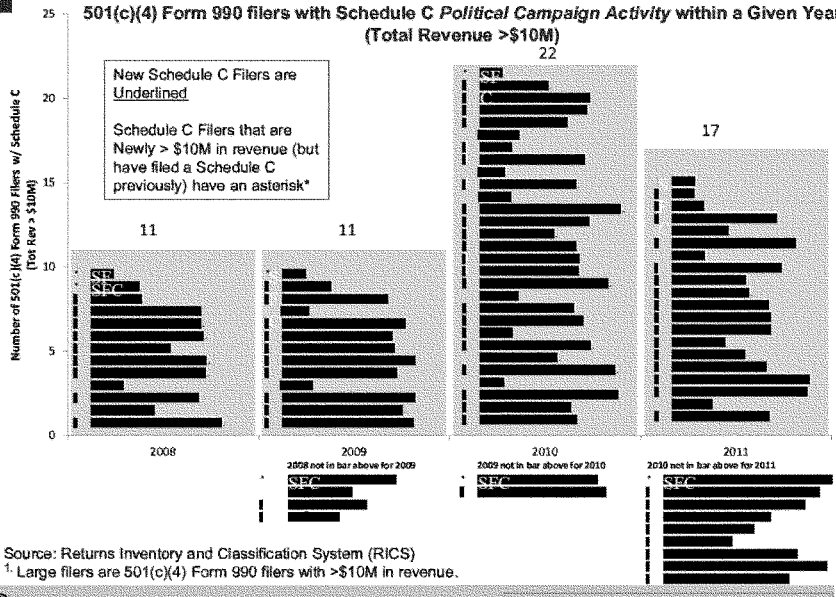
Source: Returns Inventory and Classification System (RICS)
[1] See appendix for further details.

SFC 002233

Preliminary draft – for discussion

There is substantial "churn" in large[1] Schedule C filers between TY2009 and TY2010

501(c)(4) Form 990 filers with Schedule C *Political Campaign Activity* within a Given Year (Total Revenue >$10M)



Source: Returns Inventory and Classification System (RICS)

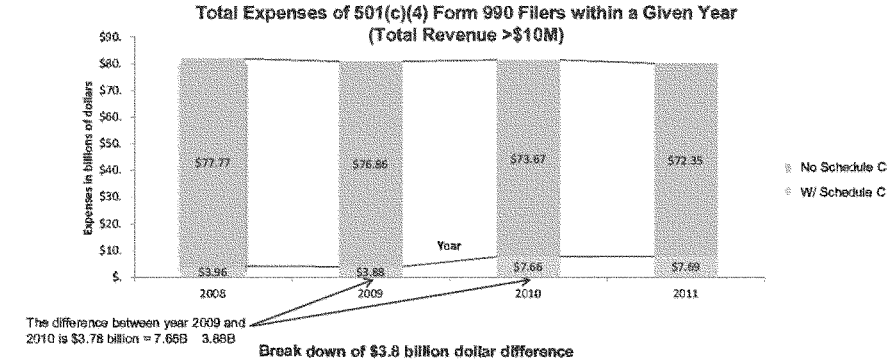
[1] Large filers are 501(c)(4) Form 990 filers with >$10M in revenue.

IRS0000195673

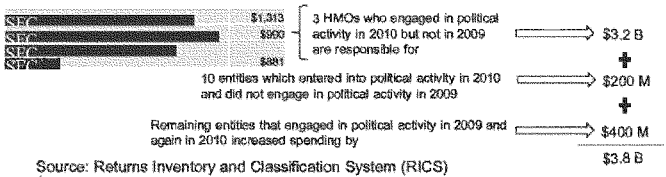
SFC 002234

Preliminary draft – for discussion

Total expenses for large[1] Schedule C filers almost double from TY2009 to TY2010; however, most of the increase is attributable to 3 HMOs



Break down of $3.8 billion dollar difference



Source: Returns Inventory and Classification System (RICS)

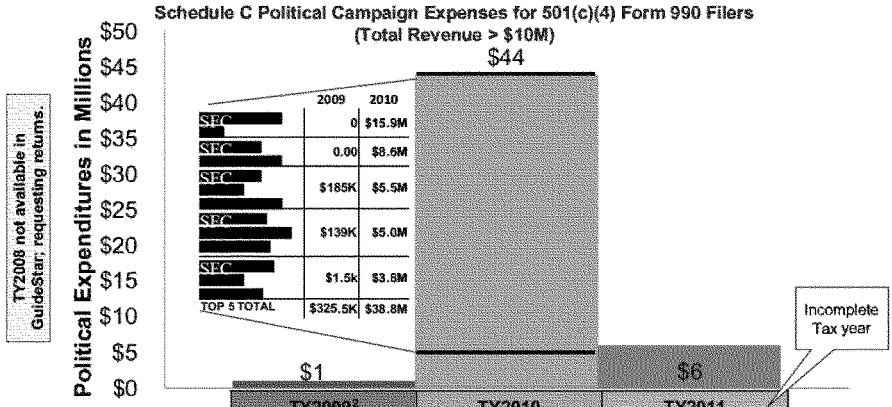
[1] Large filers are 501(c)4 Form 990 filers with >$10M in revenue.

IRS0000195674

SFC 002235

Preliminary draft – for discussion

Total Schedule C political campaign expenses for large[1] filers increase from ~$1M in TY2009 to ~$44M in TY2010, representing 0.57% of total expenses reported for TY2010



	TY2009[2]	TY2010	TY2011
Schedule C as % of Total	0.03%	0.57%	0.08%
Total Expenses (in Billions)	$3.88B	$7.658B	$7.69B
Number of Filers	11	22	17

Source: Returns Inventory and Classification System (RICS); GuideStar.org

[1] Large filers are 501(c)(4) Form 990 filers with >$10M in revenue

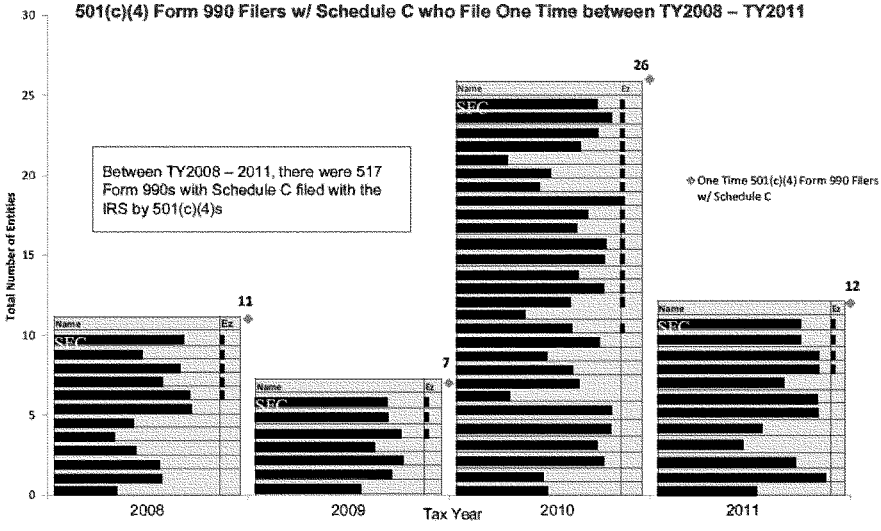
[2] One large filer was not available in GuideStar for TY2009; they reported ~$2M to the FEC

IRS0000195675

SFC 002236

Preliminary draft – for discussion

Between TY2008 – TY2011, 28 (out of 299 total unique) 501(c)(4) Form 990 filers with Schedule C file only once with the IRS; 50% are "one time" filers are former EZ filers



Source: Returns Inventory and Classification System (RICS)

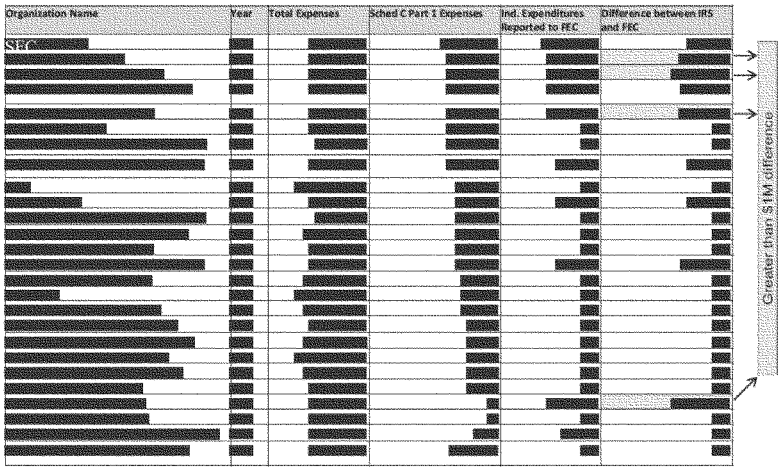
IRS0000195676

SFC 002237

Preliminary draft – for discussion

The definition of reportable spending is different for the IRS and FEC; our preliminary analysis shows the amounts reported to each

IRS Form 990 Data Compared to FEC Independent Expenditures Data



Source: Returns Inventory and Classification System(RICS); FEC Independent Expenditures Data

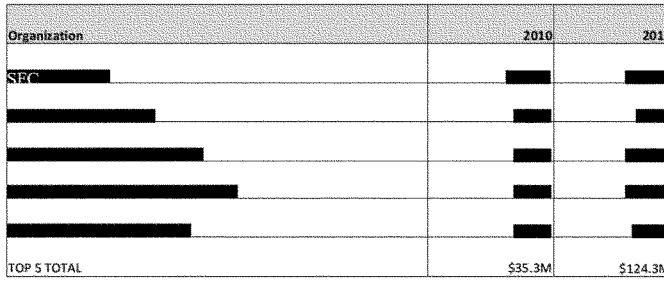
IRS0000195677

SFC 002238

Preliminary draft – for discussion

The 5 large[1] 501(c)(4)s responsible for most Schedule C political expenditures in TY2010 reported a large increase in independent expenditures to the FEC between 2010 and 2012

Reported Independent Expenditures to FEC
2010 and 2012



Source: FEC Independent Expenditures Data

1. Large filers are 501(c)(4) Form 990 filers with >$10M in revenue.

2. We continue to review the FEC data to ensure we have removed all duplicate records; we believe the values shown are at least a sound rough order of magnitude.

SFC 002239

Preliminary draft – for discussion

What do you see as potential next steps?

Potential Next Steps

- Discuss preliminary findings with TE/GE Exempt Organizations and TE/GE Research
- Possible further analysis:
  - Add in 2008 political expenditures
  - Explore destination of outbound grants by large 501(c)(4)s to see if they are supporting political expenditures in other organizations (may be time prohibitive)
- Compare preliminary analysis with results of survey

Possible Analytic Risks

- Large 501(c)(4)s often report more than 5% of expenses as "other" creating the possibility that political expenditures are being reported to neither the IRS nor the FEC
  - It would likely require examinations to more fully explore this possible risk

Preliminary draft – for discussion

[redacted]

Appendix

Using December of the previous year through November of the current year ensures that all the same form types are included.

Definition of Tax Year

- Using January to December Calendar year will present problems because different tax year forms will be mixed in this time period. For example, here a 2012 calendar year definition

Tax Period	Accounting End Period	Accounting Beginning Period	Required Tax Form to File
January 2012	January 2012	February 2011	2011 Form 990
February 2012	February 2012	March 2011	2011 Form 990
March 2012	March 2012	April 2011	2011 Form 990
April 2012	April 2011	May 2011	2011 Form 990
June 2012	June 2012	July 2011	2011 Form 990
July 2012	July 2012	August 2011	2011 Form 990
August 2012	August 2012	September 2011	2011 Form 990
September 2012	September 2012	October 2011	2011 Form 990
October 2012	October 2012	November 2011	2011 Form 990
November 2012	November 2012	December 2011	2011 Form 990
December 2012	December 2012	January 2012	2012 Form 990

- A better approach is to use December of previous year through November of the current year. This will ensure all the same form type are included. For example, here is a 2012 definition

Tax Period	Accounting End Period	Accounting Beginning Period	Required Tax Form to File
December 2011	December 2011	January 2011	2011 Form 990
January 2012	January 2012	February 2011	2011 Form 990
February 2012	February 2012	March 2011	2011 Form 990
March 2012	March 2012	April 2011	2011 Form 990
April 2012	April 2011	May 2011	2011 Form 990
June 2012	June 2012	July 2011	2011 Form 990
July 2012	July 2012	August 2011	2011 Form 990
August 2012	August 2012	September 2011	2011 Form 990
September 2012	September 2012	October 2011	2011 Form 990
October 2012	October 2012	November 2011	2011 Form 990
November 2012	November 2012	December 2011	2011 Form 990

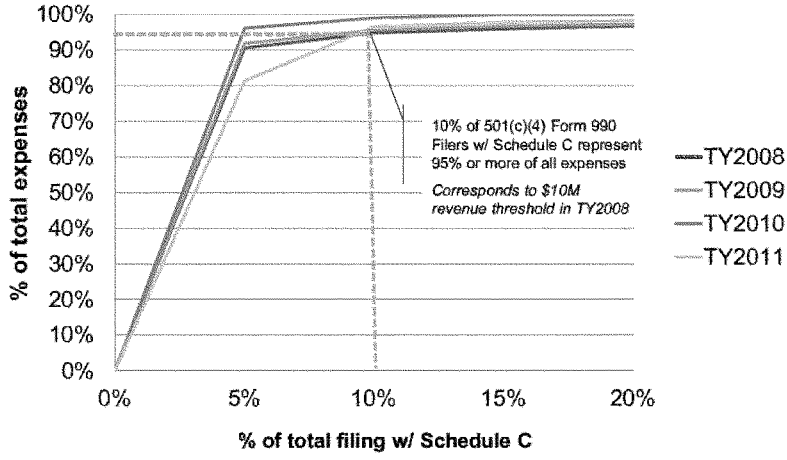
Source: Returns Inventory and Classification System (RICS)

SFC 002242

Preliminary draft – for discussion

We selected an initial threshold >$10M in revenue for focused review because 501(c)(4) Form 990 Filers with Schedule C and >$10M in revenue represent 95% or more of total expenses

Concentration of Expenses, 501(c)(4) Form 990 Filers with Schedule C, TY2008-2011



Source: Returns Inventory and Classification System (RICS)

IRS0000195682

SFC 002243

Preliminary draft – for discussion

We use $10M in total revenue as a dividing line between large entities with political spending and smaller entities with political spending.

Revenue of Largest 501(c)(4) Form 990 Filers with Schedule C
(values in Thousands)

Represents 95% of total expenses in TY2008

2008	2009	2010	2011
$1,144,792 (1)	$1,102,404 (1)	$1,347,977 (1)	$1,376,060 (1)
$949,343 (2)	$1,093,253 (2)	$1,287,048 (2)	$1,331,382 (2)
$898,222 (3)	$926,574 (3)	$1,176,022 (3)	$1,224,438 (3)
$491,929 (4)	$434,658 (4)	$1,033,367 (4)	$1,098,622 (4)
$398,641 (5)	$420,254 (5)	$942,474 (5)	$950,601 (5)
$58,952 (6)	$73,998 (6)	$874,430 (6)	$536,525 (6)
$38,469 (7)	$39,993 (7)	$480,120 (7)	$454,940 (7)
$34,307 (8)	$26,918 (8)	$408,942 (8)	$392,225 (8)
$32,271 (9)	$14,313 (9)	$81,424 (9)	$145,305 (9)
$11,239 (10)	$10,750 (10)	$48,405 (10)	$136,126 (10)
$10,798 (11)	$10,318 (11)	$43,528 (11)	$49,120 (11)
$9,599 (12)	$9,254 (12)	$29,245 (12)	$33,859 (12)
$9,560 (13)	$8,967 (13)	$28,718 (13)	$32,610 (13)
$9,251 (14)	$8,200 (14)	$27,479 (14)	$28,402 (14)
$8,855 (15)	$8,153 (15)	$23,305 (15)	$12,095 (15)
$8,549 (16)	$7,373 (16)	$21,132 (16)	$11,581 (16)
$7,940 (17)	$7,149 (17)	$19,483 (17)	$10,046 (17)
$7,809 (18)	$7,129 (18)	$14,166 (18)	$9,193 (18)
$7,734 (19)	$6,083 (19)	$14,154 (19)	$9,100 (19)
$7,646 (20)	$5,780 (20)	$13,434 (20)	$8,251 (20)
$7,444 (21)	$5,626 (21)	$13,374 (21)	$7,519 (21)
$7,427 (22)	$4,783 (22)	$12,393 (22)	$7,207 (22)
$5,923 (23)	$4,104 (23)	$9,914 (23)	$6,873 (23)
$5,896 (24)	$3,789 (24)	$9,566 (24)	$6,837 (24)
$5,794 (25)	$3,683 (25)	$9,491 (25)	$6,075 (25)
$5,521 (26)	$3,253 (26)	$9,069 (26)	$5,880 (26)
$5,085 (27)	$3,177 (27)	$8,894 (27)	$5,876 (27)
$4,691 (28)	$3,123 (28)	$8,630 (28)	$5,756 (28)
$4,305 (29)	$3,005 (29)	$8,364 (29)	$5,550 (29)

- A clear dividing line would be between 501(c)(4)s with several hundred million in revenue and all other entities, but the population size would be in the single digits.
- For this reason, we looked for a break point that represented a significant percentage of total expenses – and that falls at $10M in revenue for TY2008.
- We then kept the same threshold for all tax years for ease of analysis.

Preliminary draft – for discussion

501(c)(4)s that engage in political campaign activity must check yes on line 3, Part IV of the Form 990 and attach a Schedule C which details political expenditures

Required Schedule for Reporting *Political Campaign and Lobbying Activities*

Purpose of Schedule[1]

- Schedule C (Form 990 or 990-EZ) is used by:
  Section 501(c) organizations, and
  Section 527 organizations.

  These organizations must use Schedule C (Form 990 or 990-EZ) to furnish additional information on **political campaign activities** or **lobbying activities**, as those terms are defined below for the various parts of this schedule.

Who Must File[2]

- An organization that answered "Yes" on Form 990, Part IV, *Checklist of Required Schedules*, line 3, 4, or 5, must complete the appropriate parts of Schedule C (Form 990 or 990-EZ) and attach Schedule C to Form 990. An organization that answered "Yes" on Form 990 -EZ, Part V, line 46 or Part VI, line 47, must complete the appropriate parts of Schedule C (Form 990 or 990-EZ) and attach Schedule C to Form 990-EZ. An organization that answered "Yes" to Form 990-EZ, Part V, line 35c, because it is subject to the section 6033(e) notice and reporting requirements and proxy tax, must complete Part III of Schedule C (Form 990 or 990-EZ) and attach Schedule C to Form 990-EZ.

[1,2] *Instructions for Schedule C (Form 990 or 990-EZ)* 2012

SFC 002245

Preliminary draft – for discussion

Schedule C political expenditures for 501(c)(4) Form 990 Filers with > $10M in Revenue (Slide 1 of 2)

Year 2009

Name	Report 990 Total Expense	Schedule C Political Expenses	Political Expenses as a percentage of Total Expenses
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
TOTAL	$3,880,242,702	$977,176	0.03%

Year 2010

Name	Report 990 Total Expense	Schedule C Political Expenses	Political Expenses as a percentage of Total Expenses
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
TOTAL	$7,658,251,547	$43,847,126	0.57%

Source: Returns Inventory and Classification System (RICS); GuideStar.org

SFC 002246

Preliminary draft – for discussion

[redacted] Schedule C political expenditures for 501(c)(4) Form 990 Filers with > $10M in Revenue (Slide 2 of 2)

Year 2011

Name	Report 990 Total Expense	Schedule C Political Expenses	Political Expenses as a percentage of Total Expenses
[redacted]			
TOTAL	$7,690,202,838	$6,014,564	0.08%

Source: Returns Inventory and Classification System (RICS); GuideStar.org

IRS0000195886

SFC 002247

Preliminary draft – for discussion

After TY2009, the number of 501(c)(4) Form 990 Filers with Schedule C increases both for those with total revenue > $10M and for those with total revenue < $10M

Numbers of 501(c)(4) Filers with and without Schedule C in a Given Year
Total Revenue > $10M vs Total Revenue < $10M

	Total Revenue > $10M				Total Revenue < $10M			
501(c)(4) Form 990 Filers, with Schedule C in a Given Year	11	11	22	17	96	82	174	104
501(c)(4) Form 990 Filers without a Schedule C in a Given Year	274	269	258	221	8581	8771	11032	9102
Total 501(c)(4) Form 990 Filers, in a Given Year	285	280	280	238	8877	8853	11206	9206
Percentage of 501(c)(4) Form 990 Filers w/ Schedule C	3.86%	3.93%	7.86%	7.14%	0.01%	0.01%	0.02%	0.01%

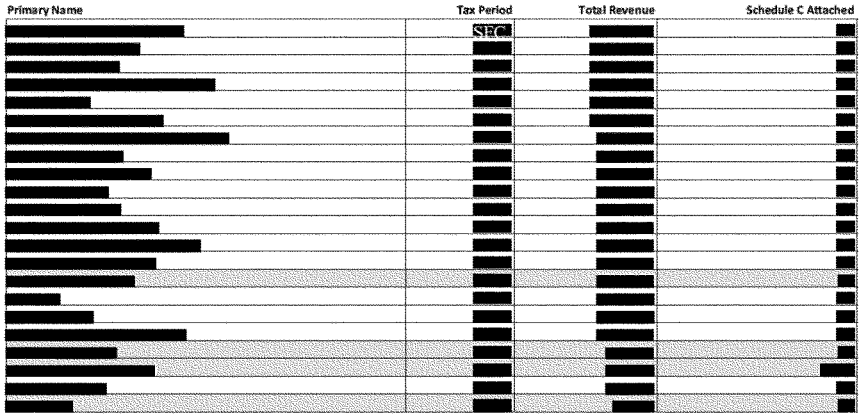
Source: Returns Inventory and Classification System (RICS)

SFC 002248

Preliminary draft – for discussion

[redacted] **For TY2010, 22 501(c)(4) Form 990 filers had an exact name match with FEC Electioneering Communications data; 4 of these 22 filers did not file a Schedule C.**

501(c)(4) Form 990 Filers with Exact Name Match with FEC Data



NOTE: Many additional 501(c)(4) Form 990 Filers reported expenditures to the FEC; the exact name match algorithm was not successful in identifying them.

Source: Returns Inventory and Classification System (RICS) and FEC Independent Expenditures data
[1]501(c)4 Form 990 filers who did not include a Schedule C are shaded red.

SFC 002249

Preliminary draft – for discussion

From TY2008 – TY2010, between 18% and 34% of 501(c)(4) Form 990 filers with Schedule C reported <5% of expenses as "Other Expenses"

501(c)(4) Entities with Other Expenses Comprising Less Than 5% of Total Expenses
All 501(c)(4) Form 990 Filers vs. 501(c)(4) Form 990 Filers with Schedule C

Source: TY 2010 data retrieved from Returns Inventory and Classification System (RICS)

IRS0000195689

Preliminary draft – for discussion

[redacted]

Data Constraints

- Due to the filing deadlines for Form 990, TY2011 is not yet complete; this means trend analysis including TY2011 may understate filings in that year
- There was a significant change in Form 990 in TY2008 complicating historical trend analysis that spans across that tax year
- The threshold for determining whether a 501(c)(4) should file a Form 990 or a Form 990EZ changed each year from TY2008 through TY2010
- Information on Schedule C is not transcribed; this requires a manual review of the fields for analysis. For example:
  Schedule C political expenditures is not transcribed
- Information from the Form 990 detailing recipients of grants is not transcribed; this requires a manual review of the fields for analysis

FOR CONTINUATION OF SENATE REPORT 114-119

THE INTERNAL REVENUE SERVICE'S PROCESSING OF 501(c)(3) AND 501(c)(4) APPLICATIONS FOR TAX-EXEMPT STATUS SUBMITTED BY "POLITICAL ADVOCACY" ORGANIZATIONS FROM 2010 - 2013

SEE PART 3