

United States Senate

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Committee on Homeland Security and Governmental Affairs

Carl Levin, Chairman

John McCain, Ranking Minority Member

**IRS AND TIGTA MANAGEMENT FAILURES
RELATED TO 501(c)(4) APPLICANTS ENGAGED IN
CAMPAIGN ACTIVITY**

**MAJORITY STAFF REPORT
WITH
MINORITY STAFF DISSENTING VIEWS**

REPORT EXHIBITS

Part 8 OF 10

Report Exhibits - Pages 1064-1304

(“PSI-TIGTA” Bates Documents)

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IRS Response of June 4, 2012 (PSI-IRS-02-000001-026)		1378
Subcommittee Letter of June 13, 2012;		1404
IRS Response of July 13, 2012 (PSI-IRS-03-000001-002)		1406
Subcommittee Letter of July 27, 2012;		1408
IRS Response of August 24, 2012 (PSI-IRS-04-000001-008)		1414
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	IRS Response of October 17, 2012 (PSI-IRS-06-000001-003)	1431
	Subcommittee Letter of October 23, 2012;	1424
	IRS Response of November 23, 2012 (PSI-IRS-07-000001-119)	1436
	Subcommittee Letter of January 4, 2013;	1555
	IRS Response of March 15, 2013 (PSI-IRS-08-000001-108)	1558
OTHER DOCUMENTS - NO BATES		
	Joint Committee on Taxation Press Release, dated March 16, 2000, regarding "Report of Investigation Relating to Internal Revenue Service Handling of Tax-Exempt Organization Matter."	1666
	Permanent Subcommittee on Investigations letter to Internal Revenue Service Acting Commission Daniel I. Werfel, dated May 23, 2014, urging IRS to suspend Lois Lerner from her office as Director of the Office of Exempt Organizations.	1675
	Treasury Inspector General letter to The Honorable Sander M. Levin, July 19, 2013, regarding TIGTA audit report.	1677
	<i>IRS list reveals concerns over Tea Party 'propaganda,'</i> <u>USA Today</u> , September 18, 2013, together with IRS list of Political Advocacy Cases.	1680
	<i>Does the IRS really have it in for tea party groups?,</i> <u>The Colorado Independent</u> , March 28, 2012, together with IRS Letter to Waco Tea Party Group and IRS Letter to Progressive Group.	1696

From: Medina Cheryl J TIGTA
Sent: Monday, May 20, 2013 11:35 AM
To: Medina Cheryl J TIGTA
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

From: Paz Holly O [<mailto:Holly.O.Paz@irs.gov>]
Sent: Monday, July 23, 2012 3:04 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: Advocacy Orgs - Updated List of Cases and Guidesheet from EOT

From: Thomas Cindy M
Sent: Tuesday, April 17, 2012 8:44 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

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
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

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
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.

[REDACTED]

If you have questions, please contact Hilary and Steve or me. FYI . . . Steve is the manager overseeing this technical area.

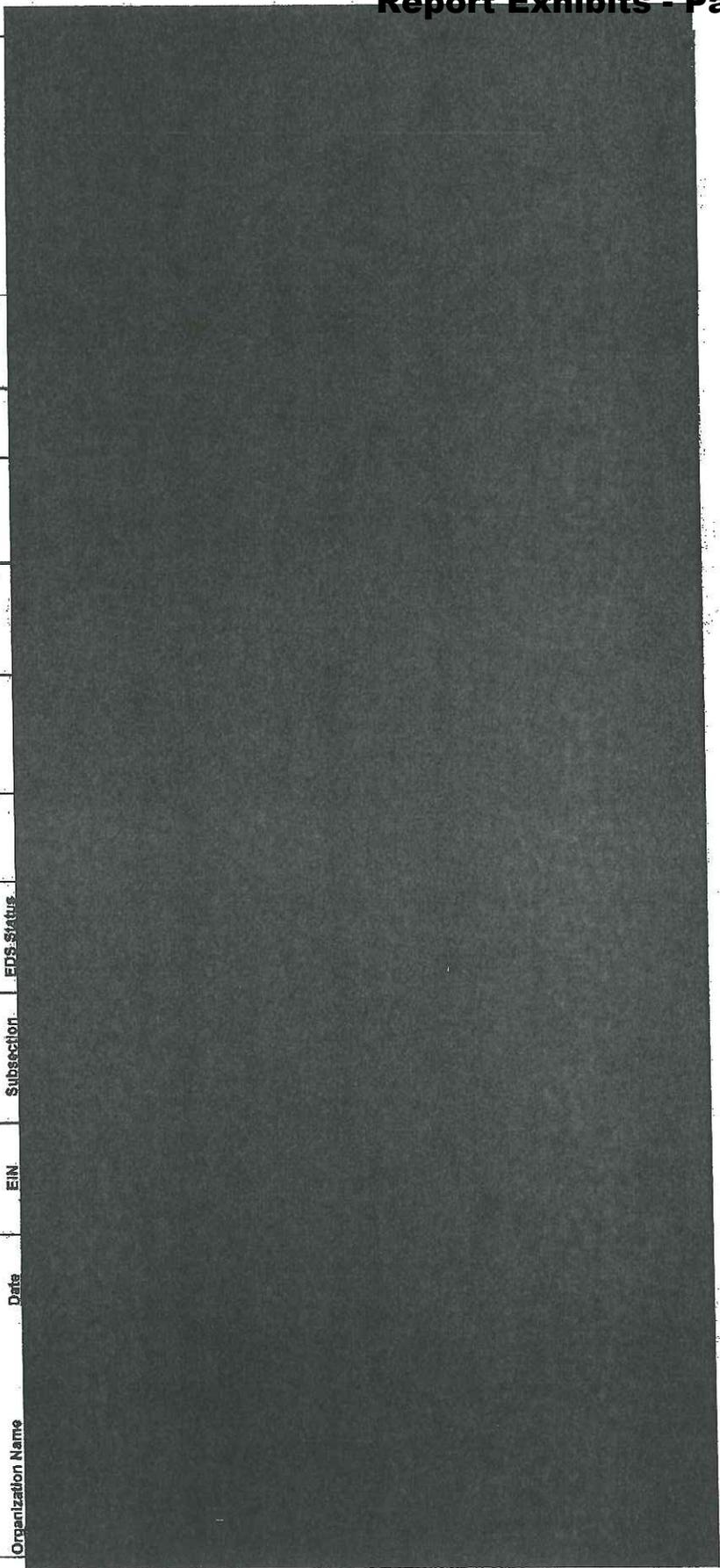
Thanks, Mike

EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)

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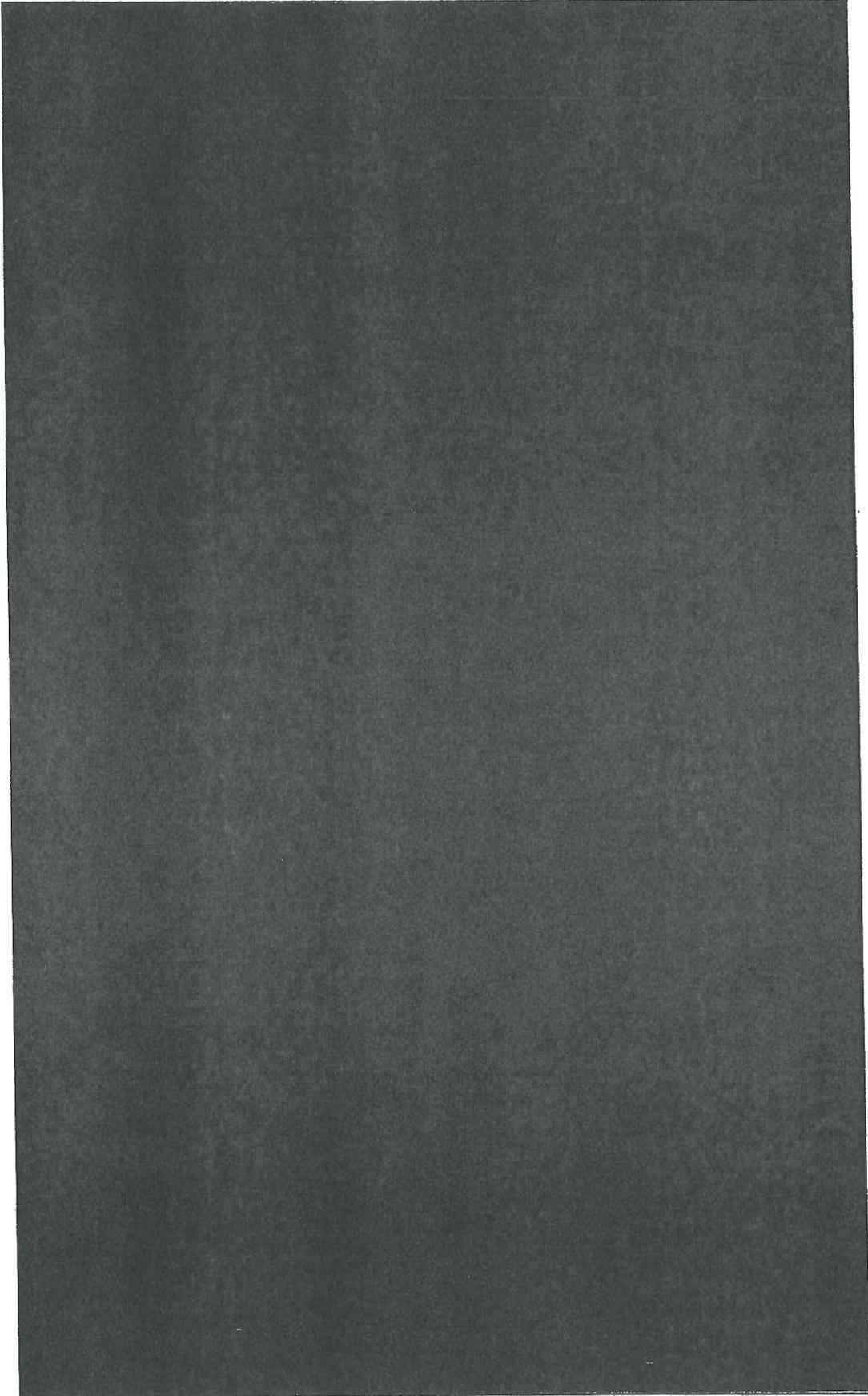
Organization Name	Control	Date	EIN	Subsection	EDS Status	Current	Lobbying	General Advocacy (i.e. issue advocacy and/or educational)	Propaganda/inflammatory (little to no educational aspects)	Political Activities	Development	Comments



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EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)

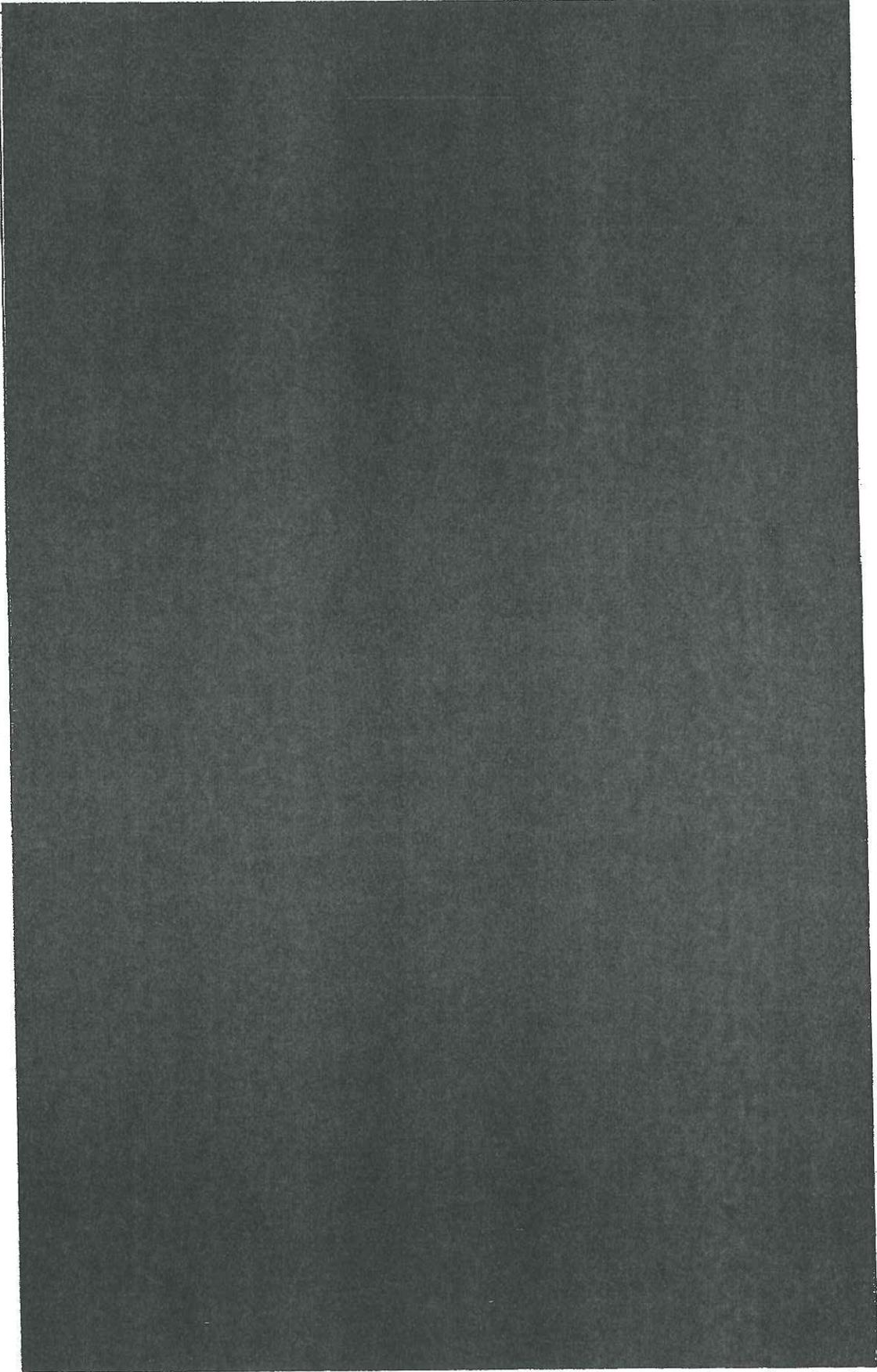
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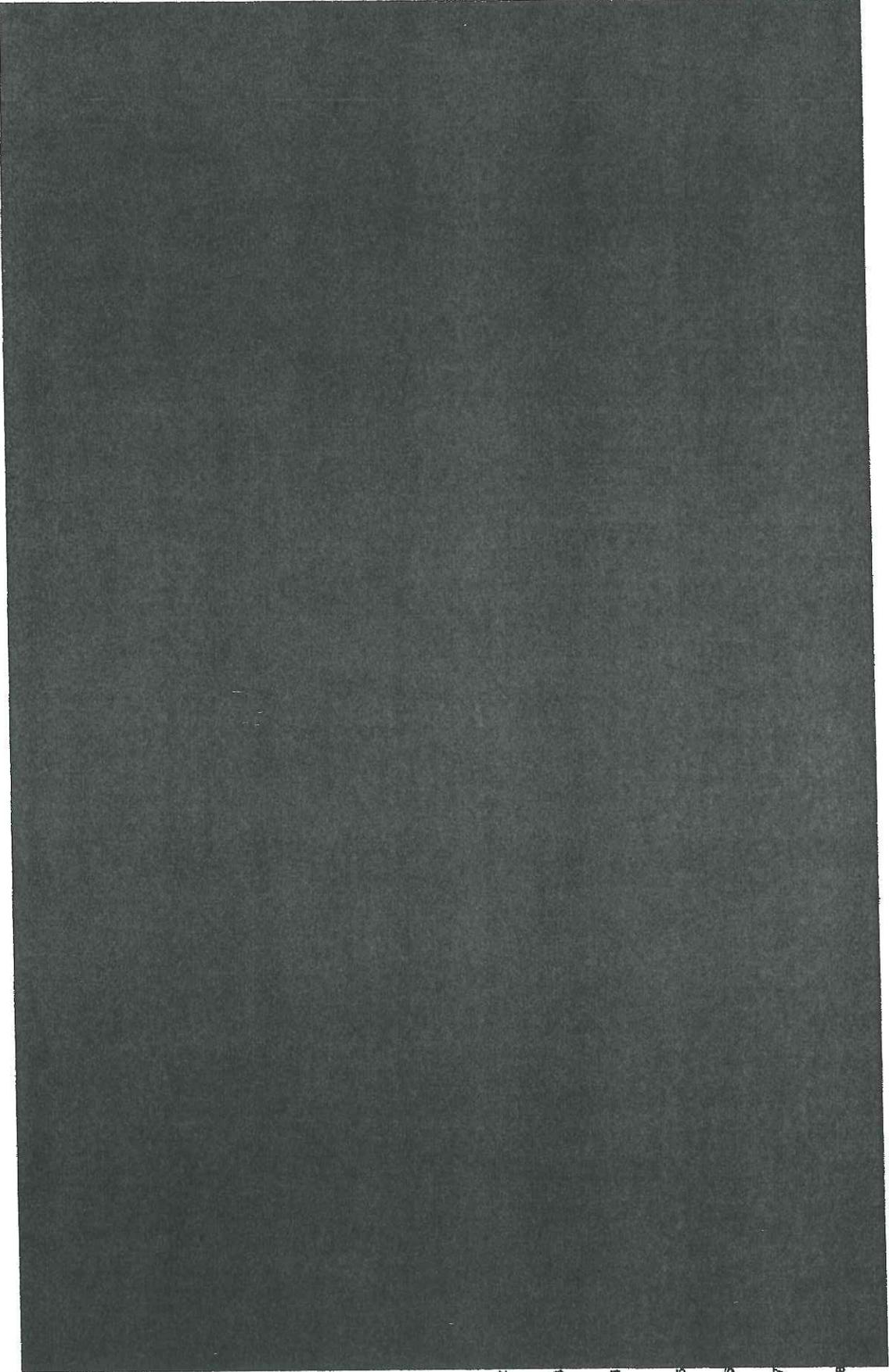
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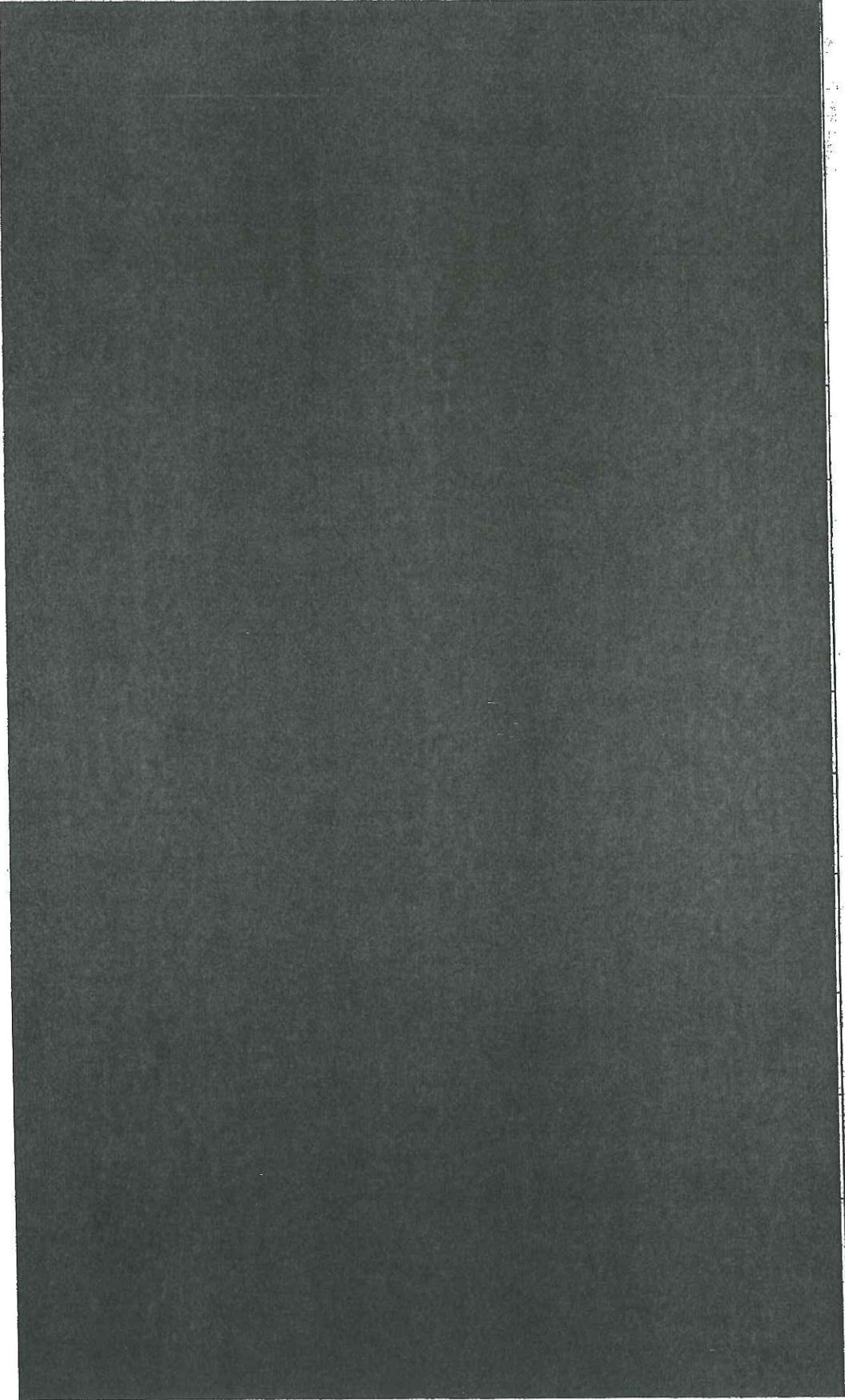
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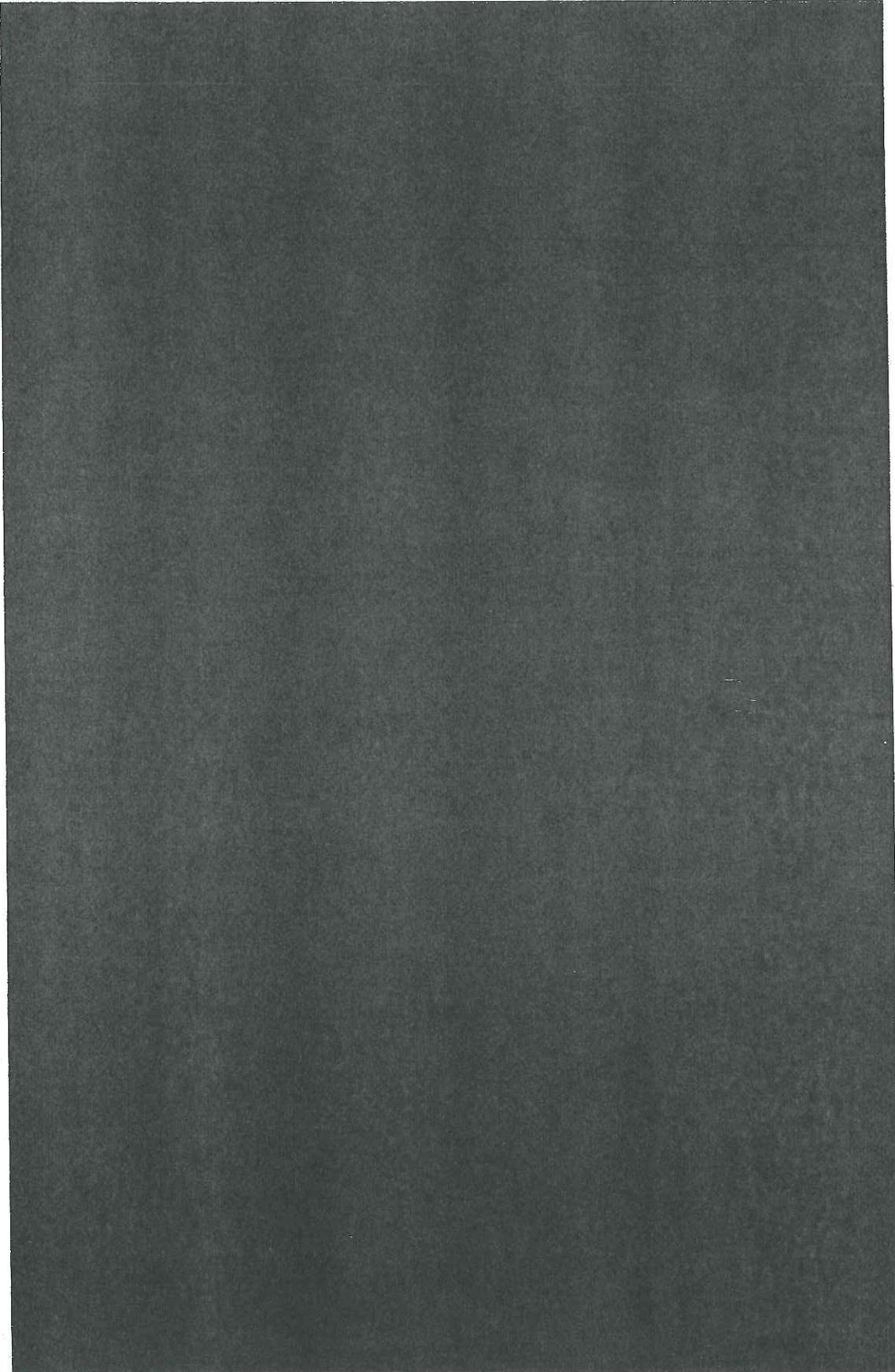


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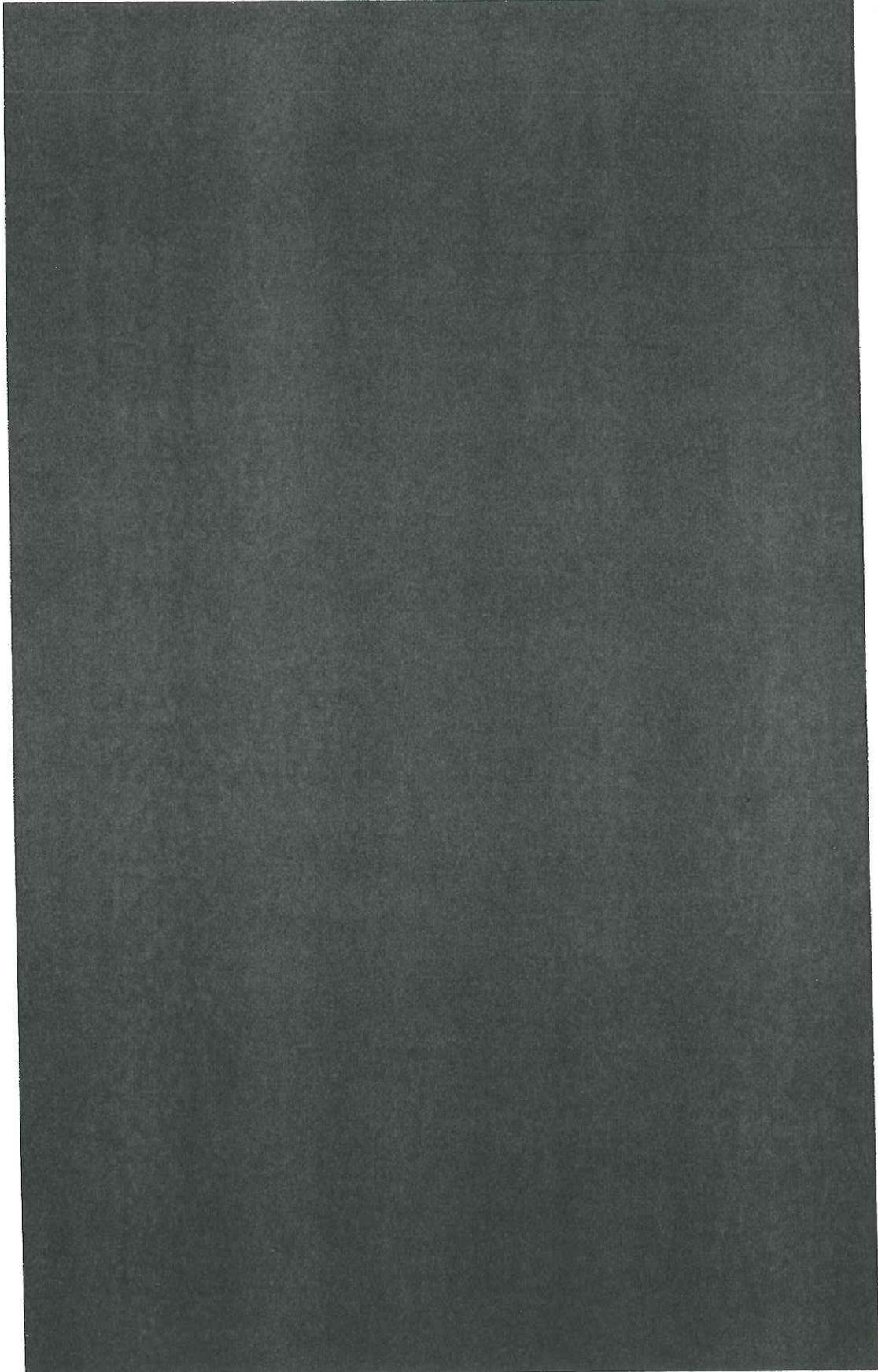
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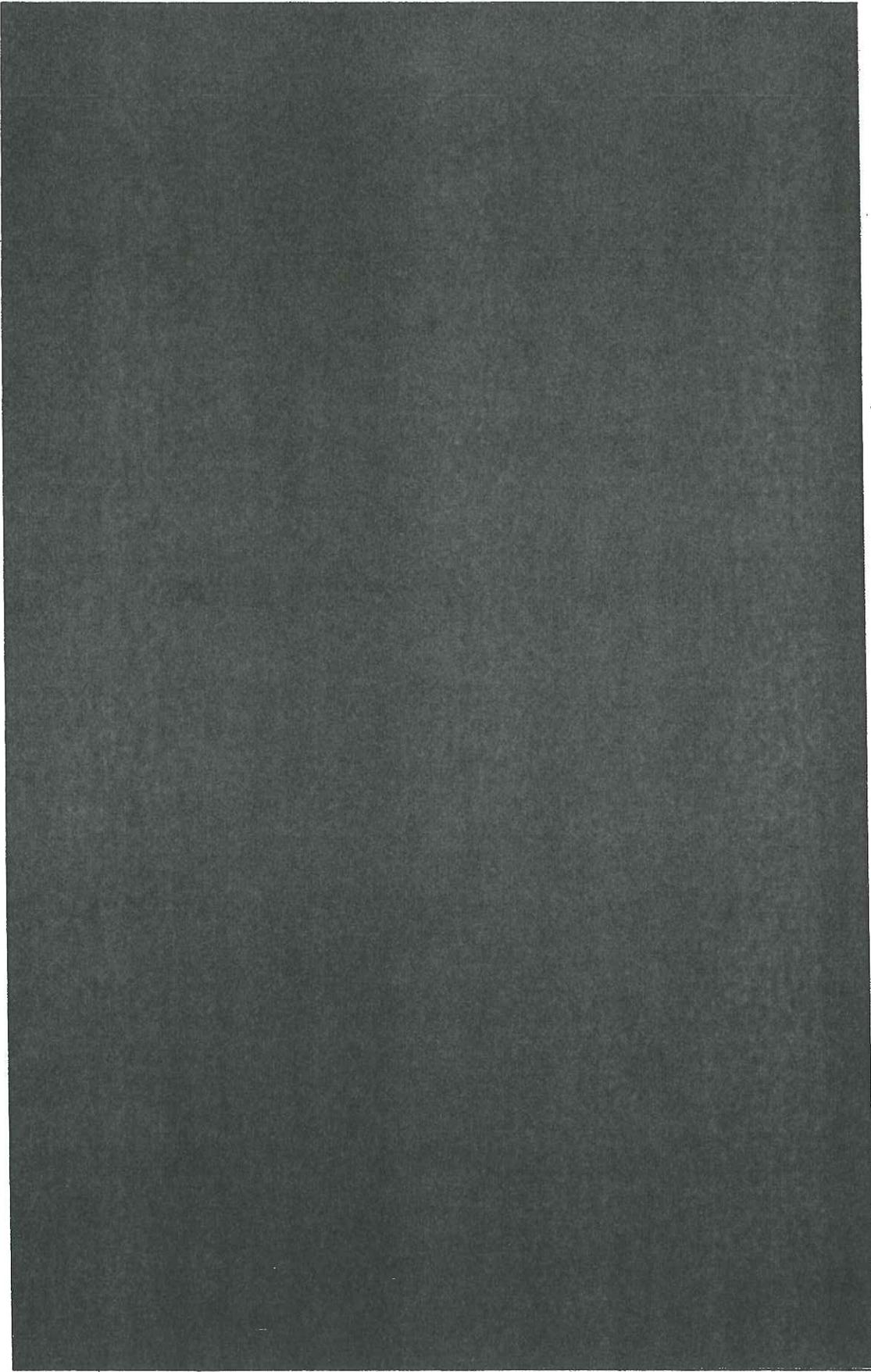
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EOD, Political Advocacy Cases - Screened by EO Technical (11/16/11)

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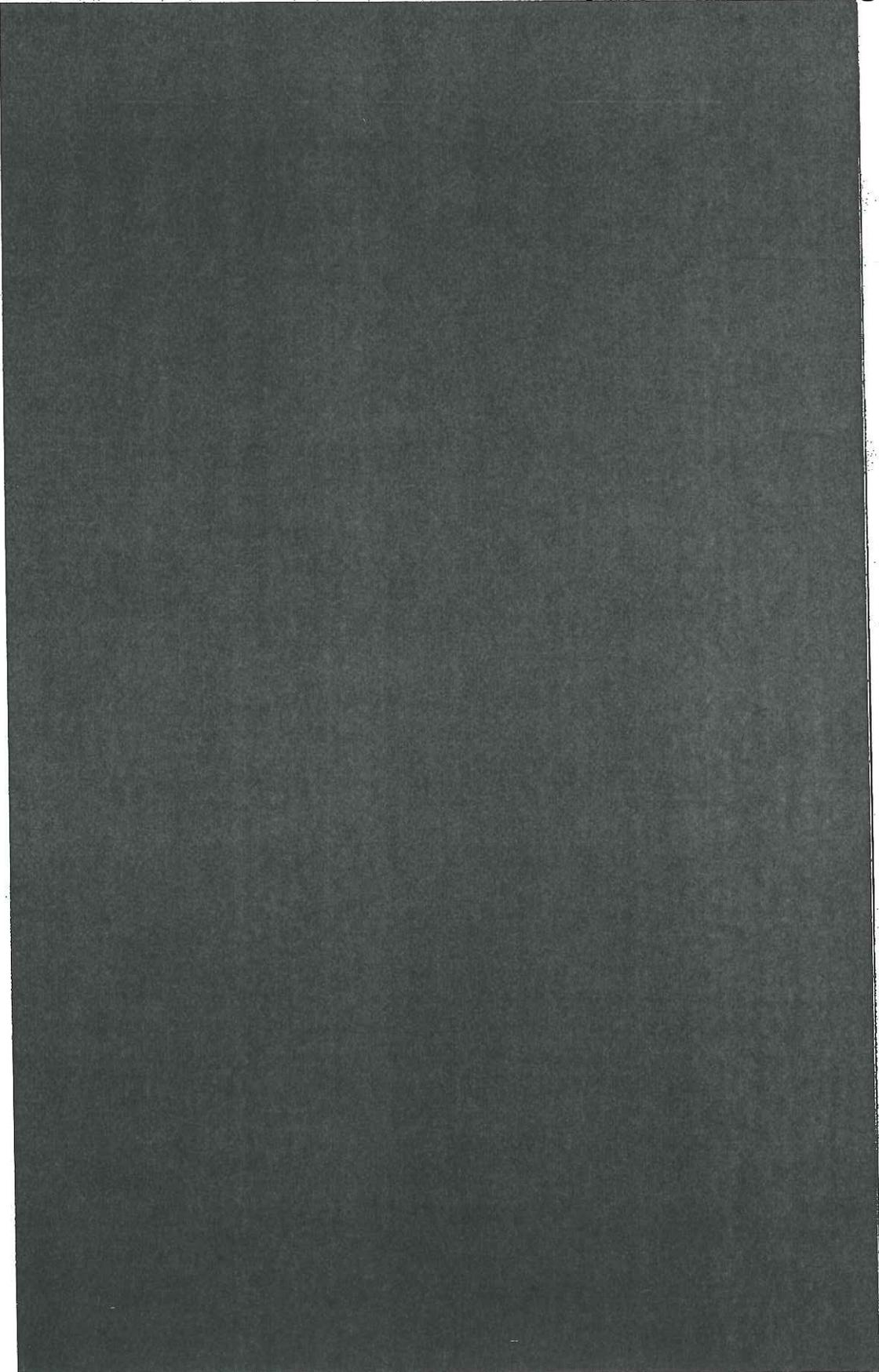
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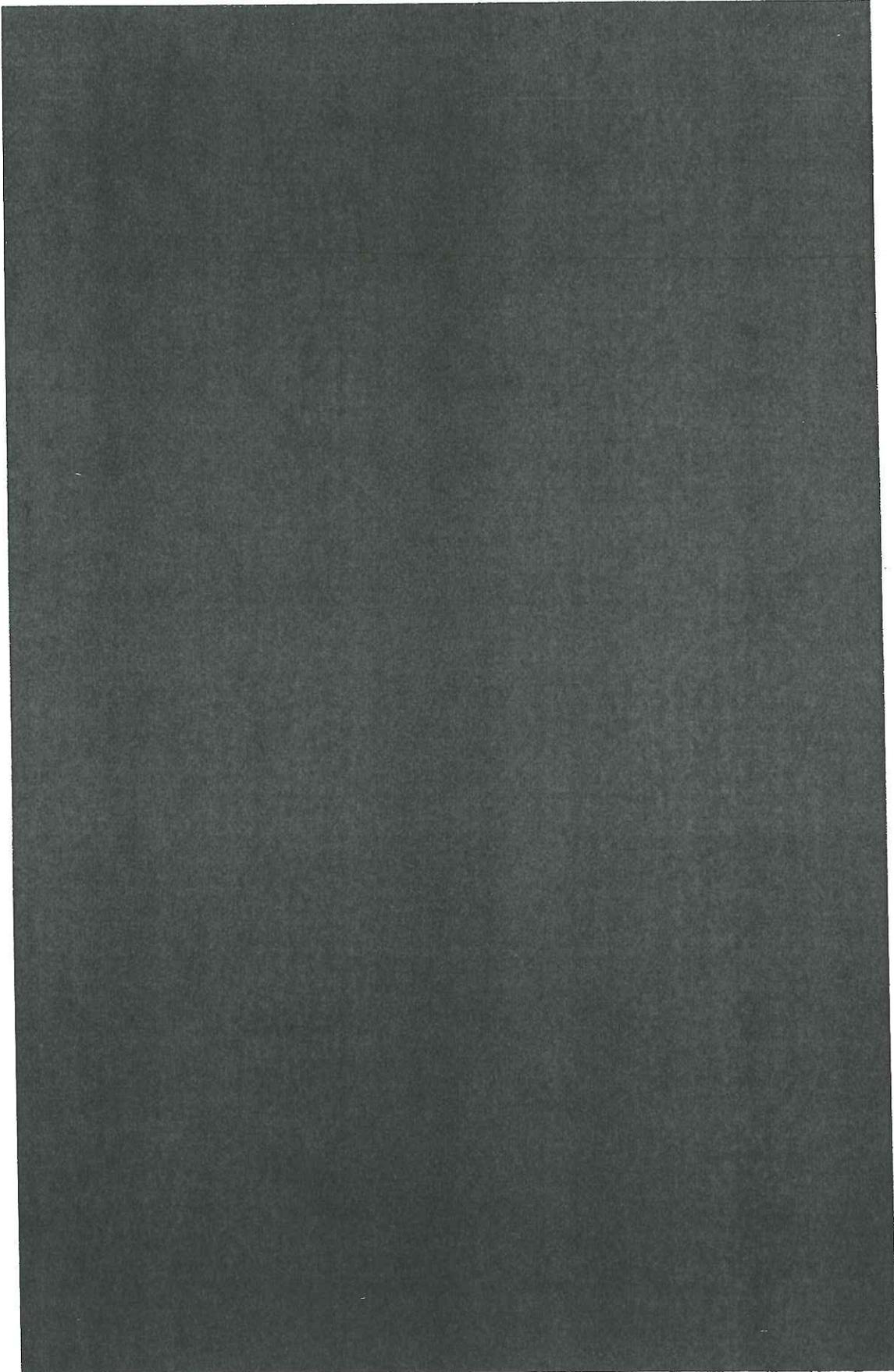
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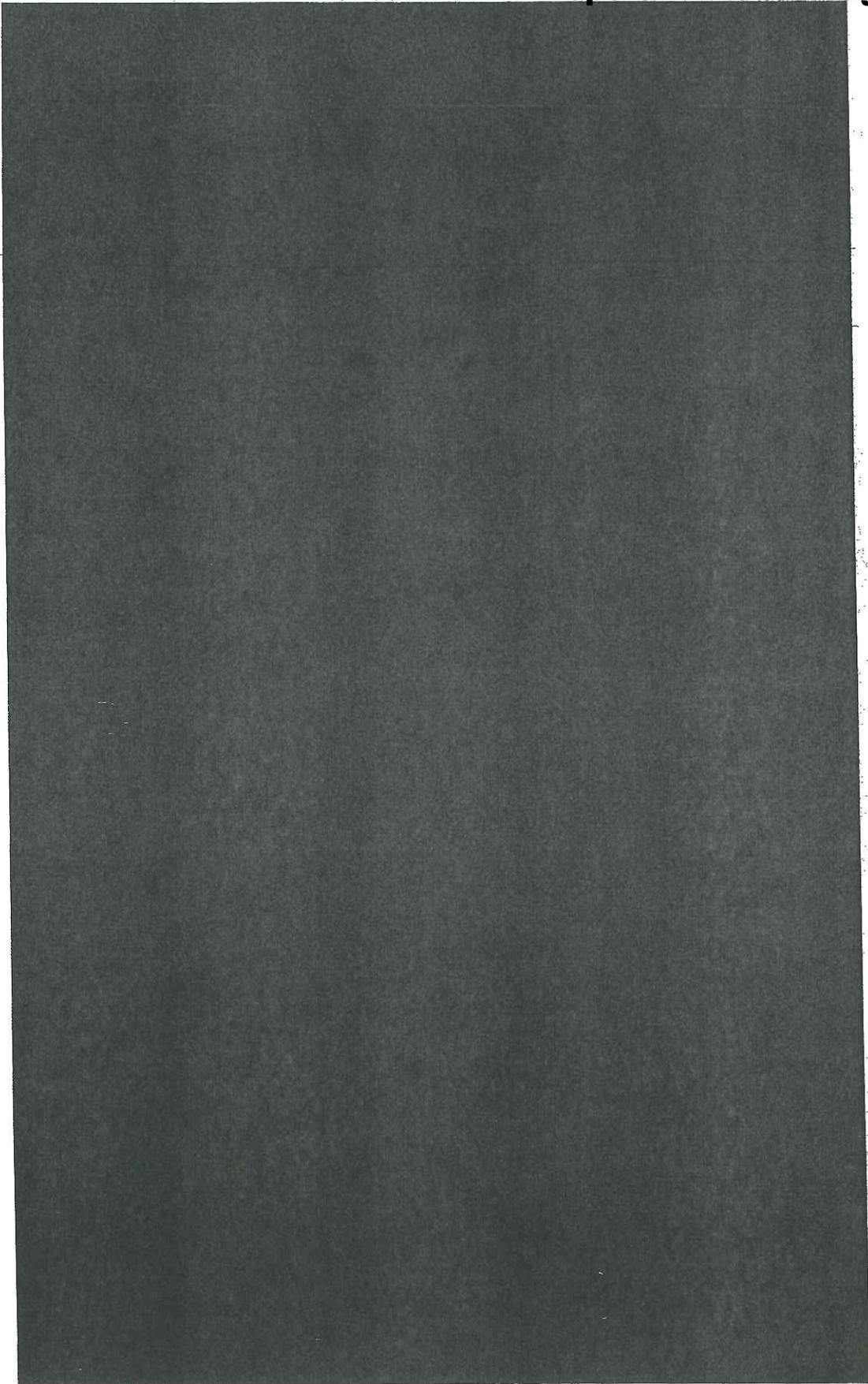
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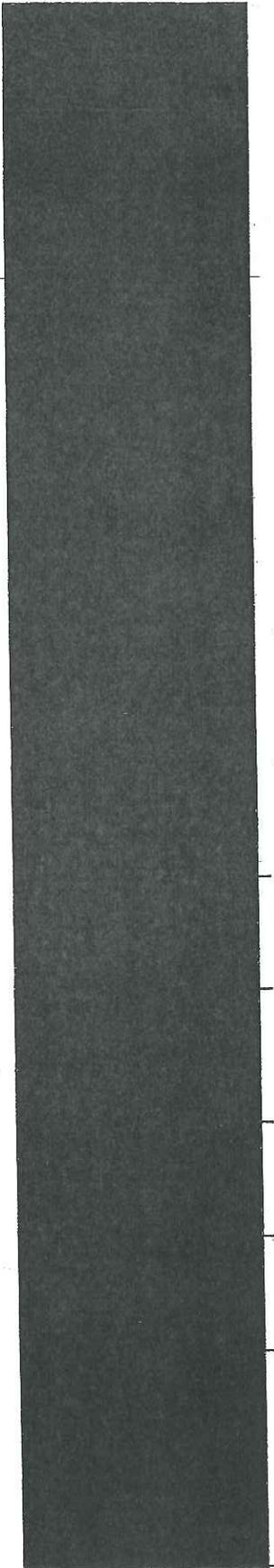
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EOD Political Advocacy Cases - Screened by EO Technical (11/16/11)

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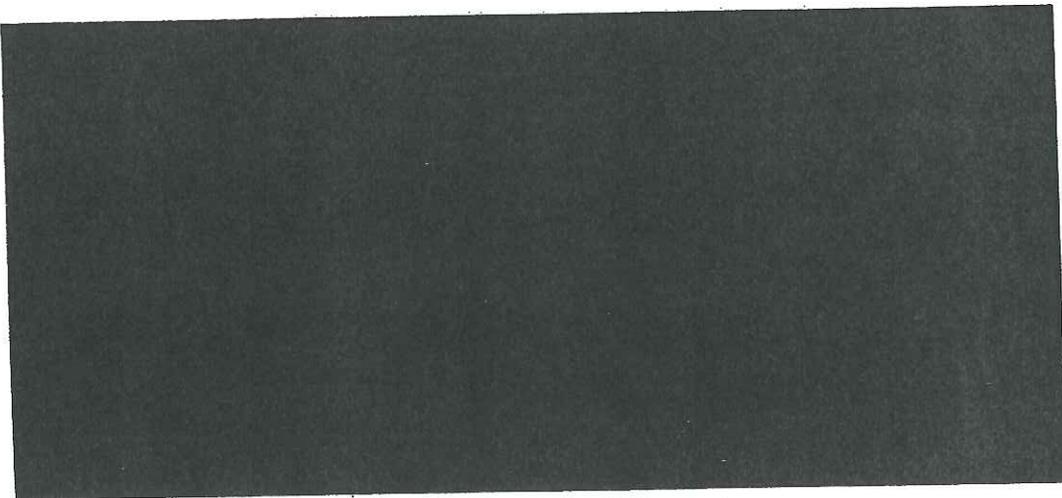


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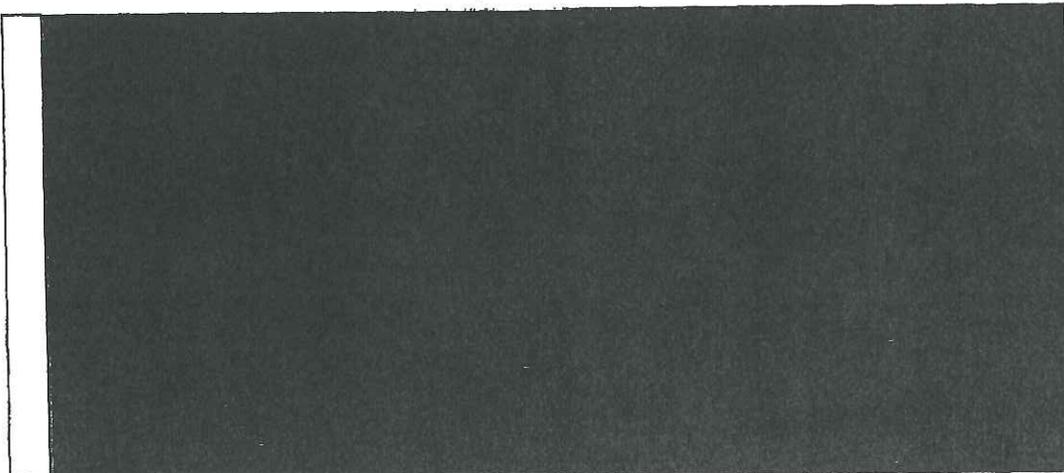
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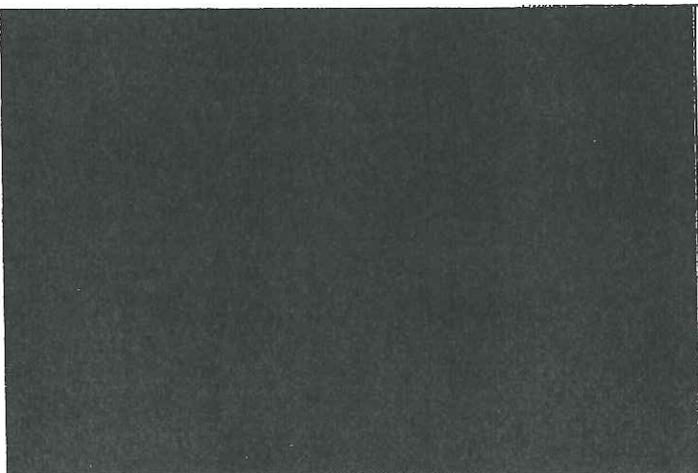
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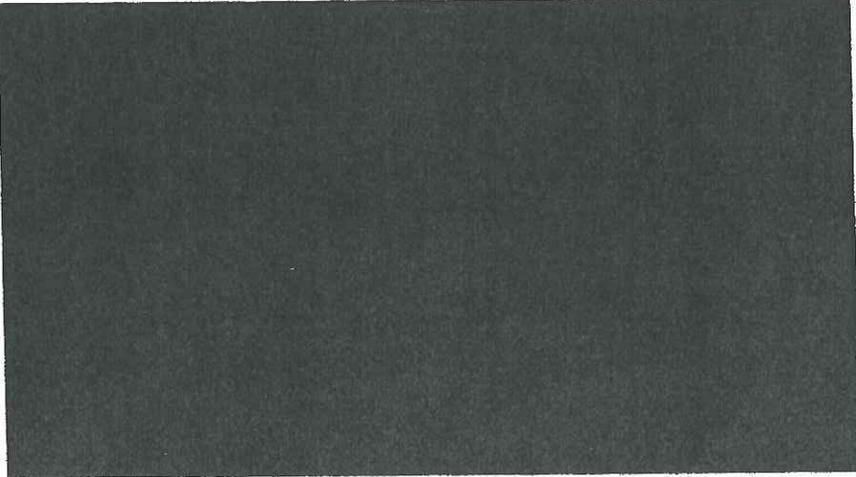
					

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Advocacy Organizations Guide Sheet

Many different types of exempt organizations engage in advocacy in compliance with the applicable tax laws. However, it can be challenging to distinguish between permissible and impermissible types of advocacy; analyzing cases involving these issues is extremely fact-intensive.

This guide sheet aids agents working these cases in differentiating between types of advocacy, reminds them of the advocacy rules pertaining to various categories of exempt organizations, and provides a checklist of facts to gather and indicators of various types of advocacy.

PART 1: THREE TYPES OF ADVOCACY:

This guide sheet breaks down the broad concept of advocacy into three categories: political campaign intervention, lobbying, and general advocacy. They are defined as follows.

1) Political Campaign Intervention:

An organization engages in political campaign intervention when it participates or intervenes in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. This includes attempts to influence political campaigns through both direct and indirect support of, or opposition to, a candidate.

2) Lobbying:

An organization engages in lobbying, or legislative activities, when it attempts to influence specific legislation by directly contacting members of a legislative body (federal, state, or local), or encouraging the public to contact those members, regarding that legislation. An organization also engages in lobbying when it encourages the public to take a position on a referendum. Lobbying is distinguished from political campaign intervention because lobbying does not involve attempts to influence the election of candidates for public office.

3) General Advocacy:

An organization engages in general advocacy when it attempts to (1) influence public opinion on issues germane to the organization's exempt purposes, (2) influence non-legislative governing bodies (e.g., the executive branch, regulatory agencies), or (3) encourage voter participation through get out the vote drives, voter guides, and candidate debates in a nonpartisan, neutral manner. General advocacy generally includes all other types of advocacy other than political campaign activity and lobbying.

Part 2: TYPES OF ADVOCACY ORGANIZATIONS:

The organizations that most commonly engage in advocacy are 501(c)(3), (4), (5), and (6) organizations and 527 organizations. Below are the rules governing which types of advocacy these organizations can engage in, along with a chart summarizing that information.

1) IRC 501(c)(3) organizations:

- Organizations described in 501(c)(3) are organized and operated exclusively for charitable, religious, educational, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.
- They can engage in an insubstantial amount of lobbying.
- They are absolutely prohibited from engaging in any type of political campaign intervention.
- They can engage in an unlimited amount of general advocacy as long as it is educational.

2) IRC 501(c)(4) organizations:

- Social welfare organizations described in IRC 501(c)(4) are organized and operated exclusively for the promotion of social welfare, which involves promoting the common good and general welfare of people in the community.
- They can not be operated for profit.
- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(4) purposes; therefore political campaign activity, along with all other non-(c)(4) activities, cannot make up an organization's primary activities.
- They can engage in lobbying as their primary activity if their legislative activities are related to their specific exempt purposes.
- They can engage in an unlimited amount of general educational advocacy as long as the activities are related to their exempt purposes.

3) IRC 501(c)(5) organizations:

- Organizations described in IRC 501(c)(5) must be organized and operated for the purpose of bettering the conditions of those engaged in labor, agricultural, or horticultural pursuits.
- They can engage in unlimited general advocacy.
- They can engage in unlimited lobbying, so long as the lobbying is conducted with regard to issues that are related to their exempt purpose.

- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(5) purposes; therefore political campaign activity, along with all other non-(c)(5) activities, cannot make up an organization's primary activities.

4) IRC 501(c)(6) organizations:

- Business league organizations described in 501(c)(6) are associations of persons with a common business interest and their purposes must be to promote this common interest.
- They can not conduct a regular trade or business for profit.
- They can engage in unlimited general advocacy.
- They can engage in unlimited lobbying, so long as the lobbying is on issues related to their exempt purpose.
- They can engage in limited political campaign intervention. Political campaign intervention does not further (c)(6) purposes; therefore political campaign activity, along with all other non-(c)(6) activities, cannot make up the organization's primary activity.

5) IRC 527 organizations:

- Political organizations described in 527 are organized and operated for the primary purpose of engaging in political campaign intervention, including influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.
- They can engage in an unlimited amount of political campaign intervention.
- They can engage in lobbying, but would be taxed on that activity.
- They can engage in general advocacy, but would be taxed on that activity.

	IRC 501(c)(3)	IRC 501(c)(4), (c)(5), and (c)(6)	IRC 527
Receive tax-deductible charitable contributions	<u>YES</u>	<u>NO</u>	<u>NO</u>
Engage in political campaign intervention	<u>NO</u>	<u>LIMITED;</u> Must Not Constitute Primary Activity Of Organization	<u>YES</u>
Engage in lobbying	<u>LIMITED;</u>	<u>YES;</u>	<u>LIMITED</u>

(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	<u>YES;</u> Permitted As An Educational Activity	<u>YES;</u> Unlimited Amount If In Furtherance of Exempt Purposes	<u>LIMITED</u>

Part 3: ADVOCACY INDICATORS:

Distinguishing between types of advocacy requires knowledge of all the pertinent facts and circumstances. Therefore, careful and full development of a case is often required to gather very specific facts. The following are facts about an organization's activities that can be helpful in distinguishing between different types of advocacy:

- What does the organization consider to be its exempt purpose(s)?
 - How much time is devoted to each purpose?
 - How many financial resources are devoted to each purpose?
 - In what order of importance does the organization consider its exempt purpose? From most important to least important?
- What are the sources of the organization's income?
- Does the organization engage in fundraising activities? If so, what are the specific details, including:
 - Copies of all solicitations the organization has made regarding fundraising, including fundraising that occurs in an election year and non-election year.
 - Copies of all documents related to the organization's fundraising events, including pamphlets, flyers, brochures, webpage solicitations.
 - How much of the organization's budget is spent on fundraising? Determine the sources of fundraising expenses.
- How does the organization use its income? Are there detailed break-downs of these expenses?
- How many employees does the organization have? How many volunteers?
 - Are employees full-time, part-time, or seasonal? Explain.
 - If employees are part-time, when did/do they work?
 - If employees are seasonal, during what season (months) did/do they work?
- How many employees and volunteers are/were devoted to each activity of the organization throughout the year?
- How many and what sort of resources are devoted to volunteer activities?
- Does the organization conduct educational events, discussion groups or similar events? If so, what are the specific details, including:
 - Copies of all materials distributed with regards to the event.
 - When have the events taken place or plan to take place?
 - How much of the organization's resources and budget are devoted to these activities? What is the breakdown of expenses?

- Does the organization publish or distribute materials or conduct other communications that are prepared by or reviewed by another organization?
- Is the organization associated with any other IRC 501(c)(3), 501(c)(4) or 527 organizations? If so, describe in detail the nature of the relationship(s).
 - Does the organization work with those organization(s) regularly? Describe the nature of the contacts.
 - Do you share employees, volunteers, resources, office space, etc. with the organization(s)?
- Does the organization conduct candidate forums or other events at which candidates for public office are invited to speak? If so, what are the details, including the nature of the forums, the candidates invited to participate, the candidates that did participate, the issues discussed, the time and location of the event.
 - Are there copies of all materials distributed regarding the forum and provided at the forum, including any internet material discussing or advertising the forum?
- Have any candidates for public office spoken at a function of the organization? If so, what are the names of the candidates, the functions at which they spoke, any materials distributed or published with regard to their appearance and the event, any video or audio recordings of the event, and a transcript of any speeches given by the candidate(s)?
- Does the organization, or has it ever, conducted voter education activities, including voter registration drives, get out the vote drives, or publish or distribute voter guides? If so:
 - What is the location, date and time of the events.
 - Who on the organization's behalf has or will conduct the voter registration or get out the vote drives?
 - How many resources (funds/employees/volunteers) are devoted to the activity?
 - Are there copies of all materials published or distributed regarding the activities, including copies of any voter guides?
- Does the organization engage in business dealings with any candidate(s) for public office or an organization associated with the candidate, such as renting office space or providing access to a membership list? If so, what is the relationship in detail and are there any contracts or other agreements documenting the business relationship?
- Does the organization attempt to influence the outcome of specific legislation?
 - Are there copies of all communications, pamphlets, advertisements, and other materials distributed by the organization regarding the legislation?
 - Does the organization conduct media advertisements lobbying for or against legislation? Are there copies of any radio, television, or internet advertisements relating to the organization's lobbying activities?
 - Does the organization directly or indirectly communicate with members of legislative bodies? If so, determine the amount and nature of the communication.

Below are indicators used when determining whether an IRC 501(c)(3), IRC 501(c)(4), (5) or (c)(6), or IRC 527 organization is engaging in (1) political campaign intervention, (2) lobbying (legislative activities), or (3) general advocacy.

Section I: Political Campaign Intervention

The following are indicators of political campaign intervention:

		Yes	No
A.	<p>Is there a "candidate" for "public office?" This is an individual who:</p> <ul style="list-style-type: none"> • Offers himself, or • Is proposed by others • As a contestant for elective public office, whether national, state, or local public office. <p>An individual who has not yet announced an intent to seek election to public office may still be considered to have offered himself or herself as a candidate for office. Has the individual taken sufficient steps prior to announcing an intent to seek election, so that he or she may be considered to have offered himself or herself as a candidate for public office?</p> <p>Have others proposed the individual as a candidate for public office, even if the individual has announced an intention of not seeking election to the office? Some action must be taken to make one a candidate, but the action need not be taken by the candidate or require his consent. This would include statements in opposition to a candidate for office, even before that candidate has necessarily declared themselves as a contestant for office.</p>		
B.	<p>Is the candidate seeking an office to which he or she must be elected, as opposed to appointed? The political campaign intervention prohibition applies only to campaigns for offices to which a candidate must be elected. Factors indicating an elective public office include:</p> <ul style="list-style-type: none"> • 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.	<p>Does the organization publish and/or distribute written or printed statements, including communications made on the internet, in favor of or against a candidate for public office? This includes material prepared by the organization itself or by other organizations or individuals. Do materials distributed by the organization encourage members to vote for or against a candidate?</p>		
	<p>Has the organization criticized or expressed support for a candidate on their website or through links to another website?</p>		
	<p>Has the organization made oral statements in support of or in opposition</p>		

to a candidate for public office?		
<p>Does the organization encourage individuals to vote for or against a particular candidate?</p> <p>Organizations are not prohibited from speaking about moral, social, or economic issues during election periods. However, consider the facts and circumstances to determine whether the organization is surreptitiously intervening in a political campaign under the pretext of speaking to moral, social or economic issues by tying its message to the election in a manner that expresses a preference for a candidate or candidate.</p>		
<p>Does the organization reference a candidate by use of "code words" or other references to identify a candidate, such as "Republican," "Democrat," "pro-life," "pro-choice," etc.?</p> <ul style="list-style-type: none"> • 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?		
<p>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:</p> <ul style="list-style-type: none"> • 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.	<p>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:</p> <ul style="list-style-type: none"> • 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.	<p>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:</p> <ul style="list-style-type: none"> • 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 		

	<p>candidate to speak at a well attended event but invites an opposing candidate to speak at a sparsely attended event. This could constitute prohibited campaign intervention even if the manner of presentation for both speakers is otherwise neutral.)</p> <ul style="list-style-type: none"> • 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.	<p>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:</p> <ul style="list-style-type: none"> • 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.	<p>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:</p> <ul style="list-style-type: none"> • 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? 		

	<ul style="list-style-type: none"> • 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.	<p>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:</p> <ul style="list-style-type: none"> • 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.	<p>Is the organization attempting to influence legislation or a legislative proposal?</p> <ul style="list-style-type: none"> • 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.	<p>Is there "action" being taken with reference to the legislation?</p> <ul style="list-style-type: none"> • Action includes introduction, amendment, enactment, defeat, or repeal by legislative bodies or the public. 		

C.	<p>Does the organization engage in "direct lobbying?"</p> <ul style="list-style-type: none"> • 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.	<p>Does the organization engage in "indirect" or "grassroots" lobbying:</p> <ul style="list-style-type: none"> • 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.	<ul style="list-style-type: none"> • 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.	<p>Does the organization engage in "educational" activities? (See Rev. Proc. 86-43). The term "educational" relates to:</p> <ul style="list-style-type: none"> • The instruction or training of an individual for the purpose of 		

	<p>improving or developing his capabilities, or</p> <ul style="list-style-type: none"> • The instruction of the public on subjects useful to the individual and beneficial to the community. 		
	<p>Is the organization advocating a particular position or viewpoint? If "Yes" to the following, the activity may qualify as permissible educational activity:</p> <ul style="list-style-type: none"> • 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.	<p>The organization's presentations should avoid the following factors in order to be considered educational:</p> <ul style="list-style-type: none"> • 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? 		

From: [Medina Cheryl J TIGTA](#)
To: [Medina Cheryl J TIGTA](#)
Subject: FW: Clean-ups & Revisions to Guide Sheet
Date: Monday, May 20, 2013 12:19:44 PM
Attachments: [guide_sheet_master_04-25-12_\(counsel\).doc](#)
[guide_sheet_master_compare_04-25-12.doc](#)

From: Paz Holly O [<mailto:Holly.O.Paz@irs.gov>]
Sent: Tuesday, July 24, 2012 1:56 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: Clean-ups & Revisions to Guide Sheet

From: Spellmann Don R
Sent: Wednesday, April 25, 2012 3:48 PM
To: Lerner Lois G; Marks Nancy J; Paz Holly O; Kindell Judith E; Fish David L; Megosh Andy; Lowe Justin; Goehausen Hilary; Urban Joseph J
Cc: Judson Victoria A; Cook Janine; Brown Susan D; Marshall David L
Subject: Clean-ups & Revisions to Guide Sheet

We just can't seem to keep our hands off this thing (or stop thinking about it). You'll see a fair amount of red here. But it's predominantly clean-up, more consistency in language, some rephrasing (political now ahead of lobbying throughout), added precision and clarity (we hope), and better conformity to the published ruling examples. We also removed, combined, or massaged a number of factors that were neutral (or unnecessary) free-standing.

The first document is clean, only containing the discrete comment windows from before.

The second is red, white and black.

Please let us know if you have questions or would like to discuss anything.

Don & Crew

DRAFT 4/25/2012

**Reviewing Section 501(c)(3) and 501(c)(4) Exemption Applications
(Political Campaign Intervention and Lobbying)**

OVERVIEW

This document provides information to assist you in processing the exemption applications under sections 501(c)(3) and 501(c)(4) of organizations that indicate they may participate or intervene in a political campaign ("political campaign intervention"), or attempt to influence legislation ("lobbying").¹ This document will help you screen your applications for organizations that may engage in political campaign intervention or lobbying, decide which activities may require further case development and which facts to develop, and determine whether a particular activity may be political campaign intervention or lobbying.

Questions on case development and applicable law should be directed to Exempt Organizations Technical.

This document contains the following sections:

1. Definitions of political campaign intervention and lobbying
2. Rules on political campaign intervention and lobbying for section 501(c)(3) and section 501(c)(4) organizations
3. A separate guide sheet for certain activities that may be political campaign intervention or lobbying

PART 1: DEFINITIONS

1) Political Campaign Intervention:

- Participating or intervening in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office. [§ 501(c)(3); § 1.501(c)(4)-1(a)(2)]
- It includes, but is 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 a candidate. [§ 1.501(c)(3)-1(c)(3)(iii)]

¹ This document is not designed for use in processing exemption applications under § 501(c)(5) (labor, agricultural, or horticultural organizations) or § 501(c)(6) (business leagues). The guide sheets relating to specific types of activities conducted by § 501(c)(4) organizations may be relevant for gathering information from these organizations.

DRAFT 4/25/2012

2) **Lobbying:**

- Contacting, or urging the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or
- Advocating the adoption or rejection of legislation.
- 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.
- Lobbying does not include engaging in nonpartisan analysis, study, or research and making the results thereof available to the public.

[§ 1.501(c)(3)-1(c)(3)(ii), (3)(iv); Rev. Rul. 71-530 (applying to § 501(c)(4) organizations)]

PART 2: RULES ON POLITICAL CAMPAIGN INTERVENTION AND LOBBYING²

1) **Section 501(c)(3) Organizations:**

- Organized and operated exclusively for charitable, educational, and other specified purposes. [§ 501(c)(3)]
- Do not engage in political campaign intervention. [§ 501(c)(3), § 1.501(c)(3)-1(c)(1), Rev. Rul. 2007-41]
- No substantial part of their activities is lobbying.³ [§ 501(c)(3)]

2) **Section 501(c)(4) Organizations:**

- Operated exclusively for the promotion of social welfare [§ 501(c)(4)]
- Promotion of social welfare does not include political campaign intervention. [§ 1.501(c)(4)-1(a)(2)] The regulations do not impose a complete ban on such activities, as long as the organization's primary activities promote social welfare.⁴ [Rev. Rul. 81-95]
- Lobbying may promote social welfare. [§ 1.501(c)(3)-1(c)(3)(flush); Rev. Rul. 68-656, Rev. Rul. 71-530]

² Organizations described in § 501(c) (other than § 501(c)(3)) are subject to special reporting rules regarding their political and lobbying activities and may be subject to tax on those activities. See § 527 and § 6033(e).

³ For private foundations, even insubstantial lobbying activities are subject to penalty excise taxes. [§ 4945(e)]

⁴ A § 501(c) organization that makes expenditures for political organization "exempt function" activity as defined in § 527(e) is subject to tax on the organization's net investment income, up to the amount of the "exempt function" expenditures. [§ 527(f)]

DRAFT 4/25/2012

PART 3: GUIDE SHEETS FOR SPECIFIC ACTIVITIES

Below are separate guide sheets for certain activities that may be political campaign intervention or lobbying. Use the guide sheet only if the organization indicates that it may engage in that specific activity.

The guide sheets will help you screen your applications for organizations that may engage in political campaign intervention or lobbying, decide which activities may require further case development and which facts to develop, and determine whether a particular activity is political campaign intervention or lobbying. The guide sheets each present a specific set of facts in which an activity generally is (or generally is not) political campaign intervention or lobbying. For all other situations, the guide sheets list individual facts for you to consider and develop. The facts are listed by whether they tend to show (or tend not to show) political campaign intervention or lobbying. Each fact contains a citation to revenue rulings or other legal authorities to consult for further information. These authorities contain examples that illustrate how to apply the law on political campaign intervention and lobbying to these activities.

Your determination is based on all the facts and circumstances. No one fact determines whether an activity is political campaign intervention or lobbying. If an organization engages in multiple activities, the interaction among them may affect whether the organization is engaged in political campaign intervention [Rev. Rul. 2007-41]. Questions on case development and applicable law should be directed to Exempt Organizations Technical.

Comment [A1]: Add an instruction to call EO technical if the application has possible campaign or lobbying activities other than those activities addressed in the specific guide sheets?

Possible Political Campaign Intervention

- **Guide Sheet 1: Voter Guides**
- **Guide Sheet 2: Candidate Forums**
- **Guide Sheet 3: Other Candidate Appearances**
- **Guide Sheet 4: Issue Advocacy vs. Political Campaign Intervention**
- **Guide Sheet 5: Individual Activity by Organization Leaders**
- **Guide Sheet 6: Business Activities**

Possible Lobbying : For Section 501(c)(3) Organizations Only

- **Guide Sheet 7: Communications with the General Public on Legislative Issues (for Section 501(c)(3) Organizations Only)**
- **Guide Sheet 8: Communications with Government Officials on Legislative Issues (for Section 501(c)(3) Organizations Only)**

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Guide Sheet 1: Voter Guides

Certain voter education, including the preparation and distribution of certain voter guides, conducted in a non-partisan manner, may not constitute political campaign intervention. [Rev. Rul. 2007-41] On the other hand, an organization that publishes a compilation of candidate positions or incumbents' voting records may engage in political campaign intervention if the questionnaire used to solicit candidate positions or the voter guide itself shows a bias or preference in content or structure with respect to the views of a particular candidate. [Rev. Rul. 78-248] The timing and manner of the distribution also are relevant to determining whether the organization is engaged in political campaign intervention. [Rev. Rul. 80-282]

Comment [A2]: The revenue rulings cited in this document are § 501(c)(3) rulings. They do not specifically address, or state that they apply to, § 501(c)(4) organizations. This document applies them to both, based on the same or similar language on political campaign intervention and lobbying in the regulations under §§ 501(c)(3) and (c)(4).

Use this guide sheet only if the organization indicates that it may publish or distribute voter guides. This guide sheet will help you screen the organization's voter guide activities for possible political campaign intervention, decide which voter guide activities require further case development and which facts to develop, and determine whether a particular voter guide activity may be political campaign intervention.

Parts A and B present a specific set of facts in which voter guide activities generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

A. Voter guide activities generally are not political campaign intervention if either:

1. The organization annually prepares and makes generally available to the public a compilation of voting records of all members of a particular legislative body on major issues involving a wide range of subjects, the publication contains no editorial opinion, and the contents and structure of the publication do not imply approval or disapproval of any members or their voting records [Rev. Rul. 78-248, Situation 1]; or
2. The organization sends a questionnaire to all candidates for the same public office soliciting a brief statement of their positions on a wide variety of issues; it publishes all responses in a voter guide it makes generally available to the public; it selects the issues for their importance and interest to the electorate as a whole; and neither the questionnaire nor the voter guide, in form or content, shows a bias or preference for any candidate. [Rev. Rul. 78-248, Situation 2]

B. Voter guide activities generally are political campaign intervention if either:

1. The organization sends a questionnaire evidencing bias on certain issues to candidates for public office, and it uses the responses to prepare a voter guide that it distributes during an election campaign [Rev. Rul. 78-248, Situation 3]; or

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2. The organization publishes a compilation of the voting records of incumbents on a narrow range of issues, and it widely distributes the publication among the electorate during an election campaign. [Rev. Rul. 78-248, Situation 4]

C. Voter Guides -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a voter guide activity is (or is not) political campaign intervention. The facts are listed separately for guides on the positions of candidates for public office and guides on the voting records of incumbents. Consider all the facts and circumstances. No one fact determines whether a voter guide activity is political campaign intervention. The legal references in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Positions of Candidates for Public Office

Does the organization indicate that it may prepare and distribute a guide summarizing the positions of one or more candidates for public office? If no, skip this section. If yes, develop the following facts.

a. Facts tending to show that the candidate position activity is not political campaign intervention:

Comment [A3]: Phrase from 2004-6

- The organization sends to all candidates for the same public office a questionnaire that covers a wide variety of issues selected by the organization based on their importance and interest to the electorate as a whole, and publishes all of the responses. [Rev. Rul. 78-248, Situation 2]
- The questionnaire does not, in content or structure, show a bias or preference with respect to the views of any candidate or group of candidates. [Rev. Rul. 78-248, Situation 2]
- The questionnaire solicits from all candidates for the same public office a statement of his or her position, and the organization publishes or distributes all candidate responses to the questionnaire in the voter guide. [Rev. Rul. 78-248, Situation 2]
- The voter guide covers a wide variety of issues, which the organization selects based on their importance and interest to the electorate as a whole. [Rev. Rul. 78-248, Situation 2]
- The voter guide does not, in content or structure, show a bias or preference with respect to the views of any candidate or group of candidates. [Rev. Rul. 78-248, Situation 2]

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b. Facts tending to show that the candidate position activity is political campaign intervention:

- The organization sends a questionnaire to all candidates for the same public office that covers a narrow range of issues of importance to the organization, and it uses the responses to prepare a voter guide which it widely distributes during an election campaign. [derived from Rev. Rul. 78-248, Situations 2 & 4]
- The questionnaire shows a bias on certain issues, and the organization uses the responses to the questionnaire to prepare a voter guide which it distributes during an election campaign. [Rev. Rul. 78-248, Situation 3]
- The voter guide, in content or structure, shows a bias or preference with respect to the views of any candidate or group of candidates, and the organization distributes the guide during an election campaign. [derived from Rev. Rul. 78-248, Situations 1 & 2]
- The voter guide covers a narrow range of issues of importance to the organization, and the organization widely distributes the voter guide among the general public during an election campaign. [derived from Rev. Rul. 78-248, Situation 4]

Comment [A4]: Derived from means that this is not a specific example in the ruling, but is supported by the ruling's listed factors.

2. Voting Records of Incumbents

Does the organization indicate that it may prepare and publish or distribute a report or other compilation of the voting records of incumbents (for example, current Members of Congress)? If no, skip this section. If yes, develop the following facts.

a. Facts tending to show that the voting record activity is not political campaign intervention:

- The organization annually prepares and makes generally available to the public a compilation of voting records of incumbents on major legislative issues involving a wide range of subjects. [Rev. Rul. 78-248, Situation 1]
- The organization usually publishes the voting records after the close of the legislative session, and the distribution is not geared to the timing of any election. [Rev. Rul. 80-282]
- The publication contains no editorial opinion, and its contents and structure do not imply approval or disapproval of any incumbents or their voting records. [Rev. Rul. 78-248, Situation 1]
- The publication presents the voting records of all incumbents, and it does not identify candidates for reelection. [Rev. Rul. 80-282]

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- The format and content of the publication is not neutral because it reports on whether the incumbent supported the organization's views, but distribution occurs as soon as practical after the end of each legislative session, is limited to a relatively small group consisting of the organization's normal readership, is not targeted to particular areas in which elections are occurring, and is not timed to coincide with an election campaign. [Rev. Rul. 80-282]
- The publication does not comment on an individual's overall qualification for public office, or compare candidates who might be competing with the incumbents in any political campaign. [Rev. Rul. 80-282]

b. Facts tending to show that the voting record activity is political campaign intervention:

- The publication contains a statement that endorses or rejects any incumbent as a candidate for public office, or identifies candidates for re-election and comments on their overall qualification for public office, or compares candidates that might be competing with incumbents in a political campaign, and the publication is widely distributed among the electorate during an election campaign or targeted toward particular areas in which elections are occurring. [derived from Rev. Rul. 80-282]
- The publication reports on the organization's views on selected legislative issues, indicates whether the incumbent supported or opposed the organization's view, and is widely distributed among the electorate during an election campaign or targeted toward particular areas in which elections are occurring. [derived both from Rev. Rul. 80-282 and Rev. Rul. 78-248, Situation 4]
- The publication covers a narrow range of issues selected for their importance to the organization, and it is widely distributed during an election campaign. [Rev. Rul. 78-248, Situation 4]

D. Legal References

- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 78-248, 1978-1 C.B. 154

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Guide Sheet 2: Candidate Forums

The presentation of public forums or debates is a recognized method of educating the public. [Rev. Rul. 66-256] Providing a forum for candidates does not, in and of itself, constitute political campaign intervention. [Rev. Rul. 74-574] However, a forum for candidates could be operated in a manner that would show a bias or preference for or against a particular candidate, such as 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 political campaign intervention. [Rev. Rul. 86-95] [also cited in Rev. Rul. 2007-41]

Use this guide sheet only if the organization indicates that it may invite candidates for public office to speak at its events in their capacity as political candidates. This guide sheet will help you screen the organization's candidate forums for possible political campaign intervention, decide which candidate forums require further case development and which facts to develop, and determine whether a particular candidate forum may be political campaign intervention.

Parts A and B present a specific set of facts in which candidate forums generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

A. Candidate forums generally are not political campaign intervention if:

The organization invites all candidates seeking the same office to participate at the same (or a substantially similar) event, provides each candidate an equal opportunity to address and field questions on a wide variety of topics, and does not comment on their qualifications or indicate a preference for any candidate. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 7)]

B. Candidate forums generally are political campaign intervention if:

The organization invites one candidate to speak at an organization event in support of the candidate's campaign and does not invite any other candidates for the same public office. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 9)]

C. Candidate Forums -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a candidate forum is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether a candidate forum is political campaign intervention. The legal references in Part D will help you make the determination. If your application contains

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any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a candidate forum is not political campaign intervention:

- The organization does not comment on the qualifications of, or indicate a preference for, any candidate during the event. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 7)]
- 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. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 7); Rev. Rul. 86-95]
- The organization does not indicate support for or opposition to a candidate during the event (such as when the candidate is introduced). [Rev. Rul. 2007-41 (Candidate Appearances, Situations 7 & 8)]
- The candidates at the event are not asked to agree or disagree with positions, agendas, platforms, or statements of the organization. [Rev. Rul. 2007-41 (Candidate Appearances)]
- A nonpartisan, independent panel prepares any questions presented to candidates at the event. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]
- A nonpartisan, independent panel or moderator presents the questions. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]
- The moderator does not comment on questions or otherwise imply approval or disapproval of a candidate. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]
- The moderator states that the views expressed are those of the candidates and not of the organization, and that sponsorship of the forum is not intended as an endorsement of any candidate. [Rev. Rul. 86-95]
- The organization provides an equal opportunity for candidates to use its facilities to speak in support of their respective campaigns. [derived from Rev. Rul. 2007-41 (Candidate Appearances, Situation 9)]

2. Facts tending to show that a candidate forum is political campaign intervention:

- The organization comments on the qualifications of, or indicates a preference for, any candidate during the event. [derived from Rev. Rul. 2007-41 (Candidate Appearances, Situation 7)]

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- The topics discussed at the forum do not 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. [derived both from Rev. Rul. 2007-41 (Candidate Appearances, Situation 7) and Rev. Rul. 86-95]
- The organization indicates support for or opposition to a candidate during the event (such as when the candidate is introduced). [derived from Rev. Rul. 2007-41 (Candidate Appearances, Situations 7 & 8)]
- The candidates at the event are asked to agree or disagree with positions, agendas, platforms, or statements of the organization. [Rev. Rul. 2007-41 (Candidate Appearances)]
- Questions to forum participants are not prepared and presented by a nonpartisan, independent panel. [Rev. Rul. 2007-41 (Candidate Appearances); derived from Rev. Rul. 86-95]
- The moderator comments on questions or otherwise implies approval or disapproval of a candidate. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]
- The moderator does not state that the views expressed are those of the candidates and not of the organization, or that sponsorship of the forum is not intended as an endorsement of any candidate. [derived from Rev. Rul. 86-95]
- The organization selectively provides an opportunity for one candidate (but not others) to use its facilities to speak in support of his or her campaign. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 9)]

D. Legal References

- Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Candidate Appearances, Situations 7-9)
- 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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Guide Sheet 3: Other Candidate Appearances

The question whether an activity constitutes political campaign intervention may arise in the context of a candidate appearance at an organization event. [Rev. Rul. 2007-41]

Use this guide sheet only if the organization indicates that it may be involved with any candidate appearance. This guide sheet will help you screen any candidate appearances at organization events for possible political campaign intervention, decide which candidate appearances require further case development and which facts to develop, and determine whether a particular candidate appearance may be political campaign intervention.

Parts A and B present a specific set of facts in which candidate appearances generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

Consult **Guide Sheet 2: Candidate Forums** for assistance in evaluating whether inviting candidates for public office to speak at organization events in their capacity as political candidates may be political campaign intervention.

A. Candidate appearances generally are not political campaign intervention if either:

1. The organization invites the individual to speak solely for reasons other than his or her candidacy; neither the individual nor any representative of the organization mention the individual's candidacy or the upcoming election; and no political fundraising occurs at the event [Rev. Rul. 2007-41, (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]; or
2. The individual appears at an organization event only in a non-candidate capacity; the organization only acknowledges the individual's presence and his official title; and the organization makes no reference to the individual's candidacy or the upcoming election. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 10)]

B. Candidate appearances generally are political campaign intervention if:

The individual attends an organization's event that is open to the public; and an official of the organization asks the crowd to support the candidate in the upcoming election. [Rev. Rul. 2007-41, (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 13)]

C. Candidate Appearances -- Facts to Consider and Develop

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Below is a list of facts that tend to show whether a candidate appearance is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether a candidate appearance is political campaign intervention. The legal references in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a candidate appearance is not political campaign intervention:

- The individual was invited to appear or speak at the organization's event for reasons other than his or her political candidacy. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]
- The individual attends or speaks only in a non-candidate capacity. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 10-11)]
- The organization does not indicate any support for or opposition to the individual's candidacy (including introductions). [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 10-11)]
- No political fundraising or other campaign activity occurs at the event in connection with the candidate's attendance. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]
- The organization makes no mention of the individual's political candidacy or the upcoming election in communications announcing the individual's attendance at the event. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate)]
- The organization maintains a nonpartisan atmosphere at the event at which the candidate is present. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate)]

2. Facts tending to show that a candidate appearance is political campaign intervention:

- The organization indicates support for or opposition to the individual's candidacy (including during introductions). [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 13)]
- There is political fundraising at the event, or other campaign activity occurs at the event in connection with the candidate's attendance. [derived from Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]

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- The organization maintains a partisan atmosphere on the premises or at the event where the candidate is present. [derived from Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate)]

D. Legal Reference

Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 10-13)

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Guide Sheet 4: Issue Advocacy vs. Political Campaign Intervention

Organizations may take positions on public policy issues, including issues that divide candidates in an election for public office. However, issue advocacy may function as political campaign intervention. [Rev. Rul. 2007-41] Even if a statement does not expressly tell an audience to vote for or against a specific candidate, an organization delivering the statement may engage in political campaign intervention 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. [Rev. Rul. 2007-41]

A web site is a form of communication. An organization that posts something on its web site that favors or opposes a candidate for public office will be treated the same as if it distributed printed materials, oral statements or broadcasts. When an organization establishes a link to another web site, it is responsible for the consequences of establishing and maintaining that link, even if it does not have control over the content of the linked site. Links to candidate-related material, by themselves, do not necessarily result in political campaign intervention. All facts and circumstances must be taken into account when assessing whether a link produces that result. [Rev. Rul. 2007-41]

Use this guide sheet only if the organization indicates that its issue advocacy communications (including on its web site) may support or oppose a candidate for public office. This guide sheet will help you screen the organization's issue advocacy communications for possible political campaign intervention, decide which issue advocacy communications require further case development and which facts to develop, and determine whether a particular issue advocacy communication may be political campaign intervention.

Parts A and B present a specific set of facts in which issue advocacy communications generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

A. Issue advocacy communications generally are not political campaign intervention if:

The communication urges the public to contact an officeholder to support specific legislation, the statement appears immediately before the officeholder is scheduled to vote on that legislation, the statement does not mention the election or the candidacy of the office holder, and the issues that are the subject of the legislation have not been raised as distinguishing the officeholder from any election opponent. [Rev. Rul. 2007-41 (Issue Advocacy, Situation 14)]

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B. Issue advocacy communications generally are political campaign intervention if:

The communication is delivered shortly before an election, identifies by name an officeholder who is also a candidate in that election, takes a position on an issue that has been used to distinguish the candidates in the election, is not part of an ongoing series of substantially similar advocacy communications by the organization on the same issue, and is not timed to coincide with a non-electoral event (such as a legislative vote or other major legislative action on the issue). [Rev. Rul. 2007-41 (Issue Advocacy, Situation15)]

C. Issue Advocacy Communications -- Facts to Consider and Develop

Below is a list of facts that tend to show whether an issue advocacy communication, including on a website, is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether an issue advocacy communication is political campaign intervention. The legal reference in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that issue advocacy communications are not political campaign intervention:

- The communication does not identify one or more candidates for a given public office by name or by other means. [Rev. Rul. 2007-41 (Issue Advocacy)]
- The communication does not address any issue that has been raised as an issue distinguishing candidates for a given office. [Rev. Rul. 2007-41 (Issue Advocacy, Situation 14)]
- The communication is timed to coincide with a non-electoral event such as a legislative vote or other major legislative action on the issue. [Rev. Rul. 2007-41 (Issue Advocacy, Situation 14)]
- 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 an election [Rev. Rul. 2007-41 (Issue Advocacy)]
- The communication is not delivered close in time to an election [Rev. Rul. 2007-41 (Issue Advocacy)]
- The organization has not posted anything on its web site that favors or opposes a candidate for public office. [Rev. Rul. 2007-41 (Web Sites)]

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- The organization's web site does not provide a direct link to a web page that contains material favoring or opposing a candidate for public office. [Rev. Rul. 2007-41 (Web Sites, Situation 20)]
 - The organization's web site links to the website of another entity, the web site link serves an exempt purpose of the organization (such as educating the public), and neither the context for the link nor the relationship between the organization and the other entity indicates that the organization was favoring or opposing any candidate. [Rev. Rul. 2007-41 (Web Sites, Situations 19-20)]
 - The organization establishes on its web site links to the official campaign web sites of all the candidates for a particular office and presents all of the links in a neutral, unbiased manner. [Rev. Rul. 2007-41 (Web Sites, Situation 19)]
2. Facts tending to show that issue advocacy communications are political campaign intervention:
- The communication identifies one or more candidates for a given public office by name or by other means, such as addressing an issue that has been raised as an issue distinguishing the candidates for that office. [Rev. Rul. 2007-41 (Issue Advocacy, Situation 15)]
 - The communication is delivered close in time to an election and is not timed to coincide with a non-electoral event such as a legislative vote or other major legislative action on the issue [Rev. Rul. 2007-41 (Issue Advocacy, Situation 15)]
 - The communication is delivered close in time to an election and is not part of an ongoing series of communications by the organization on the same issue that are made independent of the timing of an election [Rev. Rul. 2007-41 (Issue Advocacy, Situation 15)]
 - The organization posts a message on its web site that favors or opposes a candidate for public office. [Rev. Rul. 2007-41 (Web Sites, Situation 21)]
 - The organization's web site provides a direct link to a web page that contains material favoring or opposing a candidate for public office, and the web site link does not serve an exempt purpose of the organization, such as educating the public. [derived from Rev. Rul. 2007-41 (Web Sites, Situations 19-20)]
 - The organization establishes a link to a candidate's official campaign web site and does not present the link in a neutral, unbiased manner or does not establish similar links for all of the candidates for a particular office. [derived from Rev. Rul. 2007-41 (Web Sites, Situation 19)]

D. Legal Reference

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- Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Issue Advocacy, Situations 14-16; Web Sites, Situations 19-20)

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Guide Sheet 5: Individual Activity by Organization Leaders

The question whether an activity constitutes political campaign intervention may arise in the context of political campaign activities by any organization leader. [Rev. Rul. 2007-41]

Use this guide sheet only if any organization leader may engage in any political campaign activity. This guide sheet will help you screen the political campaign activity of any organization leader for possible political campaign intervention by the organization, decide which organization leader activities require further case development and which facts to develop, and determine whether a particular political campaign activity by any organization leader may be political campaign intervention by the organization.

Parts A and B present a specific set of facts in which political campaign activities by any organization leader generally are political campaign intervention by the organization and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains a legal reference.

A. Political campaign activity by any organization leader generally is not political campaign intervention if:

The leader makes a statement in the leader's personal capacity supporting the election of a candidate for public office; the statement appears in a publication that is not an official publication of the organization; the organization pays none of the costs of the publication; and the publication states that the leader's title and affiliation with the organization are provided for identification purposes only. [Rev. Rul. 2007-41, Situation 3.]

B. Political campaign activity by any organization leader generally is political campaign intervention if:

The leader makes an oral statement to vote for a candidate for public office at an official meeting of the organization. [Rev. Rul. 2007-41 (Situation 6).]

C. Political Campaign Activity by Organization Leaders -- Facts to Consider and Develop

Below is a list of facts that tend to show whether the political campaign activity by any organization leader is (or is not) political campaign intervention by the organization. Consider all the facts and circumstances. No one fact determines whether political campaign activity by any organization leader is political campaign intervention. The legal reference in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

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1. Facts tending to show that political campaign activity by any organization leader is not political campaign intervention:

- The leader's statement in support of (or in opposition to) a candidate for public office does not appear in an official publication of, or in a publication paid for by, the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situations 3 & 5)]
- The leader does not make the statement in support of (or in opposition to) a candidate for public office at an official function of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]
- The leader does not say that he is speaking as a representative of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]
- The leader personally endorses a candidate in a publication that is not paid for by the organization and is not an official publication of the organization, and the publication states that her title and affiliation with the organization are provided for identification purposes only. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 3)]
- The leader does not make the statement in support of (or in opposition to) a candidate for public office at an official function of the organization or otherwise use the organization's assets, and the leader does not say that he is speaking on behalf of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]

2. Facts tending to show that political campaign activity by any organization leader is political campaign intervention:

- The leader's statement in support of (or in opposition to) a candidate for public office appears in an official publication of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 4)]
- The leader makes the statement in support of (or in opposition to) a candidate for public office at an official function of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 6)]
- The organization pays for the publication of the leader's statement in support of (or in opposition to) a candidate for public office. [derived from Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situations 3 & 5)]
- The leader makes the statement in support of (or in opposition to) a candidate for public office at an event that is not an official function of the organization, and the

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leader states that she is speaking on behalf of the organization. [derived from Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]

D. Legal Reference

Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Individual Activity by Organization Leaders, Situations 3-6)

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Guide Sheet 6: Business Activities

The question whether an activity constitutes political campaign intervention may arise in the context of a business activity of the organization, such as the selling or renting of mailing lists, the leasing of office space, or the acceptance of paid political advertising. [Rev. Rul. 2007-41]

Use this guide sheet only if the organization indicates that it may engage in business activities with any candidate for public office. This guide sheet will help you screen the organization's business activities for possible political campaign intervention, decide which business activities require further case development and which facts to develop, and determine whether a particular business activity may be political campaign intervention.

Parts A and B present a specific set of facts in which business activities generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains a legal reference.

A. Business activities with candidates generally are not political campaign intervention if:

The organization sells or rents goods, services, or facilities to the general public, it makes them available to all candidates in the same election on an equal basis, and the fees charged to candidates are at the organization's customary and usual rates. [Rev. Rul. 2007-41 (Business Activity, Situation 17)]

B. Business activities with candidates generally are political campaign intervention if:

The organization does not normally sell or rent goods, services or facilities to the general public, but does so selectively to a candidate for public office, and it does not make its goods, services or facilities available on an equal basis to the other candidates in the same election. [Rev. Rul. 2007-41 (Business Activity, Situation 18)]

C. Business Activities -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a business activity is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether a business activity is political campaign intervention. The legal reference in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

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1. Facts tending to show that a business activity is not political campaign intervention:

- The business activity is an ongoing activity of the organization. [Rev. Rul. 2007-41 (Business Activity, Situation 17)]
- The organization makes the good, service or facility available to the general public. [Rev. Rul. 2007-41 (Business Activity, Situation 17)]
- The organization makes the good, service, or facility available to all candidates in the same election on an equal basis. [Rev. Rul. 2007-41 (Business Activity)]
- The organization charges all candidates in the same election its usual and customary rates for the good, service, or facility. [Rev. Rul. 2007-41 (Business Activity)]

2. Facts tending to show that a business activity is political campaign intervention:

- The organization only provides the good, service or facility to a political candidate. [Rev. Rul. 2007-41 (Business Activity, Situation 18)]
- The organization does not make the good, service or facility available to all candidates in the same election. [Rev. Rul. 2007-41 (Business Activity, Situation 18)]
- The organization does not make the good, service or facility available to all candidates in the same election on an equal basis. [Rev. Rul. 2007-41 (Business Activity)]
- The organization does not charge all candidates in the same election its usual and customary rates for the good, service or facility. [Rev. Rul. 2007-41 (Business Activity)]

D. Legal Reference

- Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Business Activity, Situations 17-18)

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Guide Sheet 7: Communications with the General Public on Legislative Issues (for Section 501(c)(3) Organizations Only)

The fact that an organization, in carrying out its primary purpose, advocates social or civic changes or presents opinion on controversial issues with the intention of molding public opinion or creating public sentiment to an acceptance of its views does not preclude the organization from qualifying under section 501(c)(3). [§ 1.501(c)(3)-1(d)(2)] However, an organization does not qualify under section 501(c)(3) if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise. [§ 1.501(c)(3)-1(c)(3)]

An organization also does not qualify for exemption under section 501(c)(3) if its primary objective may be attained only by legislation (or a defeat of proposed legislation) and it advocates for the attainment of such objective, as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public. [§ 1.501(c)(3)-1(c)(3); Rev. Rul. 64-195]

Use this guide sheet only if the organization indicates that it may communicate with the general public on legislative issues. This guide sheet will help you screen the organization's communications with the general public on legislative issues for possible lobbying, decide which communications require further case development and which facts to develop, and determine whether a particular communication may be lobbying.

Parts A and B present a specific set of facts in which communications with the general public on legislative issues generally are lobbying and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, lobbying. Parts D and E contain legal and other references.

Consult **Guide Sheet 4: Issue Advocacy vs. Political Campaign Intervention** for assistance in evaluating whether a communication on legislative issues functions as political campaign intervention.

A. Communications with the general public generally are not lobbying if either:

1. The communication does not advocate the adoption or rejection of legislation or urge the public to contact one or more legislators to propose, support, or oppose legislation; and the organization's primary objective can be attained other than by the enactment or defeat of legislation. [§ 1.501(c)(3)-1(c)(3)(ii), (iv)] or
2. The organization conducts nonpartisan analysis, study, and research to develop solutions for problems affecting a particular region and publishes the results for the benefit of the public, and does not advocate the adoption of any legislation or legislative action to implement its findings. [Rev. Rul. 70-79]

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B. Communications with the general public generally are lobbying if:

The communication urges members of the general public to contact legislators to support or oppose legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]

C. Communication with the general public -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a communication with the general public on legislative issues is (or is not) lobbying. Consider all the facts and circumstances. No one fact determines whether a communication with the general public is lobbying. The legal and other references in Parts D and E will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a communication with the general public is not lobbying:

- The communication does not advocate the adoption or rejection of legislation. [§ 1.501(c)(3)-1(c)(3)(ii); Rev. Rul. 64-195; Rev. Rul. 70-79]
- The communication does not urge the public to contact members of a legislative body for the purpose of proposing, supporting or opposing legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]
- The communication makes available to the general public the results of nonpartisan analysis, study, or research conducted by the organization. [§ 1.501(c)(3)-1(c)(3)(iv); Rev. Rul. 64-195; Rev. Rul. 70-79]

2. Facts tending to show that a communication with the general public is lobbying:

- The communication advocates the adoption or rejection of legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]
- The communication urges the public to contact members of a legislative body for the purpose of proposing, supporting or opposing legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]
- The organization's primary objective can be attained only by the enactment (or defeat) of legislation, and the organization advocates for the attainment of that objective. [§ 1.501(c)(3)-1(c)(3)(iv), Rev. Rul. 62-71]

D. Legal References

- Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) and (iv)
- Rev. Rul. 62-71, 1962-1 C.B. 85
- Rev. Rul. 64-195, 1964-2 C. B. 138
- Rev. Rul. 70-79, 1970-1 C.B. 127

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E. Other legal references

- Treas. Reg. § 56.4911-2 (public charities that have made the § 501(h) election only)
- Treas. Reg. § 53.4945-2 (private foundations only)

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**Guide Sheet 8: Communications with Government Officials on Legislative Issues
(for Section 501(c)(3) Organizations Only)**

An organization can communicate with government officials on legislative issues without engaging in lobbying. For example, an organization is not engaged in lobbying activity if, at the request of a legislative committee, a representative testifies as an expert witness on pending legislation affecting the organization. [Rev. Rul. 70-449] Similarly, an organization may seek to assist government officials in the study of problems by conducting nonpartisan analysis, study, and research into these problems and publishing the results for the benefit of the general public. Such activities may qualify as educational. However, an organization may be engaged in lobbying if it advocates the adoption of legislation to implement the organization's findings. [Rev. Rul. 70-79]

Use this guide sheet only if the organization indicates that it may communicate with government officials on legislative issues. This guide sheet will help you screen the organization's communications with government officials on legislative issues for possible lobbying, decide which communications require further case development and which facts to develop, and determine whether a particular communication may be lobbying.

Parts A and B present a specific set of facts in which communications with government officials on legislative issues generally are lobbying and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, lobbying. Parts D and E contain legal and other references.

A. Communications with government officials generally are not lobbying if:

1. At the request of a legislative committee, the organization sends a representative to provide expert testimony on pending legislation [Rev. Rul. 70-449]; or
2. The organization's activities are limited to studying, researching, and assembling materials necessary to evaluate legislation, and presenting an objective analysis of the legislation to those who are interested in the issue (both those who favor the legislation and those who oppose it) and to the general public. [Rev. Rul. 64-195]

B. Communications with government officials generally are lobbying if:

The organization contacts legislators to advocate the adoption or rejection of legislation. [§ 1.501(c)(3)-1(c)(3)(ii)].

C. Communications with government officials -- Facts to Consider and Develop

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Below is a list of facts that tend to show whether a communication with government officials on legislative issues is (or is not) lobbying. Consider all the facts and circumstances. No one fact determines whether a communication with government officials is lobbying. The legal and other references in Parts D and E will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a communication with government officials is not lobbying:

- The communication is in response to a request for technical assistance from a governmental body, such as a Congressional committee. [Rev. Rul. 70-449]
- The communication makes available to the general public the results of nonpartisan analysis, study, or research conducted by the organization. [§ 1.501(c)(3)-1(c)(3)(iv), Rev. Rul. 64-195, and Rev. Rul. 70-79]
- The communication does not advocate the adoption or rejection of any legislation. [§ 1.501(c)(3)-1(c)(3)(iv); Rev. Rul. 64-195; Rev. Rul. 70-79]

2. Facts tending to show that a communication with government officials is lobbying:

- The organization contacts members of a legislative body for the purpose of proposing, supporting, or opposing legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]
- The organization's primary objective can be attained only by the enactment (or defeat) of legislation, and the organization advocates for the attainment of that objective. [§ 1.501(c)(3)-1(c)(3)(iv), Rev. Rul. 62-71]

D. Legal References

- Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) and (iv)
- Rev. Rul. 62-71, 1962-1 C.B. 85
- Rev. Rul. 64-195, 1964-2 C. B. 138
- Rev. Rul. 70-79, 1970-1 C.B. 127
- Rev. Rul. 70-449, 1970-2 C.B. 111

E. Other legal references

- Treas. Reg. § 56.4911-2 (public charities that have made the § 501(h) election only)
- Treas. Reg. § 53.4945-2 (private foundations only)

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**Reviewing Section 501(c)(3) and 501(c)(4) Exemption Applications
(Political Campaign Intervention and Lobbying)**

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OVERVIEW

This document provides information to assist you in processing the exemption applications under sections 501(c)(3) and 501(c)(4) of organizations that indicate they may participate or intervene in a political campaign ("political campaign intervention"), or attempt to influence legislation ("lobbying").¹ This document will help you screen your applications for organizations that may engage in political campaign intervention or lobbying, decide which activities may require further case development and which facts to develop, and determine whether a particular activity may be political campaign intervention or lobbying.

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Questions on case development and applicable law should be directed to Exempt Organizations Technical.

This document contains the following sections:

1. Definitions of political campaign intervention and lobbying
2. Rules on political campaign intervention and lobbying for section 501(c)(3) and section 501(c)(4) organizations
3. A separate guide sheet for certain activities that may be political campaign intervention or lobbying

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PART 1: DEFINITIONS

1) Political Campaign Intervention:

- Participating or intervening in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office. [§ 501(c)(3); § 1.501(c)(4)-1(a)(2)]
- It includes, but is 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 a candidate. [§ 1.501(c)(3)-1(c)(3)(iii)]

¹ This document is not designed for use in processing exemption applications under § 501(c)(5) (labor, agricultural, or horticultural organizations) or § 501(c)(6) (business leagues). The guide sheets relating to specific types of activities conducted by § 501(c)(4) organizations may be relevant for gathering information from these organizations.

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2) **Lobbying:**

- Contacting, or urging the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or
- Advocating the adoption or rejection of legislation.
- 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.
- Lobbying does not include engaging in nonpartisan analysis, study, or research and making the results thereof available to the public.

[§ 1.501(c)(3)-1(c)(3)(ii), (3)(iv); Rev. Rul. 71-530 (applying to § 501(c)(4) organizations)]

PART 2: RULES ON POLITICAL CAMPAIGN INTERVENTION AND LOBBYING²

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1) **Section 501(c)(3) Organizations:**

- Organized and operated exclusively for charitable, educational, and other specified purposes. [§ 501(c)(3)]
- Do not engage in political campaign intervention. [§ 501(c)(3), § 1.501(c)(3)-1(c)(1), Rev. Rul. 2007-41]
- No substantial part of their activities is lobbying.⁴ [§ 501(c)(3)]

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2) **Section 501(c)(4) Organizations:**

- Operated exclusively for the promotion of social welfare [§ 501(c)(4)]
- Promotion of social welfare does not include political campaign intervention. [§ 1.501(c)(4)-1(a)(2)] The regulations do not impose a complete ban on such activities, as long as the organization's primary activities promote social welfare.⁵ [Rev. Rul. 81-95]
- Lobbying may promote social welfare. [§ 1.501(c)(3)-1(c)(3)(flush); Rev. Rul. 68-656; Rev. Rul. 71-530]

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² Organizations described in § 501(c) (other than § 501(c)(3)) are subject to special reporting rules regarding their political and lobbying activities and may be subject to tax on those activities. See § 527 and § 6033(e).

⁴ For private foundations, even insubstantial lobbying activities are subject to penalty excise taxes. [§ 4945(e)]

⁵ A § 501(c) organization that makes expenditures for political organization "exempt function" activity as defined in § 527(e) is subject to tax on the organization's net investment income, up to the amount of the "exempt function" expenditures. [§ 527(f)]

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PART 3: GUIDE SHEETS FOR SPECIFIC ACTIVITIES

Below are separate guide sheets for certain activities that may be political campaign intervention or lobbying. Use the guide sheet only if the organization indicates that it may engage in that specific activity.

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The guide sheets will help you screen your applications for organizations that may engage in political campaign intervention or lobbying, decide which activities may require further case development and which facts to develop, and determine whether a particular activity is political campaign intervention or lobbying. The guide sheets each present a specific set of facts in which an activity generally is (or generally is not) political campaign intervention or lobbying. For all other situations, the guide sheets list individual facts for you to consider and develop. The facts are listed by whether they tend to show (or tend not to show) political campaign intervention or lobbying. Each fact contains a citation to revenue rulings or other legal authorities to consult for further information. These authorities contain examples that illustrate how to apply the law on political campaign intervention and lobbying to these activities.

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Your determination is based on all the facts and circumstances. No one fact determines whether an activity is political campaign intervention or lobbying. If an organization engages in multiple activities, the interaction among them may affect whether the organization is engaged in political campaign intervention [Rev. Rul. 2007-41]. Questions on case development and applicable law should be directed to Exempt Organizations Technical.

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Comment [A1]: Add an instruction to call EO technical if the application has possible campaign or lobbying activities other than those activities addressed in the specific guide sheets?

Possible Political Campaign Intervention

- Guide Sheet 1: Voter Guides
- Guide Sheet 2: Candidate Forums
- Guide Sheet 3: Other Candidate Appearances
- Guide Sheet 4: Issue Advocacy vs. Political Campaign Intervention
- Guide Sheet 5: Individual Activity by Organization Leaders
- Guide Sheet 6: Business Activities

Possible Lobbying : For Section 501(c)(3) Organizations Only

- Guide Sheet 7: Communications with the General Public on Legislative Issues (for Section 501(c)(3) Organizations Only)
- Guide Sheet 8: Communications with Government Officials on Legislative Issues (for Section 501(c)(3) Organizations Only)

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Guide Sheet 1: Voter Guides

Certain voter education, including the preparation and distribution of certain voter guides, conducted in a non-partisan manner, may not constitute political campaign intervention. [Rev. Rul. 2007-41] On the other hand, an organization that publishes a compilation of candidate positions or incumbents' voting records may engage in political campaign intervention if the questionnaire used to solicit candidate positions or the voter guide itself shows a bias or preference in content or structure with respect to the views of a particular candidate. [Rev. Rul. 78-248] The timing and manner of the distribution also are relevant to determining whether the organization is engaged in political campaign intervention. [Rev. Rul. 80-282]

Comment [A2]: The revenue rulings cited in this document are § 501(c)(3) rulings. They do not specifically address, or state that they apply to, § 501(c)(4) organizations. This document applies them to both, based on the same or similar language on political campaign intervention and lobbying in the regulations under §§ 501(c)(3) and (c)(4).

Use this guide sheet only if the organization indicates that it may publish or distribute voter guides. This guide sheet will help you screen the organization's voter guide activities for possible political campaign intervention, decide which voter guide activities require further case development and which facts to develop, and determine whether a particular voter guide activity may be political campaign intervention.

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Parts A and B present a specific set of facts in which voter guide activities generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

A. Voter guide activities generally are not political campaign intervention if either:

1. The organization annually prepares and makes generally available to the public a compilation of voting records of all members of a particular legislative body on major issues involving a wide range of subjects, the publication contains no editorial opinion, and the contents and structure of the publication do not imply approval or disapproval of any members or their voting records [Rev. Rul. 78-248, Situation 1]; or

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2. The organization sends a questionnaire to all candidates for the same public office soliciting a brief statement of their positions on a wide variety of issues; it publishes all responses in a voter guide it makes generally available to the public; it selects the issues for their importance and interest to the electorate as a whole; and neither the questionnaire nor the voter guide, in form or content, shows a bias or preference for any candidate. [Rev. Rul. 78-248, Situation 2]

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B. Voter guide activities generally are political campaign intervention if either:

1. The organization sends a questionnaire evidencing bias on certain issues to candidates for public office, and it uses the responses to prepare a voter guide that it distributes during an election campaign [Rev. Rul. 78-248, Situation 3]; or

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2. The organization publishes a compilation of the voting records of incumbents on a narrow range of issues, and it widely distributes the publication among the electorate during an election campaign. [Rev. Rul. 78-248, Situation 4]

C. Voter Guides -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a voter guide activity is (or is not) political campaign intervention. The facts are listed separately for guides on the positions of candidates for public office and guides on the voting records of incumbents. Consider all the facts and circumstances. No one fact determines whether a voter guide activity is political campaign intervention. The legal references in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

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1. Positions of Candidates for Public Office

Does the organization indicate that it may prepare and distribute a guide summarizing the positions of one or more candidates for public office? If no, skip this section. If yes, develop the following facts.

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a. Facts tending to show that the candidate position activity is not political campaign intervention:

Comment [A3]: Phrase from 2004-6

- The organization sends to all candidates for the same public office a questionnaire that covers a wide variety of issues, selected by the organization, based on their importance and interest to the electorate as a whole, and publishes all of the responses. [Rev. Rul. 78-248, Situation 2]
- The questionnaire does not, in content or structure, show a bias or preference with respect to the views of any candidate or group of candidates. [Rev. Rul. 78-248, Situation 2]
- The questionnaire solicits from all candidates for the same public office a statement of his or her position, and the organization publishes or distributes all candidate responses to the questionnaire in the voter guide. [Rev. Rul. 78-248, Situation 2]
- The voter guide covers a wide variety of issues, which the organization selects based on their importance and interest to the electorate as a whole. [Rev. Rul. 78-248, Situation 2]
- The voter guide does not, in content or structure, show a bias or preference with respect to the views of any candidate or group of candidates. [Rev. Rul. 78-248, Situation 2]

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b. Facts tending to show that the candidate position activity is political campaign intervention:

- The organization sends a questionnaire to all candidates for the same public office that covers a narrow range of issues of importance to the organization, and it uses the responses to prepare a voter guide which it widely distributes during an election campaign. [derived from Rev. Rul. 78-248, Situations 2 & 4]
- The questionnaire shows a bias on certain issues, and the organization uses the responses to the questionnaire to prepare a voter guide which it distributes during an election campaign. [Rev. Rul. 78-248, Situation 3]
- The voter guide, in content or structure, shows a bias or preference with respect to the views of any candidate or group of candidates, and the organization distributes the guide during an election campaign. [derived from Rev. Rul. 78-248, Situations 1 & 2]
- The voter guide covers a narrow range of issues of importance to the organization, and the organization widely distributes the voter guide among the general public during an election campaign. [derived from Rev. Rul. 78-248, Situation 4]

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2. Voting Records of Incumbents

Does the organization indicate that it may prepare and publish or distribute a report or other compilation of the voting records of incumbents (for example, current Members of Congress)? If no, skip this section. If yes, develop the following facts.

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a. Facts tending to show that the voting record activity is not political campaign intervention:

- The organization annually prepares and makes generally available to the public a compilation of voting records of incumbents on major legislative issues involving a wide range of subjects. [Rev. Rul. 78-248, Situation 1]
- The organization usually publishes the voting records after the close of the legislative session, and the distribution is not geared to the timing of any election. [Rev. Rul. 80-282]
- The publication contains no editorial opinion, and its contents and structure do not imply approval or disapproval of any incumbents or their voting records. [Rev. Rul. 78-248, Situation 1]
- The publication presents the voting records of all incumbents, and it does not identify candidates for reelection. [Rev. Rul. 80-282]

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- The format and content of the publication is not neutral because it reports on whether the incumbent supported the organization's views, but distribution occurs as soon as practical after the end of each legislative session, is limited to a relatively small group consisting of the organization's normal readership, is not targeted to particular areas in which elections are occurring, and is not timed to coincide with an election campaign. [Rev. Rul. 80-282]

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- The publication does not comment on an individual's overall qualification for public office, or compare candidates who might be competing with the incumbents in any political campaign. [Rev. Rul. 80-282]

b. Facts tending to show that the voting record activity is political campaign intervention:

- The publication contains a statement that endorses or rejects any incumbent as a candidate for public office, or identifies candidates for re-election and comments on their overall qualification for public office, or compares candidates that might be competing with incumbents in a political campaign, and the publication is widely distributed among the electorate during an election campaign or targeted toward particular areas in which elections are occurring. [derived from Rev. Rul. 80-282]
- The publication reports on the organization's views on selected legislative issues, indicates whether the incumbent supported or opposed the organization's view, and is widely distributed among the electorate during an election campaign or targeted toward particular areas in which elections are occurring. [derived both from Rev. Rul. 80-282 and Rev. Rul. 78-248, Situation 4]
- The publication covers a narrow range of issues selected for their importance to the organization, and it is widely distributed during an election campaign. [Rev. Rul. 78-248, Situation 4]

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- Rev. Rul. 80-282, 1980-2 C.B. 178
- Rev. Rul. 78-248, 1978-1 C.B. 154

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Guide Sheet 2: Candidate Forums

The presentation of public forums or debates is a recognized method of educating the public. [Rev. Rul. 66-256] Providing a forum for candidates does not, in and of itself, constitute political campaign intervention. [Rev. Rul. 74-574] However, a forum for candidates could be operated in a manner that would show a bias or preference for or against a particular candidate, such as 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 political campaign intervention. [Rev. Rul. 86-95] [also cited in Rev. Rul. 2007-41]

Use this guide sheet only if the organization indicates that it may invite candidates for public office to speak at its events in their capacity as political candidates. This guide sheet will help you screen the organization's candidate forums for possible political campaign intervention, decide which candidate forums require further case development and which facts to develop, and determine whether a particular candidate forum may be political campaign intervention.

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Parts A and B present a specific set of facts in which candidate forums generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

A. Candidate forums generally are not political campaign intervention if:

The organization invites all candidates seeking the same office to participate at the same (or a substantially similar) event, provides each candidate an equal opportunity to address and field questions on a wide variety of topics, and does not comment on their qualifications or indicate a preference for any candidate. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 7)]

B. Candidate forums generally are political campaign intervention if:

The organization invites one candidate to speak at an organization event in support of the candidate's campaign and does not invite any other candidates for the same public office. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 9)]

C. Candidate Forums -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a candidate forum is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether a candidate forum is political campaign intervention. The legal references in Part D will help you make the determination. If your application contains

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any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a candidate forum is not political campaign intervention:

- The organization does not comment on the qualifications of, or indicate a preference for, any candidate during the event. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 7)]
- 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. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 7); Rev. Rul. 86-95]
- The organization does not indicate support for or opposition to a candidate during the event (such as when the candidate is introduced). [Rev. Rul. 2007-41 (Candidate Appearances, Situations 7, & 8)]
- The candidates at the event are not asked to agree or disagree with positions, agendas, platforms, or statements of the organization. [Rev. Rul. 2007-41 (Candidate Appearances)]
- A nonpartisan, independent panel prepares any questions presented to candidates at the event. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]
- A nonpartisan, independent panel or moderator presents the questions. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]
- The moderator does not comment on questions or otherwise imply approval or disapproval of a candidate. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]
- The moderator states that the views expressed are those of the candidates and not of the organization, and that sponsorship of the forum is not intended as an endorsement of any candidate. [Rev. Rul. 86-95]
- The organization provides an equal opportunity for candidates to use its facilities to speak in support of their respective campaigns. [derived from Rev. Rul. 2007-41 (Candidate Appearances, Situation 9)]

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2. Facts tending to show that a candidate forum is political campaign intervention:

- The organization comments on the qualifications of, or indicates a preference for, any candidate during the event. [derived from Rev. Rul. 2007-41 (Candidate Appearances, Situation 7)]

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- The topics discussed at the forum do not 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. [derived both from Rev. Rul. 2007-41 (Candidate Appearances, Situation 7) and Rev. Rul. 86-95]

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- The organization indicates support for or opposition to a candidate during the event (such as when the candidate is introduced). [derived from Rev. Rul. 2007-41 (Candidate Appearances, Situations 7 & 8)]

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- The candidates at the event are asked to agree or disagree with positions, agendas, platforms, or statements of the organization. [Rev. Rul. 2007-41 (Candidate Appearances)]

- Questions to forum participants are not prepared and presented by a nonpartisan, independent panel. [Rev. Rul. 2007-41 (Candidate Appearances); derived from Rev. Rul. 86-95]

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- The moderator comments on questions or otherwise implies approval or disapproval of a candidate. [Rev. Rul. 2007-41 (Candidate Appearances); Rev. Rul. 86-95]

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- The moderator does not state that the views expressed are those of the candidates and not of the organization, or that sponsorship of the forum is not intended as an endorsement of any candidate. [derived from Rev. Rul. 86-95]

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- The organization selectively provides an opportunity for one candidate (but not others) to use its facilities to speak in support of his or her campaign. [Rev. Rul. 2007-41 (Candidate Appearances, Situation 9)]

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- Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Candidate Appearances, Situations 7-9)
- 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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Guide Sheet 3: Other Candidate Appearances

The question whether an activity constitutes political campaign intervention may arise in the context of a candidate appearance at an organization event. [Rev. Rul. 2007-41]

Use this guide sheet only if the organization indicates that it may be involved with any candidate appearance. This guide sheet will help you screen any candidate appearances at organization events for possible political campaign intervention, decide which candidate appearances require further case development and which facts to develop, and determine whether a particular candidate appearance may be political campaign intervention.

Parts A and B present a specific set of facts in which candidate appearances generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

Consult **Guide Sheet 2: Candidate Forums** for assistance in evaluating whether inviting candidates for public office to speak at organization events in their capacity as political candidates may be political campaign intervention.

A. Candidate appearances generally are not political campaign intervention if either:

1. The organization invites the individual to speak solely for reasons other than his or her candidacy; neither the individual nor any representative of the organization mention the individual's candidacy or the upcoming election; and no political fundraising occurs at the event [Rev. Rul. 2007-41, (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]; or
2. The individual appears at an organization event only in a non-candidate capacity; the organization only acknowledges the individual's presence and his official title; and the organization makes no reference to the individual's candidacy or the upcoming election. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 10)]

B. Candidate appearances generally are political campaign intervention if:

The individual attends an organization's event that is open to the public; and an official of the organization asks the crowd to support the candidate in the upcoming election. [Rev. Rul. 2007-41, (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 13)]

C. Candidate Appearances -- Facts to Consider and Develop

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2. . The individual appears or speaks at an organization event only in a non-candidate capacity; the organization clearly indicates the capacity in which the individual is appearing; neither the individual nor any representative of the organization mention of the individual's candidacy or the upcoming election; and no political fundraising occurs at the event. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 10 and 11)]¶

¶
B. Candidate appearances generally are political campaign intervention if either: ¶

¶
1. . The organization chooses the individual to speak because he or she is a political candidate; and the individual or a representative of the organization mention the individual's candidacy or the upcoming election; or political fundraising occurs at the event [Rev. Rul. 2007-41, (Candidate Appearances When Speaking or Participating as a Non-Candidate, Derived from Situations 10 and 11)]; or¶

¶
2. . The individual appears or speaks at an organization event in a non-candidate capacity; and the individual or a representative of the organization mention the individual's candidacy or the upcoming election; or political fundraising occurs at the event. [Rev. Rul.

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Below is a list of facts that tend to show whether a candidate appearance is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether a candidate appearance is political campaign intervention. The legal references in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a candidate appearance is not political campaign intervention:

- The individual was invited to appear or speak at the organization's event for reasons other than his or her political candidacy. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]
- The individual attends or speaks only in a non-candidate capacity. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 10-11)]
- The organization does not indicate any support for or opposition to the individual's candidacy (including introductions). [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 10-11)]
- No political fundraising or other campaign activity occurs at the event in connection with the candidate's attendance. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]
- The organization makes no mention of the individual's political candidacy or the upcoming election in communications announcing the individual's attendance at the event. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate)]
- The organization maintains a nonpartisan atmosphere at the event at which the candidate is present. [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate)]

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 <#>The individual speaks in his or her capacity as a candidate (Candidate Appearances When Speaking or Participating as a Non-Candidate).
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 The organization mentions the individual's political candidacy or the upcoming election in communications announcing the individual's attendance at the event. [Rev.

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2. Facts tending to show that a candidate appearance is political campaign intervention:

- The organization indicates support for or opposition to the individual's candidacy (including during introductions). [Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 13)]
- There is political fundraising at the event, or other campaign activity occurs at the event in connection with the candidate's attendance. [derived from Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situation 11)]

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- The organization maintains a partisan atmosphere on the premises or at the event where the candidate is present. [derived from Rev. Rul. 2007-41 (Candidate Appearances When Speaking or Participating as a Non-Candidate)]

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Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Candidate Appearances When Speaking or Participating as a Non-Candidate, Situations 10-13)

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Guide Sheet 4: Issue Advocacy vs. Political Campaign Intervention

Organizations may take positions on public policy issues, including issues that divide candidates in an election for public office. However, issue advocacy may function as political campaign intervention. [Rev. Rul. 2007-41] Even if a statement does not expressly tell an audience to vote for or against a specific candidate, an organization delivering the statement may engage in political campaign intervention 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. [Rev. Rul. 2007-41]

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A web site is a form of communication. An organization that posts something on its web site that favors or opposes a candidate for public office will be treated the same as if it distributed printed materials, oral statements or broadcasts. When an organization establishes a link to another web site, it is responsible for the consequences of establishing and maintaining that link, even if it does not have control over the content of the linked site. Links to candidate-related material, by themselves, do not necessarily result in political campaign intervention. All facts and circumstances must be taken into account when assessing whether a link produces that result. [Rev. Rul. 2007-41]

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Use this guide sheet only if the organization indicates that its issue advocacy communications (including on its web site) may support or oppose a candidate for public office. This guide sheet will help you screen the organization's issue advocacy communications for possible political campaign intervention, decide which issue advocacy communications require further case development and which facts to develop, and determine whether a particular issue advocacy communication may be political campaign intervention.

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Parts A and B present a specific set of facts in which issue advocacy communications generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains legal references.

A. Issue advocacy communications generally are not political campaign intervention if:

The communication urges the public to contact an officeholder to support specific legislation, the statement appears immediately before the officeholder is scheduled to vote on that legislation, the statement does not mention the election or the candidacy of the office holder, and the issues that are the subject of the legislation have not been raised as distinguishing the officeholder from any election opponent. [Rev. Rul. 2007-41 (Issue Advocacy, Situation 14)]

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B. Issue advocacy communications generally are political campaign intervention if:

The communication is delivered shortly before an election, identifies by name an officeholder who is also a candidate in that election, takes a position on an issue that has been used to distinguish the candidates in the election, is not part of an ongoing series of substantially similar advocacy communications by the organization on the same issue, and is not timed to coincide with a non-electoral event (such as a legislative vote or other major legislative action on the issue). [Rev. Rul. 2007-41 (Issue Advocacy, Situation15)]

C. Issue Advocacy Communications -- Facts to Consider and Develop

Below is a list of facts that tend to show whether an issue advocacy communication, including on a website, is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether an issue advocacy communication is political campaign intervention. The legal reference in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that issue advocacy communications are not political campaign intervention:

- The communication does not identify one or more candidates for a given public office by name or by other means. [Rev. Rul. 2007-41 (Issue Advocacy)]
- The communication does not address any issue that has been raised as an issue distinguishing candidates for a given office. [Rev. Rul. 2007-41 (Issue Advocacy, Situation 14)]
- The communication is timed to coincide with a non-electoral event such as a legislative vote or other major legislative action on the issue. [Rev. Rul. 2007-41 (Issue Advocacy, Situation 14)]
- 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 an election [Rev. Rul. 2007-41 (Issue Advocacy)]
- The communication is not delivered close in time to an election [Rev. Rul. 2007-41 (Issue Advocacy)]
- The organization has not posted anything on its web site that favors or opposes a candidate for public office. [Rev. Rul. 2007-41 (Web Sites)]

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- The organization's web site does not provide a direct link to a web page that contains material favoring or opposing a candidate for public office. [Rev. Rul. 2007-41 (Web Sites, Situation 20)]

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- The organization's web site links to the website of another entity, the web site link serves an exempt purpose of the organization (such as educating the public), and neither the context for the link nor the relationship between the organization and the other entity indicates that the organization was favoring or opposing any candidate. [Rev. Rul. 2007-41 (Web Sites, Situations 19-20)]

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- The organization establishes on its web site links to the official campaign web sites of all the candidates for a particular office and presents all of the links in a neutral, unbiased manner. [Rev. Rul. 2007-41 (Web Sites, Situation 19)]

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2. Facts tending to show that issue advocacy communications are political campaign intervention:

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- The communication identifies one or more candidates for a given public office by name or by other means, such as addressing an issue that has been raised as an issue distinguishing the candidates for that office, [Rev. Rul. 2007-41 (Issue Advocacy, Situation 15)]

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- The communication is delivered close in time to an election and is not timed to coincide with a non-electoral event such as a legislative vote or other major legislative action on the issue [Rev. Rul. 2007-41 (Issue Advocacy, Situation 15)]

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- The communication is delivered close in time to an election and is not part of an ongoing series of communications by the organization on the same issue that are made independent of the timing of an election [Rev. Rul. 2007-41 (Issue Advocacy, Situation 15)]

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- The organization posts a message on its web site that favors or opposes a candidate for public office. [Rev. Rul. 2007-41 (Web Sites, Situation 21)]

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- The organization's web site provides a direct link to a web page that contains material favoring or opposing a candidate for public office, and the web site link does not serve an exempt purpose of the organization, such as educating the public. [derived from Rev. Rul. 2007-41 (Web Sites, Situations 19-20)]

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- The organization establishes a link to a candidate's official campaign web site and does not present the link in a neutral, unbiased manner or does not establish similar links for all of the candidates for a particular office. [derived from Rev. Rul. 2007-41 (Web Sites, Situation 19)]

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- Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Issue Advocacy, Situations 14-16; Web Sites, Situations 19-20)

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Guide Sheet 5: Individual Activity by Organization Leaders

The question whether an activity constitutes political campaign intervention may arise in the context of political campaign activities by any organization leader. [Rev. Rul. 2007-41]

Use this guide sheet only if any organization leader may engage in any political campaign activity. This guide sheet will help you screen the political campaign activity of any organization leader for possible political campaign intervention by the organization, decide which organization leader activities require further case development and which facts to develop, and determine whether a particular political campaign activity by any organization leader may be political campaign intervention by the organization.

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Parts A and B present a specific set of facts in which political campaign activities by any organization leader generally are political campaign intervention by the organization and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains a legal reference.

A. Political campaign activity by any organization leader generally is not political campaign intervention if:

The leader makes a statement in the leader's personal capacity supporting the election of a candidate for public office; the statement appears in a publication that is not an official publication of the organization; the organization pays none of the costs of the publication; and the publication states that the leader's title and affiliation with the organization are provided for identification purposes only. [Rev. Rul. 2007-41, Situation 3.]

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B. Political campaign activity by any organization leader generally is political campaign intervention if:

The leader makes an oral statement to vote for a candidate for public office at an official meeting of the organization. [Rev. Rul. 2007-41 (Situation 6).]

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C. Political Campaign Activity by Organization Leaders -- Facts to Consider and Develop

Below is a list of facts that tend to show whether the political campaign activity by any organization leader is (or is not) political campaign intervention by the organization. Consider all the facts and circumstances. No one fact determines whether political campaign activity by any organization leader is political campaign intervention. The legal reference in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

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1. Facts tending to show that political campaign activity by any organization leader is not political campaign intervention:

- The leader's statement in support of (or in opposition to) a candidate for public office does not appear in an official publication of, or in a publication paid for by, the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situations 3 & 5)]
- The leader does not make the statement in support of (or in opposition to) a candidate for public office at an official function of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]
- The leader does not say that he is speaking as a representative of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]
- The leader personally endorses a candidate in a publication that is not paid for by the organization and is not an official publication of the organization, and the publication states that her title and affiliation with the organization are provided for identification purposes only, [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 3)]
- The leader does not make the statement in support of (or in opposition to) a candidate for public office at an official function of the organization, or otherwise use the organization's assets, and the leader does not say that he is speaking on behalf of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]

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2. Facts tending to show that political campaign activity by any organization leader is political campaign intervention:

- The leader's statement in support of (or in opposition to) a candidate for public office appears in an official publication of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 4)]
- The leader makes the statement in support of (or in opposition to) a candidate for public office at an official function of the organization. [Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 6)]
- The organization pays for the publication of the leader's statement in support of (or in opposition to) a candidate for public office. [derived from Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situations 3 & 5)]
- The leader makes the statement in support of (or in opposition to) a candidate for public office at an event that is not an official function of the organization, and the

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leader states that she is speaking on behalf of the organization. [derived from Rev. Rul. 2007-41 (Individual Activity by Organization Leaders, Situation 5)]

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D. Legal Reference

Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Individual Activity by Organization Leaders, Situations 3-6)

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Guide Sheet 6: Business Activities

The question whether an activity constitutes political campaign intervention may arise in the context of a business activity of the organization, such as the selling or renting of mailing lists, the leasing of office space, or the acceptance of paid political advertising. [Rev. Rul. 2007-41]

Use this guide sheet only if the organization indicates that it may engage in business activities with any candidate for public office. This guide sheet will help you screen the organization's business activities for possible political campaign intervention, decide which business activities require further case development and which facts to develop, and determine whether a particular business activity may be political campaign intervention.

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Parts A and B present a specific set of facts in which business activities generally are political campaign intervention and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, political campaign intervention. Part D contains a legal reference.

A. Business activities with candidates generally are not political campaign intervention if:

The organization sells or rents goods, services, or facilities to the general public, it makes them available to all candidates in the same election on an equal basis, and the fees charged to candidates are at the organization's customary and usual rates. [Rev. Rul. 2007-41 (Business Activity, Situation 17)]

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B. Business activities with candidates generally are political campaign intervention if:

The organization does not normally sell or rent goods, services or facilities to the general public, but does so selectively to a candidate for public office, and it does not make its goods, services or facilities available on an equal basis to the other candidates in the same election. [Rev Rul. 2007-41 (Business Activity, Situation 18)]

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C. Business Activities -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a business activity is (or is not) political campaign intervention. Consider all the facts and circumstances. No one fact determines whether a business activity is political campaign intervention. The legal reference in Part D will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

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2. The organization provides goods, services or facilities to one or more candidates, and it makes them available on an equal basis to all candidates in the same election, but it does not charge all candidates in the same election its usual and customary rates. [Rev Rul. 2007-41 (derived from Business Activity, Situation 17)]. ¶

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1. Facts tending to show that a business activity is not political campaign intervention:

- The business activity is an ongoing activity of the organization. [Rev. Rul. 2007-41 (Business Activity, Situation 17)]
- The organization makes the good, service or facility available to the general public. [Rev. Rul. 2007-41 (Business Activity, Situation 17)]
- The organization makes the good, service, or facility available to all candidates in the same election on an equal basis. [Rev. Rul. 2007-41 (Business Activity)]
- The organization charges all candidates in the same election its usual and customary rates for the good, service, or facility. [Rev. Rul. 2007-41 (Business Activity)]

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2. Facts tending to show that a business activity is political campaign intervention:

- The organization only provides the good, service or facility to a political candidate. [Rev. Rul. 2007-41 (Business Activity, Situation 18)]
- The organization does not make the good, service or facility available to all candidates in the same election. [Rev. Rul. 2007-41 (Business Activity, Situation 18)]
- The organization does not make the good, service or facility available to all candidates in the same election on an equal basis. [Rev. Rul. 2007-41 (Business Activity)]
- The organization does not charge all candidates in the same election its usual and customary rates for the good, service or facility. [Rev. Rul. 2007-41 (Business Activity)]

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D. Legal Reference

- Rev. Rul. 2007-41, 2007-1 C.B. 1421 (Business Activity, Situations 17-18)

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[Redacted]

Guide Sheet 7: Communications with the General Public on Legislative Issues (for Section 501(c)(3) Organizations Only)

The fact that an organization, in carrying out its primary purpose, advocates social or civic changes or presents opinion on controversial issues with the intention of molding public opinion or creating public sentiment to an acceptance of its views does not preclude the organization from qualifying under section 501(c)(3). [§ 1.501(c)(3)-1(d)(2)] However, an organization does not qualify under section 501(c)(3) if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise. [§ 1.501(c)(3)-1(c)(3)]

An organization also does not qualify for exemption under section 501(c)(3) if its primary objective may be attained only by legislation (or a defeat of proposed legislation) and it advocates for the attainment of such objective, as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public. [§ 1.501(c)(3)-1(c)(3); Rev. Rul. 64-195]

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Use this guide sheet only if the organization indicates that it may communicate with the general public on legislative issues. This guide sheet will help you screen the organization's communications with the general public on legislative issues for possible lobbying, decide which communications require further case development and which facts to develop, and determine whether a particular communication may be lobbying.

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Parts A and B present a specific set of facts in which communications with the general public on legislative issues generally are lobbying and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, lobbying. Parts D and E contain legal and other references.

Consult **Guide Sheet 4: Issue Advocacy vs. Political Campaign Intervention** for assistance in evaluating whether a communication on legislative issues functions as political campaign intervention.

A. Communications with the general public generally are not lobbying if either:

1. The communication does not advocate the adoption or rejection of legislation or urge the public to contact one or more legislators to propose, support, or oppose legislation; and the organization's primary objective can be attained other than by the enactment or defeat of legislation. [§ 1.501(c)(3)-1(c)(3)(ii), (iv)] or

2. The organization conducts nonpartisan analysis, study, and research to develop solutions for problems affecting a particular region and publishes the results for the benefit of the public, and does not advocate the adoption of any legislation or legislative action to implement its findings. [Rev. Rul. 70-79]

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B. Communications with the general public generally are lobbying if:

The communication urges members of the general public to contact legislators to support or oppose legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]

C. Communication with the general public -- Facts to Consider and Develop

Below is a list of facts that tend to show whether a communication with the general public on legislative issues is (or is not) lobbying. Consider all the facts and circumstances. No one fact determines whether a communication with the general public is lobbying. The legal and other references in Parts D and E will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a communication with the general public is not lobbying:

- The communication does not advocate the adoption or rejection of legislation.
[§ 1.501(c)(3)-1(c)(3)(ii); Rev. Rul. 64-195; Rev. Rul. 70-79]
- The communication does not urge the public to contact members of a legislative body for the purpose of proposing, supporting or opposing legislation.
[§ 1.501(c)(3)-1(c)(3)(ii)]
- The communication makes available to the general public the results of nonpartisan analysis, study, or research conducted by the organization.
[§ 1.501(c)(3)-1(c)(3)(iv); Rev. Rul. 64-195; Rev. Rul. 70-79]

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2. Facts tending to show that a communication with the general public is lobbying:

- The communication advocates the adoption or rejection of legislation.
[§ 1.501(c)(3)-1(c)(3)(ii)]
- The communication urges the public to contact members of a legislative body for the purpose of proposing, supporting or opposing legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]
- The organization's primary objective can be attained only by the enactment (or defeat) of legislation, and the organization advocates for the attainment of that objective. [§ 1.501(c)(3)-1(c)(3)(iv), Rev. Rul. 62-71]

D. Legal References

- Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) and (iv)
- Rev. Rul. 62-71, 1962-1 C.B. 85
- Rev. Rul. 64-195, 1964-2 C. B. 138
- Rev. Rul. 70-79, 1970-1 C.B. 127

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E. Other legal references

- Treas. Reg. § 56.4911-2 (public charities that have made the § 501(h) election only)
- Treas. Reg. § 53.4945-2 (private foundations only)

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DRAFT 4/25/2012

**Guide Sheet 8: Communications with Government Officials on Legislative Issues
(for Section 501(c)(3) Organizations Only)**

An organization can communicate with government officials on legislative issues without engaging in lobbying. For example, an organization is not engaged in lobbying activity if, at the request of a legislative committee, a representative testifies as an expert witness on pending legislation affecting the organization. [Rev. Rul. 70-449] Similarly, an organization may seek to assist government officials in the study of problems by conducting nonpartisan analysis, study, and research into these problems and publishing the results for the benefit of the general public. Such activities may qualify as educational. However, an organization may be engaged in lobbying if it advocates the adoption of legislation to implement the organization's findings. [Rev. Rul. 70-79]

Use this guide sheet only if the organization indicates that it may communicate with government officials on legislative issues. This guide sheet will help you screen the organization's communications with government officials on legislative issues for possible lobbying, decide which communications require further case development and which facts to develop, and determine whether a particular communication may be lobbying.

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Parts A and B present a specific set of facts in which communications with government officials on legislative issues generally are lobbying and generally are not. Part C contains a list of facts to consider and develop for all other situations. The facts are grouped by whether they tend to show, or tend not to show, lobbying. Parts D and E contain legal and other references.

A. Communications with government officials generally are not lobbying if:

1. At the request of a legislative committee, the organization sends a representative to provide expert testimony on pending legislation [Rev. Rul. 70-449]; or

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2. The organization's activities are limited to studying, researching, and assembling materials necessary to evaluate legislation, and presenting an objective analysis of the legislation to those who are interested in the issue (both those who favor the legislation and those who oppose it) and to the general public. [Rev. Rul. 64-195]

B. Communications with government officials generally are lobbying if:

The organization contacts legislators to advocate the adoption or rejection of legislation. [§ 1.501(c)(3)-1(c)(3)(ii)].

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C. Communications with government officials -- Facts to Consider and Develop

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Below is a list of facts that tend to show whether a communication with government officials on legislative issues is (or is not) lobbying. Consider all the facts and circumstances. No one fact determines whether a communication with government officials is lobbying. The legal and other references in Parts D and E will help you make the determination. If your application contains any facts beyond those listed below, or if you have questions on case development and applicable law, contact Exempt Organizations Technical.

1. Facts tending to show that a communication with government officials is not lobbying:

- The communication is in response to a request for technical assistance from a governmental body, such as a Congressional committee. [Rev. Rul. 70-449]
- The communication makes available to the general public the results of nonpartisan analysis, study, or research conducted by the organization. [§ 1.501(c)(3)-1(c)(3)(iv), Rev. Rul. 64-195, and Rev. Rul. 70-79]
- The communication does not advocate the adoption or rejection of any legislation. [§ 1.501(c)(3)-1(c)(3)(iv); Rev. Rul. 64-195; Rev. Rul. 70-79]

2. Facts tending to show that a communication with government officials is lobbying:

- The organization contacts members of a legislative body for the purpose of proposing, supporting, or opposing legislation. [§ 1.501(c)(3)-1(c)(3)(ii)]
- The organization's primary objective can be attained only by the enactment (or defeat) of legislation, and the organization advocates for the attainment of that objective. [§ 1.501(c)(3)-1(c)(3)(iv), Rev. Rul. 62-71]

D. Legal References

- Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii) and (iv)
- Rev. Rul. 62-71, 1962-1 C.B. 85
- Rev. Rul. 64-195, 1964-2 C.B. 138
- Rev. Rul. 70-79, 1970-1 C.B. 127
- Rev. Rul. 70-449, 1970-2 C.B. 111

E. Other legal references

- Treas. Reg. § 56.4911-2 (public charities that have made the § 501(h) election only)
- Treas. Reg. § 53.4945-2 (private foundations only)

From: [Medina Cheryl J TIGTA](#)
To: [Medina Cheryl J TIGTA](#)
Subject: FW: TIGTA DOCUMENT REQUEST
Date: Monday, May 20, 2013 11:32:06 AM
Attachments: [EDS Letter 4587\(modified\) \(3\).doc](#)

From: Paz Holly O [<mailto:Holly.O.Paz@irs.gov>]
Sent: Monday, July 23, 2012 3:32 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 9:07 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Paz Holly O
Sent: Thursday, March 08, 2012 10:09 AM
To: Thomas Cindy M
Subject: RE: EDS Letter 4587(modified) (3).doc

Yes. But I think they are going to change it to 60 days to respond instead of 90. The theory is that, when we have had a case for a long time without taking action and are asking for a lot of stuff, we have to give more time. I hear you on fairness but I also do what I am told. Thanks for looking at the letter.

From: Thomas Cindy M
Sent: Thursday, March 08, 2012 8:53 AM
To: Paz Holly O
Subject: FW: EDS Letter 4587(modified) (3).doc
Importance: High

Just to make sure I understand, we're giving the organization 90 days to respond and, if the organization doesn't respond, then another 90 days in suspense before closing FTE. Is this correct?

- a. If not, please clarify.
 - b. If so, I don't understand why an organization who is not being compliant is getting special treatment. But obviously, we'll do what we are told to do.
-

From: Paz Holly O
Sent: Wednesday, March 07, 2012 11:04 PM
To: Thomas Cindy M
Subject: FW: EDS Letter 4587(modified) (3).doc

Importance: High

This supersedes the letter I sent you earlier today. Any comments? Thanks!

From: Lerner Lois G

Sent: Wednesday, March 07, 2012 7:24 PM

To: Paz Holly O

Subject: EDS Letter 4587(modified) (3).doc

A tiny change

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45202

Department of the Treasury
Employer Identification Number:
[NN-NNNNNNN]

Person:
Date:

Contact

[Agent Name and Number]

[Organization Name]
[Address]
[Address]

Toll Free Telephone Number:
1-877-829-5500

Previous Letter Date: [8010]
[Letter Date Field] (Automatic,

variable required)

Dear Applicant:

Our previous letter, copy enclosed, requested additional information about your application for tax-exempt status under section 501(c)(4) of the Internal Revenue Code. To be tax-exempt under section 501(c)(4), an organization must be primarily engaged in the promotion of social welfare. When determining whether an organization meets that standard, all the facts and circumstances of that specific organization must be considered.

As indicated in our previous letter, we are unable to make a final determination on your exempt status without additional information. We ask that you provide the previously requested information by [90 days]. Please contact the individual listed above if you believe that the details required to demonstrate eligibility of section 501(c)(4) status can be provided through alternative information or if you have any other concerns about specific information requested. If you need additional time to provide the requested information or have other questions, please contact the individual listed above. Please submit your response to us at:

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

If you do not provide the additional information or receive an extension from us by [90 days], your case will be placed in suspense. You may reactivate your case by providing the requested information within 90 days of being placed in suspense. After the 90-day period has passed, we will close your case and if you wish to pursue IRS recognition of tax-exempt status you will be required to submit a new application package and new user fee payment.

Please note that if your case is closed and you hold yourself out as a section 501(c)(4) organization, you must file the appropriate Form 990-series return (Form 990-N, Form 990-EZ or Form 990).

We have sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure:
Previous Letter

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Deleted: , we ask that you provide the information
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Deleted: about our request
Deleted:
Deleted: request and
Deleted: insert date
Deleted:
Comment [k1]: Is this language standard?

Deleted: Unlike section 501(c)(3) organizations, section 501(c)(4) organizations are not required to apply to the IRS for recognition of their tax-exempt status. You may self-declare and, if you meet the statutory and regulatory requirements, you will be treated as tax-exempt. If you do want reliance on an IRS determination of your status, your application for exemption must be approved by the IRS. While your application is pending, you must file the appropriate Form 990-series return (Form 990-N, Form 990-EZ or Form 990), like any other tax-exempt organization, and are able to operate without material barrier. ¶
Formatted: Font color: Red
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¶

From: [Medina Cheryl J TIGTA](#)
To: [Medina Cheryl J TIGTA](#)
Subject: FW: TIGTA DOCUMENT REQUEST
Date: Monday, May 20, 2013 12:32:27 PM
Attachments: [Draft IRM 7 20 4 - Emerging Issues - 05102012.doc](#)

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Monday, July 23, 2012 3:36 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 9:45 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Friday, May 11, 2012 12:37 AM
To: Paz Holly O
Subject: BOLO Spreadsheet - Description

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 beauty pageants and farmers' markets. 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.

(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.

From: Seidell Thomas F TIGTA
Sent: Thursday, May 30, 2013 2:41 PM
To: Seidell Thomas F TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST
Attachments: Advocacy Team.xls

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Monday, July 23, 2012 3:10 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Thursday, July 19, 2012 8:47 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Bowling Steven F
Sent: Tuesday, February 28, 2012 11:47 AM
To: Thomas Cindy M
Subject: RE: Guidance on developing advocacy cases

Attached is a list of the team and the number of cases assigned to each individual in the ().
Mitch Steele has been removed but is working what he already had and Lori Perry has been added.

Per Stephen's numbers;

EDS cases total 169 and 141 are assigned. 26 U.S.C. § 6103

TEDS cases total 60 and 0 are assigned. 26 U.S.C. § 6103

26 U.S.C. § 6103

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Bowling Steven F
Sent: Tuesday, February 28, 2012 8:47 AM
To: Thomas Cindy M
Subject: RE: Guidance on developing advocacy cases

I told Stephen to hold off on any further development of template questions, not to stop developing cases. I'll straighten it out. I understood that Washington is looking at the letters that went public and would provide guidance.

I've asked Stephen for the other information you requested, I'll respond as soon as I can.

Also, Stephen has a meeting set up today @ 1:00 with the entire team to discuss their cases and current events. I'm going to try and make it, I'm scheduled for a DQMP meeting @ 9:00 which could last all day.

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Thomas Cindy M
Sent: Monday, February 27, 2012 9:56 PM
To: Bowling Steven F
Subject: RE: Guidance on developing advocacy cases
Importance: High

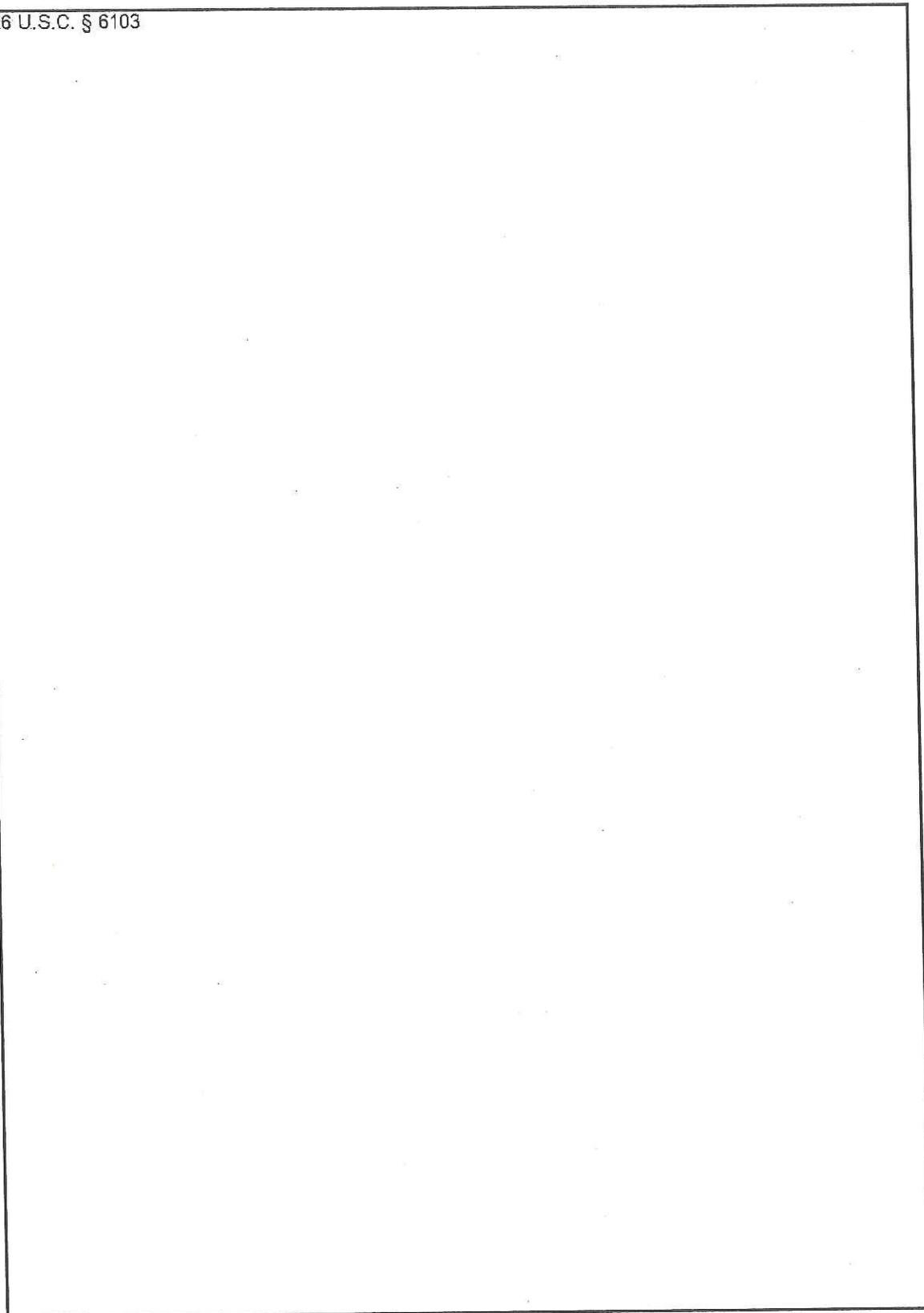
26 U.S.C. § 6103

A question though: Why are we not issuing development letters? Who instructed folks to stop? The only thing I heard from Holly is that we shouldn't be asking organizations to submit their entire website. Instead, we should be printing pages of concern and send them to the organization with questions that cause us concern.

Please send me a list of the folks who are working the advocacy cases. Also, please let me know if they are working the cases 100% of the time or are requesting other cases be assigned. If you or Stephen don't know, just let me know and I'll have Bonnie ask their managers. Finally, what is the control date of the oldest unassigned case?

26 U.S.C. § 6103

26 U.S.C. § 6103



26 U.S.C. § 6103

From: Herr Joseph R
Sent: Monday, February 27, 2012 9:57 AM
To: Seok Stephen D
Subject: Guidance on developing advocacy cases

Stephen,

I have a few items to run by you regarding the advocacy cases.

- * [Redacted] 26 U.S.C. § 6103
- * Do we have any idea on when we might be able to issue developmental letters again? I have four un-reviewed cases. It does not make sense to review them if we cannot issue letters. If it will be a while, I should request some non-advocacy case to work.
- * Regarding developmental questions in general, I am wondering if we should tweak our line of questioning. We are currently asking questions which will answer whether individual actions by the applicants would be considered social welfare or political. That method of questioning does not necessarily answer the question whether social welfare is the primary activity. I am wondering if we should add to the questioning a line of inquiry to see if the organization is proactively monitoring their political activity. We could ask the organizations if they have any policies and procedures to track and monitor the amount of political activity and political expenditure. We could think about drafting some suggested policy and control guidance for them to adopt. This suggestion would need to be elevated, but it could be a way to be a way to approve cases especially if the organization's have not had any past activities.
- * [Redacted] 26 U.S.C. § 6103

Thank you,
Joseph

Joseph R. Herr
Revenue Agent Group 7821
Exempt Organizations Determinations
(513) 263-3725
(513) 263-4513 fax

7822 Cincinnati Bowling, Steve
 7829 Cincinnati Mick Lahey
 7821 Cincinnati Ken Bibb
 7823 Cincinnati Dan Berry
 7824 Cincinnati Lynn Brinkley
 7827 Cincinnati Arginer, Bill

Stark, Stephen (2)
 Bell, Ron (1)
 Perry, Lori
 Estes, Janine (2)
 Herr, Joseph (35)
 N/A
 Herring, Grant (21)
 Steele, Mitch (18)

7828 Cincinnati Lewis, Jovonnie
 7830 Cincinnati Waddell, Jon
 7880 Baltimore Jefferson-White, Beverly
 7887 El Monte Sharking, Lonnie
 7888 Sacramento/Laguna Haley, Phillip
 QA Cincinnati Abner, Donna

Young, Carly (6)
 Garuccio, Jodi (3)
 Morris, Annetta (6)
 Woo, Greg (7)
 Marquez, Elizabeth (21)
 Hotacre, Liz

EXCERPT

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

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

Background: We interviewed EO function officials to understand how applications are processed for organizations seeking tax-exempt status. We learned that there was an increase in the number of organizations applying for Section (§) 501(c)(3) or -501(c)(4) exempt status that were very up front about political work the organizations would be conducting whose applications contained indicators of potentially significant amounts of political campaign intervention.

26 U.S.C. § 6103

It is EO Filings & Agreements' standard practice with emerging issues (including credit counseling and mortgage foreclosure, as well as these advocacy organizations) to work some of the applications in EO Technical in order to get a better sense of the issues. EO Technical is then better able to advise EO Determinations on the processing of such cases and determine the most appropriate form of advice, which may range from verbal or written advice on a particular application or applications to template development letters, template denial letters, guide sheets, etc. In addition to seeking advice from and coordinating with EO Technical, the unusual number of applications with potential political campaign intervention advocacy by organization seeking § 501(c)(3) or 501(c)(4) exempt status also prompted the EO function to isolate these types of cases as an emerging issue warranting scrutiny by a particular Determinations group to ensure consistent processing by a specialized Determinations group.

In order 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. To assist in this effort, a Be On the Lookout (BOLO) listing was developed, which contained criteria description to aid Revenue Agents in identifying applications submitted by § 501(c)(3), § 501(c)(4), § 501(c)(5), and § 501(c)(6) organizations that should be sent to the specialized Determinations group was included on the Be On the Lookout (BOLO) list. To ensure consistent treatment of applications, EO Determinations had long been alerting its specialists to emerging issues by sending emails describing particular issues or factual situations warranting additional review or 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.

Comment [MCJ1]: Comments from EO Director on timeline of events.
 Purpose: To document comments by EO Director on timeline of events.
 Source: EO Director

Date	Event	Additional Details
June 1-2, 2011	Acting Director, Rulings and Agreements, requested criteria used to identify "Tea Party" cases from EO Determinations Manager. EO Determinations Manager requested criteria from Screener Manager.	
June 1-62, 2011	<p>As the number of advocacy cases grew, the Acting Director, EO Rulings & Agreements wanted to make sure that EO Determinations was not being over-inclusive in identifying such cases (including organizations that were solely engaged in lobbying or policy education with no apparent political campaign intervention). In addition, in light of the diversity of applications selected under this "Tea Party case" label (e.g., some had "tea party" in their name but others did not, some stated in their activities that they were affiliated with the "tea 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 the briefing with the EO Director, the Acting Director, EO Rulings & Agreements asked the EO Determinations Program Manager what criteria EO Determinations was using to determine if 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)", the EO Determinations Program Manager asked Screener Manager what criteria were being used to label these cases ("Do the applications specify/state 'tea party'? If not, how do we know applicant is involved with the tea party movement?"). Screener Manager provided criteria for identifying potential "tea party" cases to EO Determinations Program Manager ("The following are issues that could indicate a case to be considered a potential 'tea party' case"). Information forwarded to Acting Director, Rulings and Agreements. Screener Manager provided criteria for identifying potential "tea party" cases to EO Determinations Manager. Information forwarded to Acting Director, Rulings and Agreements</p>	<p>This criteria is very different than the Be On The Lookout criteria available at the time.</p>

Formatted: Font: Times New Roman, 12 pt

From: Medina Cheryl J TIGTA
Sent: Thursday, June 06, 2013 2:15 PM
To: Medina Cheryl J TIGTA
Subject: FW: Advocacy Cases --- Status Request

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

From: Thomas Cindy M [<mailto:Cindy.M.Thomas@irs.gov>]
Sent: Wednesday, September 05, 2012 9:36 PM
To: Medina Cheryl J TIGTA
Cc: Paz Holly O
Subject: Advocacy Cases --- Status Request

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

From: Thomas Cindy M
Sent: Wednesday, November 17, 2010 7:17 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 calls 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
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Medina Cheryl J TIGTA
Sent: Monday, May 20, 2013 11:06 AM
To: Medina Cheryl J TIGTA
Subject: FW: TIGTA DOCUMENT REQUEST

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
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 4:42 PM
To: Paz Holly O
Subject: TIGTA DOCUMENT REQUEST

From: Thomas Cindy M
Sent: Monday, June 06, 2011 10:16 AM
To: Bowling Steven F
Cc: Esrig Bonnie A
Subject: RE: 26 U.S.C. § 6103

Steve,

26 U.S.C. § 6103 Holly sent an email and asked questions about criteria being used to identify cases as "tea party cases." The D.C. office thinks the criteria being used may be resulting in over-inclusion. 26 U.S.C. § 6103
26 U.S.C. § 6103

My response was that we have no problem including or excluding any type of case, as long as they come up with the criteria so we can provide it to the Screening Group. And, it doesn't matter what the cases are called or how they are grouped, EOD still needs guidance to ensure consistency.

A meeting has been set up for 6/29 for EOT to brief Lois on these cases. Holly asked for me to participate. I asked her if she wants me to have you, Ron, and Bonnie participate. If so, I'll forward the information.

Until we hear otherwise, we'll continue working cases as we have been.

From: Bowling Steven F
Sent: Monday, June 06, 2011 9:04 AM
To: Thomas Cindy M

Cc: Esrig Bonnie A; Combs Peggy L; Bell Ronald D
Subject: RE: 26 U.S.C. § 6103

Cindy,

26 U.S.C. § 6103

STEVEN F. BOWLING
Manager, EO Group 7822
Exempt Organizations Determinations
550 Main Street, Room 4-504
Cincinnati, OH 45202
Tel (513) 263-3704
Fax (513) 263-4540

From: Thomas Cindy M
Sent: Monday, June 06, 2011 8:59 AM
To: Combs Peggy L; Bell Ronald D
Cc: Bowling Steven F; Esrig Bonnie A
Subject: RE: 26 U.S.C. § 6103

Peggy - 26 U.S.C. § 6103

Ron - 26 U.S.C. § 6103

Any questions, please let me know. Thanks.

From: Combs Peggy L
Sent: Monday, June 06, 2011 8:06 AM
To: Thomas Cindy M
Subject: FW: 26 U.S.C. § 610

Cindy,

26 U.S.C. § 6103 Let me know if you would like me to do anything.

Peggy

From: Sabando Cesar A
Sent: Friday, June 03, 2011 4:50 PM
To: Combs Peggy L
Cc: Abramowitz Hyman; Bradley Kenneth W
Subject: 26 U.S.C. § 610

Hi Peggy,

I'm on the Classification Referral Committee along with Hy Abramowitz and Ken Bradley. We are

26 U.S.C. § 6103

Thanks for assistance.

Cesar Sabando
Manager, EO: 7910
Ph. (718) 488-2212
Fx. (718) 488-2358

From: Paz Holly O <Holly.O.Paz@irs.gov>
Sent: Tuesday, July 24, 2012 7:03 AM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: Briefing Paper on c3/4 Advocacy Orgs.
Attachments: June 29 C3-4 Advocacy Orgs Briefing Paper.doc

From: Paz Holly O [<mailto:Holly.O.Paz@irs.gov>]
Sent: Friday, April 20, 2012 4:05 PM
To: Marks Nancy J; Urban Joseph J; Malone Robert; Light Sharon P
Subject: FW: Briefing Paper on c3/4 Advocacy Orgs.

From: Lowe Justin
Sent: Monday, June 27, 2011 8:56 AM
To: Paz Holly O
Cc: Seto Michael C; Buller Siri; Hull Carter C; Kastenberg Elizabeth C; Goehausen Hilary
Subject: Briefing Paper on c3/4 Advocacy Orgs.

Holly,

Attached is the briefing paper we plan to use at the meeting with Lois on Wednesday afternoon. Please let us know if you have any questions or would like to meet beforehand.

Thanks,

Justin

Background:

- EOD Screening has identified an increase in the number of (c)(3) and (c)(4) applications where organizations are advocating on issues related to government spending, taxes and similar matters. Often there is possible political intervention or excessive lobbying.
- EOD Screening identified this type of case as an emerging issue and began sending cases to a specific group if they meet any of the following criteria:
 - "Tea Party," "Patriots" or "9/12 Project" is referenced in the case file
 - Issues include government spending, government debt or taxes
 - Education of the public by advocacy/lobbying to "make America a better place to live"
 - Statements in the case file criticize how the country is being run
- Over 100 cases have been identified so far, a mix of (c)(3)s and (c)(4)s. Before this was identified as an emerging issue, 26 U.S.C. § 6103
- 26 U.S.C. § 6103
 - 26 U.S.C. § 6103
 -
- EOT is assisting EOD by providing technical advice (limited review of application files and editing of development letters).

EOD Request:

- EOD requests guidance in working these cases in order to promote uniform handling and resolution of issues.

Options for Next Steps:

- Assign cases for full development to EOD agents experienced with cases involving possible political intervention. EOT provides guidance when EOD agents have specific questions.
- EOT composes a list of issues or political/lobbying indicators to look for when investigating potential political intervention and excessive lobbying, such as reviewing website content, getting copies of educational and fundraising materials, and close scrutiny of expenditures.
- Establish a formal process similar to that used in healthcare screening where EOT reviews each application on TEDS and highlights issues for development.
- Transfer cases to EOT to be worked.
- Include pattern paragraphs on the political intervention restrictions in all favorable letters.
- Refer the organizations that were granted exemption to the ROO for follow-up.

Cautions:

- These cases and issues receive significant media and congressional attention.
- The determinations process is representational, therefore it is extremely difficult to establish that an organization will intervene in political campaigns at that stage.

From: Seidell Thomas F TIGTA
Sent: Thursday, May 30, 2013 7:49 AM
To: Paterson Troy D TIGTA
Subject: FW: advocacy cases - next steps

From: Paz Holly O [mailto:Holly.O.Paz@irs.gov]
Sent: Tuesday, July 24, 2012 4:48 PM
To: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA
Subject: FW: advocacy cases - next steps

From: Paz Holly O
Sent: Thursday, June 07, 2012 5:01 PM
To: Megosh Andy; Goehausen Hilary; Giuliano Matthew L; Kindell Judith E; Miller Thomas J; Lowe Justin
Cc: Light Sharon P; Fish David L; Seto Michael C; Lerner Lois G; Marks Nancy J
Subject: FW: advocacy cases - next steps

Set forth below is a summary of the bucketing results. This email outlines the next steps to be taken with regard to each bucket.

83 c/3s bucketed:

16 approval
16 limited development
23 general development
28 likely denial

199 c/4s bucketed:

65 approval
48 limited development
56 general development
30 likely denial

Bucket 1:

C4s

Faye and Jodi will make calls to all c4 applicants who were sent development letters but have not yet responded before favorable determination letters are sent using the script already provided. Faye and Jodi will send the favorable c4 determinations using the letter already provided.

C3s

Faye and Jodi will make calls to all c3 applicants who were sent development letters but have not yet responded before favorable determination letters are sent. The phone script already provided will be modified accordingly by Faye and Jodi. Faye and Jodi will send the favorable c3 determinations. Addendum 1 to the c4 letter will be added to our standard favorable c3 letter. The second addendum to the c4 letter referencing the section of the pub re: political activity is not necessary.

Donor Information

C3s and c4s that provided names of their donors in response to an additional information request from the IRS will be sent a letter (to be sent in a separate email) indicating that the request was made in error and we have destroyed that information. This applies to applicants that provided the information in response to a development request specifically requesting a list of all donors, a development request to detail all sources of revenue or any other additional development request by the IRS. It does not apply to organizations that provided this information in their application. In cases meeting this criteria, this letter must be sent before the favorable determination is sent.

Quality Review

In light of the small number of disagreed cases, Quality will now shift from 100% mandatory review of c4s to reviewing one of every 10 c4 cases in bucket 1. All c3s will be sent to Quality, but this will be reduced to a sampling based on the results of the review. Disagreed cases will be discussed by QA, the individuals who completed the bucketing worksheets and/or reconciliation sheet, and Sharon to reach a mutual decision re: the appropriate action on the case. The Determs bucketer will get the complete file back from Donna so they can discuss with the DC bucketer. If a mutual decision cannot be reached, the case will be elevated to me for decision.

Bucket 2:

Jodi, Faye, Grant, Janine, and Carly will draft the development letters consisting of the questions listed by the bucketers on the bucketing worksheets. Each letter is to be reviewed by Hilary, Matthew or Andy before it is sent based on the following partnering:

Andy -- Faye (all c/3 cases)

Matthew -- Carly and Grant (c/4 cases)

Hilary -- Jodi and Janine (c/4 cases)

Hilary and Matthew should consult with Andy if they have any questions.

Caveat: In light of the size of the files and the time it would take to get another specialist familiar with the files, 26 U.S.C. § 6103

26 U.S.C. § 6103

The DC reviewer will provide any comments or a response indicating no comments within 2 business days. If a response is not received within two business days, the drafter of the development letter should notify Sharon.

If an applicant was previously sent a development letter but has not yet responded, the individual assigned to write the development letter will first call the applicant to direct them to disregard the prior development letter and that a new letter will be coming (modifying phone script provided for bucket 1

cases). The new development letter should also contain such a statement (language can be pulled from first addendum to favorable c4 letter).

The assigned Determinations specialist should email the assigned DC reviewer the development letter. In reviewing the letter, the DC reviewer will look at the application on TEDS , the bucketing worksheets (and reconciliation worksheet, if applicable) and the organization's website (if available).

Quality will review the the cases once a response has been received and the Determinations specialist has reached a decision on the case - just like a regular mandatory review case. Initially, all bucket 2 cases will be sent to Quality, but this will be reduced to a sampling based on the results of the review. I will send a message to the team when we are ready to shift to a sampling review.

Bucket 3:

Same as bucket 2 except the individual assigned the case will have to draft the questions. Bucket 2 cases should be started before bucket 3 cases. Given the number of c3s in this bucket, c3 cases may have to be assigned to more than one person.

Bucket 4:

Cindy will send me the 10 oldest c4 cases. Judy and Justin will draft a development letter for each case. Tom Miller will review the development letter. Judy and Justin will send the development letter to Ron Bell who will assign the case to either Mitch or Joseph -whichever is available at that time. Mitch and Joseph will send the development letters and coordinate with Judy/Justin on reviewing the responses.

Joseph is in the process of determining whether c3s in this bucket could qualify under c4 and, if so, is contacting the applicant to inform them that we do not believe they qualify under c3 but may under c4 and instruct them to submit 1024 if they are interested in pursuing c4 status.

Bucketing Going Forward:

Mitch and Joseph will each review and bucket all new receipts that meet the definition of advocacy case on the BOLO and send their bucketing worksheets to Sharon. Sharon will be involved in any reconciliation discussions needed if Mitch and Joseph place cases in different buckets.

Tracking Going Forward:

Ron Bell will be responsible for tracking the advocacy cases going forward. He will use a spreadsheet that combines the original tracking sheet created by Determinations and the spreadsheet created by Sharon and may modify it to add new columns as cases move through the process. Everyone should notify Ron when a case is sent to their manager for closing.

Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: Chip Hull, EO Technical
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: July 30, 2012

Time: 1:00 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

Mr. Hull's manager, Steve Grodnitzky, asked him to become the Cincinnati coordinator, working with Liz Hofacre in Cincinnati on § 501(c)(4) and (c)(3) cases with political activities. Mr. Hull first worked on

26 U.S.C. § 6103

Ms. Hofacre sent copies of additional information letters to Mr. Hull to review prior to issuance. She later began sending copies of the case files as well, so Mr. Hull could determine what questions needed to be asked. Mr. Hull's manager looked at the first few cases with him and decided it wasn't necessary to look at any more. Mr. Hull is the Subject Matter Expert on § 501(c)(4)'s, (c)(5)'s, (c)(6)'s and political organizations. Mr. Hull reviewed around 30 cases for Cincinnati. He also had numerous phone conversations with Ms. Hofacre on cases, usually 4-5 at a time.

Mr. Hull's understanding of the issue was whether organizations were engaged in political activity and whether it was more than 50 percent of their activities. Cincinnati needed to frame the questions to determine the activities and the amount of time on each activity. As far as he knows, no donor information was requested.

Mr. Hull worked with Liz Hofacre for around a year. The volume of cases decreased. Ron Bell took over for Liz Hofacre in Cincinnati. He stopped sending Mr. Hull cases for review and didn't ask for his guidance with the development letters.

Mr. Hull did not have any involvement in the BOLO criteria. He heard his name was on the BOLO as a contact, but never saw the criteria being used. He does not know who developed it. He knew that the cases were being referred to in conversation as Tea Party, but he is bi-partisan. After a meeting with Lois Lerner, EO Director, in June 2011, the cases were referred to as advocacy cases instead of Tea Party.

7/31/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: Mike Seto, EO Technical Manager
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: July 30, 2012

Time: 2:00 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

In January 2011, Mr. Seto was Acting Director of EO Technical. [REDACTED]

[REDACTED] 26 U.S.C. § 6103 [REDACTED]

In the Fall of 2011, Determinations asked EO Technical to complete a review of all the advocacy cases. Hilary Goehausen completed the review, with technical assistance from Justin Lowe.

The purpose of the review was whether the organizations qualify as § 501(c)(4), which requires an activities test. It is difficult to determine exemption; includes looking at staffing and resources to determine primary activity.

Mr. Seto first learned of the Tea Party reference in April/May 2011. He had no idea about the BOLO criteria, but learned of it during the June 2011 briefing of the EO Director. He refers to them as advocacy or lobbying cases. He was not involved in the development of the BOLO criteria.

Mr. Seto did not instruct Cincinnati to stop working on cases while the guide sheet was developed. He spoke with Cindy Thomas, Determinations Manager, about the cases, but does not remember how she referred to them.

He is currently reviewing new additional information request letters from the May 2012 bucketing of the cases in Cincinnati.

7/31/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: Justin Lowe, EO Guidance
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: July 30, 2012

Time: 3:00 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

Last summer, around July 2011, the EO Director was briefed. Mr. Lowe wrote the briefing paper. He first learned about the criteria used to identify cases when writing the June 2011 briefing paper for the EO Director. He believes he received the criteria in the briefing paper from Cindy Thomas, Determinations Manager, or maybe Ron Bell, Advocacy Coordinator. (Auditor's Note: Mr. Lowe went back and checked for the email with the criteria, but could not find it.)

26 U.S.C. § 6103 [redacted] Cincinnati has many cases. He worked on developing the guide sheet for Cincinnati to use when reviewing advocacy cases along with Hilary Goehausen. Judy Kindell also reviewed the draft guide sheet.

In January 2012, Mr. Lowe reviewed development letters and worked on revising the guide sheet. He also worked on responses to Congressional inquiries.

Mr. Lowe understood that the issue involved the identification of more cases related to getting citizens involved in issues/politics. Cases were referred to as Tea Party cases, but some were

26 U.S.C. § [redacted] too.
6103

Mr. Lowe never saw the BOLO and was not involved in any of the criteria changes.

Mr. Lowe occasionally helped Hilary Goehausen with the triage of cases performed to determine if any cases could be closed either approved or denied. He would provide advice on how to handle certain issues. He always referred to the cases as advocacy cases and was concerned with (c)(4) activities (general vs. advocacy). Cincinnati referred to cases as Tea Party, but it was just a shorthand for all advocacy cases.

**Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA**

MEMO OF CONTACT

Participants: Nan Marks, Technical Advisor, TE/GE Division Commissioner
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: July 31, 2012

Time: 2:00 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

Nan Marks became a technical advisor to the Division Commissioner in August/September 2011. Prior to this, she worked in the Chief Counsel's Office. The first time she was involved in the advocacy issue was in early March 2012. She was asked to review guidance being prepared for EO Determinations. Ms. Marks knew that the guidance was going back and forth between Counsel and EO Technical, and that they wanted someone else's opinion on it. On March 23, 2012, Ms. Marks participated in a meeting with Steve Miller, Deputy Commissioner, Services and Enforcement, about concerns with the media coverage of the IRS's processing of applications for Tea Party organizations. He wanted to make sure EO Determinations was on track with handling the cases and what delays were occurring. He also was interested in the nature of the questions being asked. At this meeting, they also prepared for Mr. Miller's testimony at an upcoming hearing.

On March 27, 2012, they met again to prepare his testimony. Mr. Miller also asked Ms. Marks to take a look at what was happening in EO Determinations and make some recommendations. Mr. Miller wanted to have an understanding on how applications were processed for his testimony. The focus was to be on § 501(c)(4), (c)(5), and (c)(6) applications, as well as the particular handling of the advocacy applications.

Ms. Marks was authorized to pull resources to review the application process. She tried to review case files using TEDS, but found out that not all the information is available on TEDS, especially open cases. Prior to her visit to Cincinnati in April 2012, Ms. Marks requested copies of all development letters for the advocacy cases be available to review. She asked Judy Kindell and Sharon Light to go through them to determine if certain agents need more scrutiny, had more extensive letters, etc. The review found that one agent, Stephen Seok, had consistently extensive additional request letters. They toyed with the idea of creating a worksheet for the case reviews,

but abandoned the idea. They felt that this could lead to bias/pre-judging of the applicants. They wanted the case files to speak for themselves.

Ms. Marks requested the approximately 230 advocacy cases be pulled for her to review. Although she did not get through them all, she probably reviewed around half the cases during her visit to Cincinnati. She visited EO Determinations in Cincinnati the week of April 23, 2012, along with Holly Paz, Acting Director, Rulings and Agreements, Rob Malone, Tax Law Specialist, Sharon Light, Technical Advisor, EO Director, and Joe Urban, Tax Law Specialist. Ms. Marks wanted fresh eyes to look at the processing of advocacy cases. This is when she first heard about the BOLO. She asked the advocacy team what was working and not working in the processing of the cases. She found that the Specialists were frustrated with the process.

During the Cincinnati meeting in April 2012, everyone sat in a room to review the cases. They found that questions 5 and 15 of the Form 1024 were significant in determining political activity. The bylaws and articles, and the website could also have political emphasis. Based upon their reviews, they determined if the development letter was appropriate. No bias was found in the identification of the advocacy cases. The group does not think the organizations were trying to hide anything; there is just confusion by the applicants and the Specialists on how to complete and review the Form 1024.

Once the group returned to Washington, D.C., they reconvened to do a post-mortem on the cases. They also reviewed the questions asked and identified the ones they felt were not necessary to resolve the cases – remote chance of risk. Stephen Seok had lengthy lists of questions that were exhaustive and repetitive between cases. Ms. Marks discovered that Mr. Seok was previously part of a credit counseling team where the cases were similar, so similar questions were asked. The determinations reviews ended up more like an Exam for the credit counseling cases.

Ms. Marks developed her own timeline of the events of the development of the advocacy issue. (Auditor's Note: she did not develop a document of the timeline. It comes from emails and conversations with various people.) In February 2010, John Shafer, Screener Manager, informed Cindy Thomas, Determinations Manager, that there has been an uptick in cases with (c)(4) political activities.

26 U.S.C. § 6103

Cincinnati completed a TEDS search and found 18 cases with similar issues; 3 were approved, 4 were (c)(3)s, 10 were (c)(4)s, 26 U.S.C. § 6103 The cases were assigned to Liz Hofacre.

26 U.S.C. § 6103

Ms. Hofacre worked other cases as well as the advocacy cases during this time.

Mr. Hull concluded that the cases were not "cookie cutter" and did not think a template would work to process these cases. During the latter part of 2010, Mr. Hull worked with Ms. Hofacre to develop additional question letters for the cases assigned to her. In October 2010, Ms. Hofacre transferred to Quality Assurance. All of the advocacy cases under her control were transferred to Ron Bell. He was told to put them on hold until assistance came from EO Technical on how to process them. [26 U.S.C. § 6103]

26 U.S.C.
§ 6103

In the Summer of 2011, [26 U.S.C. § 6103] the inventory in Cincinnati was growing. EO Technical and Counsel decided to develop a guide sheet that covers the broad view of issues by EO. An early draft was sent to Cincinnati in early November 2011 for comment. Mrs. Thomas stated that it didn't look very helpful in its current form.

Cincinnati requested different technical experts to help them with processing the cases. Hilary Goehausen and Justin Lowe were assigned as contacts for the Specialists.

In the Fall 2011, Hilary Goehausen, using information available on the TEDS, reviewed all the identified advocacy cases to provide feedback to Cincinnati with recommendations for processing the cases.

In November 2011, Cincinnati set up a team of GS-13s to review advocacy cases. Stephen Seok was in charge of the team. Mr. Seok provided the team one of his development letters as a guide for the others, but the team did not use it. The team compared notes on the questions asked in the cases and started to develop a template of questions to assist them in case processing. The team sent the "template" to DC for review, but never used it when processing cases.

In January 2012, the advocacy team started reviewing the cases again and development letters were issued to the organizations. There was much media coverage of these development letters, stating that the IRS was using boiler plate letters instead of requesting needed information. Ms. Marks stated that they did not find the use of a "template" for the additional letters when they conducted their review in April 2012.

In March 2012, the media coverage with complaints about the two week time period for responding from the applicants began. Ms. Marks's team found that all requests for extensions of time to reply were granted.

Lois Lerner, EO Director, decided to give all organizations that had not responded to their additional request letters a 60 day extension in March 2012. If they did not reply, the cases would still go into suspense for another 90 days before closing FTE. The Specialists were told to stop working on the cases at this time.

Marks's team again discussed issuing guidance on the advocacy cases. These cases are very much facts and circumstances, so it is difficult to boil it down in a guidance document. In

addition, there is not a lot of published guidance on § 501(c)(4)s, and they didn't want to set a precedent with any guidance developed.

After reviewing the cases, they came up with what they felt was a sense of the problem; Specialists were well intended but confused on the standards to apply to the cases.

- Legislative vs. political advocacy
- What is primarily for the activities standard
- Private benefit threshold

There was fear of making a mistake which prevented them from moving the cases.

Ms. Marks developed options for moving forward. They could transfer all the cases to EO Technical in DC, but there are not enough people to work them and it wouldn't be a long term solution. The other option was to conduct a workshop in Cincinnati for the advocacy team to group and prioritize the inventory of cases. Hopefully, as Cincinnati became more comfortable, DC's involvement would be phased out. She decided on the second option.

To prepare for the workshop, Judy Kindell and Sharon Light reviewed around 70 unassigned advocacy cases on TEDS and put them into 1 of 4 buckets (approval, focused development, full development, and probable denial). They identified cases with certain issues to use during the workshop. Ms. Marks picked a team of experienced DC employees for the bucket review: Sharon Light, Justin Lowe, Judy Kindell, Hilary Goehausen, Matthew Giuliano, and Andy Megosh. During the week of May 14th, EO Technical staff conducted a workshop with the advocacy team, going through sample cases with specific issues and coming up with the questions that needed to be asked. Discussions followed on the appropriateness of the questions. Since these cases are mandatory review, a person from Quality Assurance was also part of the team.

It took around 3 weeks total to review all the advocacy cases and go through the bucketing exercise. Each case was reviewed by two people. A worksheet was developed to capture their reviews. Bucket 1 (approvals) was given to the processing group to issue approval letters. Bucket 2 (focused development) were transferred to the advocacy team to work first. Bucket 4 (denials) were sent to DC for development of a model to use as the denial letter. Once all of Bucket 2 was completed, then Bucket 3 (full development) cases were assigned to the advocacy team.

There seemed to be a lot of taxpayer confusion with the whole application process. Ms. Marks felt they needed better communications with the public. Before the approval letters were issued, they were reviewed by EO Technical and the wording "massaged". The Specialists also went through a role playing exercise on how to deal with the frustration from the applicants when contacting them. Ms. Marks also felt there was a need to send letters to the organizations acknowledging that we did not need the information previously requested.

With the approval letter, a pamphlet is sent on how to stay exempt. The letter refers to certain pages of the pamphlet.

To be able to close certain cases where there were indications of possible political activity, but nothing to prevent approval of tax-exempt status, a ROO referral would be developed for follow-up in the future.

Ms. Marks is not directly involved in the advocacy issue anymore. She does participate in the periodic calls updating Steve Miller on the status of the cases.

8/2/12

**Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA**

MEMO OF CONTACT

Participants: Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: July 31, 2012

Time: 1:00 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

Ms. Paz went through her role during the development of the advocacy issue.

Beginning in 2010 – Acting Manager, EO Technical
Maternity leave in March 2010 – Steve Grodnitzky, Acting Manager, EO Technical
October 2010 – Manager, EO Technical Manager
January 2011 – Acting Director, Rulings and Agreements – Mike Seto became Acting Manager,
EO Technical
Maternity leave in October 2011 – David Fish, Acting Director, Rulings and Agreements
February 2012 – Acting Director, Rulings and Agreements
May 2012 – Director, Rulings and Agreements

In early 2010, Ms. Paz received questions from Cincinnati about a possible emerging issue identified in screening involving political activity related to the Tea Party organizations or affiliated with the Tea Party. She requested 2 cases (1 c3 and 1 c4) be sent to EO Technical for review. 26 U.S.C. § 6103

26 U.S.C. § 6103

26 U.S.C. § 6103

By the Spring of 2011 there was a large increase in the number of cases identified to around 100 cases. This was too much for Chip Hull to handle. The EO Director, Lois Lerner was briefed in

June 2011 on the situation. It was decided that a guide sheet would be developed by EO Technical for Cincinnati to use. This was also when the BOLO criteria was revised. Ms. Paz did not know about the Tea Party criteria being used until she began to prepare for this briefing with Lois Lerner.

Cases were commonly referred to as Tea Party cases in Cincinnati and by Chip Hull. It did not occur to Determinations not to use this "short hand" for the types of cases they were identifying. Other issues have been referred to by particular names in the past. The BOLO was not approved during the development of the advocacy issue. Ms. Paz now approves all wording for the BOLO.

The EO Director receives Sensitive Case Reports monthly. Mr. Hull began preparing a Report for the 26 U.S.C. § 6103 No meetings were held with Ms. Lerner until June 2011.

There was a miscommunication with Determinations about working cases. They were told that EO Technical was developing guidance, but not to stop working the cases. Ms. Paz does not know who decided to stop work on the cases.

In the Fall of 2011, Hilary Goehausen and Justin Lowe went through all the advocacy cases on TEDS because Mrs. Thomas and Ms. Paz thought some of the cases didn't belong and could be closed. Judy Kindell worked with both of them on the cases. However, Cincinnati did not do anything with the results of this review when sent to Mrs. Thomas. Ms. Paz does not know why.

The screeners were told to cast a wide net when reviewing applications. Ms. Paz stated that this is commonly done when new issues are identified. Ron Bell re-screened the cases before being added to the case tracking sheet. The BOLO criteria was rewritten in January 2012 because too many cases that did not meet the criteria for the advocacy team were being transferred over.

In June 2011 Justin Lowe took over for Chip Hull as the coordinator in EO Technical. He could more quickly handle the cases. Mr. Lowe is groomed in political issues.

The identified cases were consolidated in the emerging issues group. This group is responsible for all "issues" that seem to need consistency in review. Liz Hofacre worked all the initial cases starting in 2010. In the Fall 2010, Ms. Hofacre transferred to Quality Assurance. Ron Bell was given responsibility for the cases.

In November-December 2011, Mrs. Thomas decided that a team approach would be better for working the cases. The volume became too much for one person. The advocacy team was selected based upon their experience and grade (GS-13s). Stephen Seok took over as coordinator from Ron Bell because Mr. Bell was also trying to oversee the auto revocation applications and it was just too much for one person to work.

In January 2012, the Advocacy Group Manager, Ron Bell, and Stephen Seok decided that the BOLO criteria was too generic and revised it. This did not come from DC. Ms. Paz found out

about the change in April 2012 and informed Ms. Lerner. Ms. Paz changed the criteria again in May 2012.

The draft guide sheet was begun in July 2011. Counsel helped reviewed the guide sheet beginning in March 2012 and had concerns with it. It did not have any information that is not already stated in published guidance or revenue rulings.

In March 2012, Ms. Lerner approved a one-time letter issued to organizations that had not responded to development letters giving them 60 day extensions. Ms. Paz does not know who came up with this idea. It was considered a fairness issue since Determinations was asking for a larger than usual volume of information. These letters should be in the case files.

Based on the discussions over the guide sheet, training was provided to the advocacy team in Cincinnati. Sample cases were reviewed as a group. There were no handouts or other documentation for this training. The Specialists seemed terrified of making a bad approval.

Other than the May 2012 training, the advocacy team did not receive any other training, and none is planned. The advocacy team members not located in Cincinnati did not receive the training. EO had a virtual CPE in May/June 2011 during which political activity was covered.

Since May 2012, the advocacy team is working with an assigned EO Technical employee on the advocacy cases. All letters are being reviewed by the EO Technical employee, along with the case files. They are trying to ensure that the letters don't ask for too much and are written in plain language. No disagreements to date between Determinations and EO Technical. If there are any problems, Sharon Light will review the case as coordinator of this effort. All the cases are going to Quality Assurance right now. As everyone becomes comfortable with these cases, EO will go back to sampling for quality reviews.

Ms. Paz was not involved in the development of the initial additional information letter requests. Ms. Lerner wants Determinations to be more mindful of what information is needed to make a determination.

EO Determinations received Operational Assistance Requests (OAR)s from the Taxpayer Advocate Office on some of the advocacy cases. Ron Bell dealt with responding to these requests with the status of the cases.

Ms. Paz was not involved in the initial development of the BOLO criteria prior to June 2011. She was not involved in the change made in January 2012, but did write the May 2012 change.

In June 2011, template letters were discussed for working advocacy cases but it never happened.

Ms. Paz discussed Determination's concern with the requested donor information with the Counsel Procedure and Administration Office. They stated that since the information was not relied on to make the determinations, it can be destroyed or sent back to the organization -- referred to as expunged. The request for the information was a mistake so it doesn't need to be

in the file. A letter was sent to all organizations that provided donor information at the request of the Specialist notifying them that the information was destroyed.

Many of these organizations hadn't had contact with the IRS on their applications in a long time or hadn't responded to a development letter. So, after the bucketing exercise in May 2012, the organizations that were to receive an approval letter received a call first to explain the situation (script). An addendum to the favorable letter was also added informing them to disregard the development letter. The script and addendum were developed by Ms. Paz, Ms. Lerner, Judy Kindell and Nan Marks.

General questions

EO is currently updating IRM 7.20.1 with current processing procedures for applications. It will include screener guidance, BOLO and OFAC research, and new check sheets.

Ms. Paz first saw the BOLO criteria when preparing for the Lerner briefing. AM Seidell commented that the BOLO criteria in June 2011 was different than what was in the briefing paper, so we were confused on what the screeners were using to identify advocacy cases. Ms. Paz never compared the two criteria and does not know why they are different. The BOLO iterations document we received may be incomplete. We should ask Ron Bell in Cincinnati.

Managers do not review additional information letters prior to issuance. Managers review case files before they are closed. They track case closures. She did not receive the advocacy tracking sheet regularly during the emerging issue development. Since the bucketing of cases in May 2012, Ms. Paz receives a status report on the advocacy cases every two weeks. She does not have access to EDS to monitor the cases herself.

Ms. Paz did not know if organizations applying for § 501(c)(3) status are informed of their right to sue if the application is not closed within 270 days. No organizations included in the advocacy cases have sued the IRS because it missed this standard. In fact, this type of lawsuit is very rare in general.

In September 2011, EO knew the volume of cases was growing and decided to triage the cases in EO Technical to see if any could be closed. Hilary Goehausen performed this triage. After the media attention from the January 2012 letters, Specialists were told to stop working the cases around the end of February 2012. They were to continue working the cases, but no new development letters should be issued. After the bucketing of the cases in May 2012, development letters began to be issued again.

Ms. Paz does not know if calendar days or work days are used in the BPR to compute elapsed days for case inventory. We should ask Cindy Thomas, Determinations Manager.

In hindsight, the EO Director should have been briefed earlier in the development of the advocacy emerging issue. The Determinations Office moves at a faster pace than EO Technical, which was trying to develop guidance for Cincinnati.

In March/April 2012, Steve Miller, Deputy Commissioner, became involved in the advocacy issue. He wanted to know the status of the cases and be briefed for upcoming testimony.

Ms. Paz was involved since the beginning of the emerging issue, but was not involved in discussions to refer to them in a certain way.

Since the bucketing in May 2012, Ron Bell has been using a new tracking sheet to monitor the cases. Not all advocacy cases are included. Some types of cases are reserved for EO Technical to review per the IRM. They may have political advocacy issues. If identified, they should be included on the tracking sheet Ron Bell is controlling in Cincinnati. None have been identified yet.

8/2/12

**Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA**

MEMO OF CONTACT

Participants: Steve Grodnitzky, EO Technical Group Manager
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: July 31, 2012

Time: 9:00 am

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

Mr. Grodnitzky has been the group 1 manager for 6 years. He is currently detailed to legislative affairs.

During October/November 2011, the Branch Manager oversaw the cases sent to his group. The Branch Manager and Ron Shoemaker screened the cases referred to EO Technical and if they were advocacy related, not just political advocacy, but all types of advocacy, they would be transferred to Mr. Grodnitzky's group. Mr. Grodnitzky initially reviews all cases into his group and assigns them. If the case was advocacy related, they would be assigned to Hilary Goehausen. He checks the status of all cases, not just advocacy ones, on a regular basis.

Mr. Grodnitzky keeps a Word file with a summary of all the cases for reference. (w/p: Binder I, pp. 147-150) Every 4 weeks, he contacts the Specialists for an update. Because certain cases are assigned to EO Technical, there may be some advocacy cases not included on the Cincinnati's tracking sheet.

Mr. Grodnitzky's understanding of the issue is that some organizations are advocating specific positions/candidates and a determination needs to be made if the activity is political.

He did not know what the BOLO was and has never seen the BOLO criteria. Cases are transferred from Cincinnati to DC, they are screened and assigned to his group if advocacy.

Mr. Grodnitzky always refer to the cases as advocacy cases. He has no direct interaction with Cincinnati. He became aware of the advocacy issue after the guide sheet was begun, so he is not aware that case reviews stopped. There was no stoppage of cases in DC.

**Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA**

MEMO OF CONTACT

Participants: Sharon Light, Senior Technical Advisor to EO Director
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: July 31, 2012

Time: 10:00 am

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

Ms. Light began with the IRS in January 2011. The first time she was involved in the advocacy issue was at the June 2011 EO Director briefing. She is aware that guidance was developed but was not involved in it. Nor was she involved in any of the Congressional inquiries.

She became involved after all the media and Congressional attention began in March 2012. She traveled with Nan Marks to Cincinnati in April 2012 and completed a walk-through of the Determinations process. They also went through applications and discussed how to handle the cases.

Ms. Light worked with Hilary Goehausen reviewing cases. This led to the bucketing of the cases in May 2012. Ms. Light was responsible for coordination of the bucketing exercise. The cases were split up into 4 categories: approval, focused development, full development and probable denial.

Teams of 3 people were set up by Holly Paz to review all the advocacy cases. Two people from each team reviewed each case (blind review): one from Headquarters and one from Cincinnati Determinations. They completed worksheets on each case and sent them to Sharon. If both agreed on the same case, the approvals went to Quality Assurance for review. If the two reviewers disagreed, they would meet to discuss and created a third worksheet. There have been no cases that the two reviewers could not agree on. If they couldn't come to agreement, Ms. Light would make the final decision. This has not happened to date.

The definition of political intervention is a grey area. Most organizations are new to the exempt arena, so the cases are difficult to work. The vast majority of them do not say Tea Party.

She participated in the May 2012 training. There is no documentation. Nan Marks spoke first and then Holly Paz laid out the process established for the bucketing exercise. Judy Kindell discussed § 501(c)(4) issues.

While reviewing the cases it was noted that many have private benefit issues, not political issues. She selected cases with certain issues for the training to gain consensus on how to handle them. Suggestions on how to ask questions were discussed, then the team went through cases and discussed how to handle the issues. The next day, the bucketing of all the advocacy cases began.

The original advocacy team members not located in Cincinnati are no longer working on advocacy cases. They transferred their remaining cases to Cincinnati for assignment.

The first time Ms. Light heard about the BOLO was at the June 2011 EO Director briefing. There was discussion on changing the language in the BOLO at this briefing. In June 2012, private benefit was added to the BOLO definition.

She has always referred to these cases as advocacy cases, but prior to her involvement they were probably referred to as Tea Party cases. People understood that Tea Party referred to a range of issues, not the Tea Party specifically. The screeners used the BOLO, but she did not see any targeting of the Tea Party during her review of cases.

Going forward, the advocacy cases will continue to be bucketed using the 4 buckets set up in May 2012. Ron Bell is tracking the bucketing results and assigning the cases to the advocacy team. Each team member in Cincinnati works with someone in EO Technical on the cases.

8/2/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: Judy Kindell, Technical Advisor to EO Director
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: July 31, 2012

Time: 11:00 am

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

26 U.S.C. § 6103

There were discussions on whether cases should stay in Cincinnati or be transferred to DC. There was an attempt to develop guidance by Hilary Goehausen. She asked Ms. Kindell and Sharon Light to review it. They felt it was too lawyerly and not a good roadmap for the Specialists. Cindy Thomas, Determinations Manager, also reviewed it and didn't feel it was useful.

In the Spring 2012, she again reviewed the guide sheet. Counsel had revised it, but it was never finalized. The next thing she hears about is all the media coverage of the development letters issued.

All of the issued advocacy development letters were reviewed by Sharon Light and Ms. Kindell to determine the types of questions that were asked. Each Specialist had his own list of questions that were used.

In May 2012, she participated in the training of the advocacy team and went through bucketing the cases. Each case was reviewed by two people. Quality Assurance looked at all the cases before approval.

The probable denial bucket cases are being worked by Ms. Kindell and Justin Lowe, EO Guidance. They are developing the denial letters, which are being reviewed by Tom Miller, EO

Rulings and Agreements. Once approved, the letters are returned to Cincinnati for issuance. This process will continue in the future.

Ms. Kindell believes the issue is candidate support, which is not a (c)(4) activity, but the organizations can participate in it. The cases involve the political realm and may act for the private benefit of one political party.

Ms. Kindell first learned about the Tea Party BOLO criteria after January 2012 from an email to Lois Lerner from Holly Paz. She is not aware how the cases were identified.

Ms. Kindell does not know who instructed Cincinnati to stop working the cases while guidance was being developed.

8/2/12

**Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA**

MEMO OF CONTACT

Participants: Hilary Goehausen, EO Technical
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: July 31, 2012

Time: 3:30 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

In April/May 2011, Ms. Goehausen started reviewing (c)(3) and (c)(4) cases for political activity and lobbying. The cases were transferred from Chip Hull as part of her training in the area. She did not provide assistance to Cincinnati at this time.

She was not part of developing the BOLO criteria, although she saw the BOLO mentioned in some case chronologies. She was contacted by Cincinnati with questions on certain issue and whether the organizations were complying with the regulations.

One of the first projects she was tasked with in July/August 2011 was to develop a guide sheet for Cincinnati to process the advocacy cases. She based it on issued guidance and regulations. She completed it in October/November 2011. She was not aware of any stoppage of casework while she was developing the guide sheet.

She never referred to the cases because she was not involved. She had no input to the June 2011 briefing paper. In September 2011, she was asked to help with the development of the advocacy cases. She reviewed the TEDS files and made recommendations for closure or additional questions to ask. She completed this in October 2011.

8/2/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: John Shafer, Determinations Screener Manager
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 6, 2012/August 7, 2012

Time: 2:15 pm/2:30 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

John Shafer is the group manager of the screener group. [REDACTED]

26 U.S.C. § 6103

[REDACTED] Mr. Shafer raised the concern through his manager, Sharon Camarillo (retired). Cindy Thomas, Determinations Manager, elevated it to Holly Paz, Acting EO Technical Manager, in Washington, D.C. This was not the first case with similar political issues, but it is the [REDACTED] 26 U.S.C. § 6103 [REDACTED] The concern is the application of the law consistently on all similar cases. Mr. Shafer has regular group meetings to ensure consistency in all case reviews.

Jack Koester is a GS 12 Screener. He has been in the screening group for 10 years. The screening group is staffed with all GS 12s and GS 13s volunteers. They can be rotated out if they are not happy with the work. Mr. Shafer can also transfer a non-performer from the group. The work is not assigned by subsection. Mr. Shafer commented that screeners become bored when reviewing the same type of application all the time. The screeners have told him they like switching between application types.

Mr. Shafer was not involved in the TEDS search completed to identify other cases similar to the [REDACTED] 26 U.S.C. § 6103 [REDACTED]

With approximately 80,000 applications received every year, Mr. Shafer cannot review all the screened applications completed by his group. He has three GS 13s that help him review the screened cases.

He does not remember when he first learned about the BOLO criteria. He commented that the BOLO is a convenient way to issue guidance. It is distributed by email by the group in charge of overseeing it. His screeners use the BOLO, as well as their experience, to identify advocacy

cases. Mr. Shafer does not know how his screeners use the BOLO or whether it is the only criteria used for advocacy cases. He believes that the screeners did not use just Tea Party for the criteria. Political activity, whether legislative or candidate related, would make a difference in identifying advocacy cases. Agents would use activities and supporting documents to make a decision.

Screeners use worksheets to identify the issues and where the case should be assigned. The worksheet has boxes to check for the topics needing development, but does not show what group it should go to. Mr. Shafer is not sure what box would be checked for the advocacy cases. AM Seidell asked him to check for us.

Mr. Shafer did not have any concerns on the process for working the advocacy cases. He refers to them as advocacy cases.

At 2:30 pm on August 7th, we again spoke to Mr. Shafer, to ask some additional questions.

AM Seidell first asked about how cases are identified as advocacy are transferred correctly to the advocacy group for review. Mr. Shafer stated that the screeners update the case category in TEDS with advocacy.

AM Seidell then showed Mr. Shafer an email dated June 2, 2011 from him to Cindy Thomas, Determinations Manager, which documents the criteria used by the screeners to identify advocacy cases. (Auditor's Note: This criteria is very different than the criteria on the BOLO.) Mr. Shafer could not remember specifically where it came from. It probably came from his senior agent of 35 years, Gary Muthert. Mr. Shafer is not sure if this criteria was shared with the other screeners. It could have been discussed at his monthly group meetings. AM Seidell requested copies of the meeting minutes from February 2010 through the present.

cjm
8/8/12

**Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA**

MEMO OF CONTACT

Participants: Liz Hofacre, former Determinations Specialist
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 6, 2012

Time: 3:00 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

In April 2010, her group manager, Joseph Herr, was assigned the emerging issues topic. Cases were assigned to Ms. Hofacre from the screeners. The criteria at the time for identifying cases was Tea Party, 9/12, Patriot, etc. Ms. Hofacre knew some screeners were doing word searches of the applications, such as "patriot" to identify the cases.

Ms. Hofacre was also involved in the initial BOLO development in August 2010. She worked with John Waddell (former TAG group manager), to develop the terrorist listing tab of the BOLO. The initial BOLO was reviewed by Steve Bowling, John Waddell, and possibly Cindy Thomas, Determinations Manager. (Auditor's Note: Ms. Hofacre and the emerging issue topic was transferred to a different group in August 2010.) Ms. Hofacre received subsequent changes to the BOLO from her new manager, Steve Bowling. She did not know from whom he received the changes. In October 2010, Ms. Hofacre accepted a position in the Quality Assurance office.

Cases were referred to as Tea Party cases initially, but it changed to advocacy cases. Ms. Hofacre thought they were called Tea Party cases because the majority of the cases involved Tea Party organizations. They were considered high profile cases because there was a lot of media coverage on them. When Ms. Hofacre left for Quality Assurance, there were 40-50 cases.

Ms. Hofacre worked with EO Technical employees Chip Hull and Steve Grodnitzky on the cases. She faxed the case files to Chip. She developed some additional information letters and sent them to Chip for review. He would suggest wording changes and other questions to ask. Ms. Hofacre used some of the suggested questions.

Ms. Hofacre raised concerns with the turn-around time working with Mr. Hull. It took way too long for him to provide feedback to her. Sometimes she waited days or even weeks for a

response. Ms. Hofacre never sent second development letters to the applicants. After the first responses were received, she faxed them to Mr. Hull, but never heard from him again. She worked around 40 cases with Mr. Hull. These were transferred to Ron Bell when Ms. Hofacre transferred to Quality Assurance. Up to 6 months ago, Ms. Hofacre was still receiving phone calls from applicants wanting to know the status of their applications.

Ms. Hofacre was never told to stop working the cases.

Ms. Hofacre was not influenced by anyone outside of the IRS when developing the BOLO criteria used to identify advocacy cases.

cjm
8/8/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: Joseph Herr, former Determinations Group Manager
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 6, 2012

Time: 4:00 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

The screeners were identifying cases at the same time the emerging issues group was being developed in 2010. The Determinations Manager decided that she wanted similar cases worked by the same group to ensure consistency. For example, if a group ruling was broken up, all the individual organizations would come in for their own exemption.

Screeners identified a pattern of cases and raised it as an emerging issue. His group triaged the cases. He assigned one employee, Liz Hofacre, to review the cases. Mr. Herr does not remember who decided his group would be responsible for emerging issues.

His understanding of the emerging issue was political activity, education activity, but doing it in a different way. Most lobbying organizations focus on one topic (e.g., environment). These organizations were involved in multiple advocacy issues.

Mr. Herr was not involved in the initial search for additional cases on TEDS once the issue was identified. He was also not involved in any tracking sheet developed for the cases.

Ms. Hofacre triaged the cases: applied an understanding of the law, determined if there were related organizations, researched existing precedent for the issues, and coordinated with EO Technical.

The BOLO gives the screeners the criteria to route cases to a particular group. Ms. Hofacre was responsible for maintaining the BOLO. She worked with Brenda Melahn, retired Area Manager. The BOLO included criteria where if an application was identified as Tea Party, it should be forwarded to Mr. Herr's group.

Mr. Herr does not recall any secondary screening done while he was overseeing the emerging issues. His group worked on a template and guidance for developing Tea Party cases. Around September 2010, the emerging issue topic was transferred to Steve Bowling's group. Ms. Hofacre and the maintenance of the BOLO were transferred to the new group as well. She worked with Chip Hull in EO Technical on the cases. Mr. Herr did not have any input after this.

Mr. Herr was part of a pilot: travelling manager. He had employees at six different posts of duty. The emerging issue was transferred to another group so the cases would be worked in one location.

Mr. Herr did not have any concerns about how the processing of the cases was completed. Determinations needs to get behind why there was an influx of the new type of cases. He did mention that the timeliness of EO Technical's response could have been better, but that is normal. EO is tasked with a lot of work and limited resources.

Cases were referred to as Tea Party cases, but later changed to advocacy. The Tea Party reference was used as an identifier. In tax law, the "party" usually refers to political activity.

Mr. Herr was not influenced in any way by anyone outside of the IRS when developing the criteria used to identify advocacy cases.

cjm
8/8/12

**Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA**

MEMO OF CONTACT

Participants: Steve Bowling, Group Manager
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 7, 2012

Time: 10:00 am

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

Mr. Bowling inherited the maintenance of the BOLO list in late 2010. He receives BOLO updates and forwards them to the coordinator in his group. There have not been too many updates to the emerging issues list. The changes come from upper management:

He was not involved in the BOLO criteria development. The initial cases were transferred to his group, along with Liz Hofacre. The cases were put on hold by upper management while waiting for guidance from EO Technical. When asked who in upper management put a hold on the cases, Mr. Bowling suggested that it was Sharon Camarillo, Area Manager (retired). Mr. Bowling was not sure when work resumed on the cases. Ms. Hofacre transferred to Quality Assurance and Ron Bell became the coordinator in October/November 2010.

Mr. Bowling does not know when the tracking sheet for the advocacy cases was started. It must have been after he left the group. He was not involved in the initial BOLO criteria development. His group made a suggested change to the criteria in the end of 2011/beginning of 2012. The suggestion was forwarded to Cindy Thomas, Determinations Manager, for approval.

Mr. Bowling was not aware of the criteria for identifying advocacy cases in the John Shafer email.

Secondary screening was used to correct the bucketing of cases if it was determined not to be advocacy related. The case could stay in the group if the case related to another topic assigned to it. If not, the case would be put back into general inventory.

The advocacy team got together and developed a list of questions for consistency in the development letters to the advocacy organizations. They also referred to the draft advocacy guide sheet from EO Technical when developing the list of questions.

Mr. Bowling is not aware of the triage completed by EO Technical of all the advocacy cases. He does not know what was done with the results of the review.

In March 2012, the advocacy team was told to hold off on the cases until guidance was received from EO Technical.

Managers do not review development letters. Mr. Bowling reviews all closed cases. For TEDS cases, his review is documented by him updating the status code. This status code change alerts the processing section to issue the closing letter. If the case is worked on paper, Mr. Bowling initials the closing sheet.

Mr. Bowling monitors the age of inventory using a Business Objects report. It lists the group inventory as well as the inventory of individual agents. Each agent tracks his inventory and required follow-ups differently. It depends on his organizational skills. Some use reports from Business Objects, and others would use the TEDS system.

There has been changes in the advocacy group. Mr. Bowling is no longer the group manager. He left in April/May 2012. Ms. Hofacre left for Quality Assurance, and Ron Bell took over as coordinator. Due to the large volume of auto revocation cases Ron Bell was working, the coordinator role was transferred to Stephen Seok.

Advocacy cases are worked by senior agents. No new training was provided.

When the cases were first transferred to his group, they waited for guidance from EO Technical. It took too long to receive this guidance.

Mr. Bowling referred to the cases as advocacy cases, in particular political issues. Very few additional cases were received after the initial transfer from Liz Hofacre. Any cases that were received went to the coordinator, Ron Bell. Mr. Bowling was focused on the thousands of auto revocation cases at the time.

If applying for § 501(c)(3) status, organizations are not notified of the 270 day standard for processing applications in the letters received from EO.

Mr. Bowling was not influenced by anyone outside the IRS when developing BOLO criteria for the advocacy cases.

cjm
8/8/12

**Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA**

MEMO OF CONTACT

Participants: Ron Bell, Senior Agent
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 7, 2012

Time: 11:00 am

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

Mr. Bell was promoted in June 2010 and transferred to Group 7822. He was assigned to work the auto revocation applications. In October 2010 Liz Hofacre transferred to Quality Assurance and he took over the advocacy cases. Ms. Hofacre was working with EO Technical in Washington, D.C. on the cases. She told him not to send any more cases to EO Technical. She was waiting for guidance. Mr. Bell believes Ms. Hofacre and Mr. Bowling, group manager, told him not to work the cases when they were transferred to him. He does not remember if it was documented. If it was from Ms. Hofacre, it was verbally communicated. The cases from Ms. Hofacre were sitting in Mr. Bell's inventory. Any new advocacy cases received while waiting for EO Technical guidance were placed in a group dummy number waiting to be assigned to a Specialist.

Customers started calling Mr. Bell asking about the status of their applications. He would say they were under review. In November 2011, EO Technical guidance was received and he started working the cases. Stephen Seok took over as coordinator of the advocacy issue.

Mr. Bell is the "scribe" for the BOLO listing. He receives changes from his manager and updates the listing. He took this duty over from Liz Hofacre after she left. The initial BOLO wording was already established when he received this responsibility. The emerging issue definition has changed a couple of times. There was discussion during a meeting in November/December 2011 with the group manager and Stephen Seok about the verbiage used to describe the advocacy emerging issue. Mr. Seok revised the wording and received approval from the group manager, Steve Bowling. Mr. Bell made the change in January 2012. He believes a BOLO change would need to be approved by the Area Manager. Mr. Bell did not create the BOLO iterations summary document we received. Mr. Bell will provide us with the various iterations of the BOLO file.

Although Mr. Bell had not seen the criteria for identifying the advocacy cases used in the June 2011 briefing, he commented that during secondary screening, he has seen cases with all of the criteria included.

Based upon the July 2011 BOLO criteria, screeners cast a wide net when identifying potential advocacy cases. Mr. Bell was tasked to perform a secondary screening of the cases to ensure they met the criteria for political advocacy in January 2012. Mr. Bowling wanted to get the cases moving. Mr. Bell used the BOLO criteria and completed Internet research to determine if the case was indeed an advocacy case. If he found references to the constitution, patriots or public policy issues, it would be assigned to the advocacy team. The BOLO was the primary criteria used. He did not complete a screening check sheet for this secondary screening. He made an entry in the Case Chronology Record. If the case did not meet the advocacy criteria, Mr. Bell would make a note in the Case Chronology Record and transfer it. In TEDS, the advocacy case category would be selected to transfer a case to the advocacy team (group 7822). On paper, he would write it on the outside of the case file.

Mr. Bell received an advocacy tracking sheet from Liz Hofacre in October 2010. During his secondary screening, Mr. Bell added cases to the tracking sheet if he deemed them acceptable for the advocacy team. He also received some cases from field agents working cases. Since the bucketing exercise in May 2012, Mr. Bell added some columns to the tracking sheet. They include which bucket the case was put into and whether a development letter was issued. Mr. Bell was not involved in the bucketing exercise completed in May 2012.

Mr. Bell was not involved in the development of template questions by the advocacy team. He is not developing advocacy cases. He is only responsible for the secondary screening. He has not had much interaction with Washington, D.C. on the advocacy cases. Mr. Bell did keep asking his group manager, Steve Bowling, about the guidance status from EO Technical. He felt there was a problem coming to an agreement on the questions to ask for these cases.

Mr. Bell had a concern with how long it took to receive guidance from EO Technical. He kept receiving phone calls from applicants wondering about their applications. When Determinations works any group of cases, consistency is always the main concern.

The cases were referred to as Tea Party cases as the emerging issue was developed. This was changed because of the sensitivity of the issue. In the past, the IRS was sued for another group of cases referred to as the 26 U.S.C. § 6103 They need to be careful about targeting groups.

He was not influenced by anyone outside of the IRS when developing criteria for the identification of advocacy cases.

cjm
8/9/12

**Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA**

MEMO OF CONTACT

Participants: Tyler Chumney, Group Manager
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 7, 2012

Time: 2:00 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

Mr. Chumney began as acting group 7822 manager in March 2012. He became aware of the advocacy issue in November 2011 as staff assistant to the Determinations Manager, Cindy Thomas. The issue was discussed at meetings, and he took the minutes.

Stephen Seok was coordinator of the advocacy issue and handled the day-to-day activities. He ensured the cases were controlled on the tracking sheet and stored in a locked file cabinet. If Mr. Chumney received any information regarding the advocacy, he would forward it to Mr. Seok.

Ron Bell was performing a secondary screening of the cases. He is a senior GS 13 agent. He looked for political advocacy. If he was unsure, he would ask Mr. Chumney for advice.

Group managers complete a "53 sheet" when reviewing cases for closure that are returned to the agent. It is called this because the case is in status 53 (returned to agent from manager). The sheet should be in the case file. Group managers also complete workload reviews.

Approved cases are transferred to the processing unit to issue the determinations letter and close the case on TEDS. The cases are put into status 37 by the manager. Only group managers or their designees can update a case to status 37 on TEDS. A closing worksheet is prepared by the agent. If the case was worked on paper, the agent completes Form 8670, which is initialed by the manager to document his review.

The BOB-J report from Business Objects is used to monitor the age of cases by the group manager. It breaks down the cases by agent and status. There is also a separate unassigned inventory report. The control date and grade of the case is used to assign the cases to an agent.

Employees from EO Technical came to Cincinnati in May 2012 to train the advocacy team.

Mr. Chumney was involved when the BOLO definition was updated in June 2012. He forwarded it to Ron Bell for updating the BOLO and issuing the change. A change in procedure was received for updating anything on the BOLO. A change needs to be approved by management. Mr. Chumney did not edit the definition. Mr. Chumney was not involved in the January 2012 BOLO definition change.

The May 2012 bucketing of cases was not done by anyone on the advocacy team. They wanted fresh eyes reviewing the cases. Sharon Light, Staff Assistant to EO Director, is overseeing the cases now.

Ron Bell is acting group manager for group 7822. Mr. Chumney returned to his staff assistant position on July 15, 2012. Mr. Bell assigns the cases and maintains the tracking sheet.

The advocacy team is now made up of specialists from other Cincinnati groups only. No one in group 7822 is reviewing advocacy cases.

cjm
8/9/12

**Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA**

MEMO OF CONTACT

Participants: Cindy Thomas, Determinations Manager
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 7, 2012

Time: 3:00 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

[Redacted] 26 U.S.C. § 6103

26 U.S.C. § 6103 Gary Muthert completed a TEDS search to identify additional cases.

Determinations did not receive any feedback from EO Technical for a while. Ms. Thomas followed up every 30 days requesting a status update on guidance. [Redacted]

[Redacted] 26 U.S.C. § 6103

Determinations was looking for template questions and letters from EO Technical, like it had received for other issues raised to them. Every case was being worked individually, but Determinations was looking for guidance on how to handle all the cases the same way. Ms. Thomas does not have any written request for EO Technical's assistance with the advocacy cases. There is no formal process to request initial assistance or for following up.

Ms. Thomas does not think the initial BOLO emails are saved anywhere. There was no approval process for the language used in the BOLO. Ms. Hofacre started the BOLO listing because too many emails were being sent to agents with things to look for during a case review. The BOLO consolidated all the information.

The Touch and Go (TAG) Unit had too many cases in its inventory. Ms. Thomas decided to break up the cases and assign them to other groups. The consistency cases (similar cases needed to be worked consistently) were transferred to Joseph Herr's group. These became the emerging issue cases. Ms. Hofacre was transferred from the TAG group to Mr. Herr's group.

Mr. Herr took a detail to EO Examinations, and Ms. Thomas realigned the Determinations groups. In August 2010, the emerging issues cases were transferred to Steve Bowling's group. Ms. Hofacre moved to this group at the same time.

In October 2010, Ms. Hofacre transferred to the Quality Assurance office and Ron Bell took over the advocacy cases. He worked on one case while waiting for guidance from EO Technical. Ms. Thomas does not know who told Mr. Bell to stop working on the cases until guidance was received – possibly EO Technical??

Ms. Thomas was not periodically briefed on the status of the advocacy issue cases. She did follow-up with EO Technical every 30 days to determine the status of the guidance.

EO Technical sent a guide sheet in November 2011. Ms. Thomas set up an advocacy team to review the cases. There were too many for one person to review. One person from almost every Determinations group was selected for the team. This provided each group a subject matter expert on advocacy issues. The team was selected; it was not made up of volunteers.

Ron Bell began completing a secondary screening on the advocacy cases. There was a large volume of cases being assigned to the advocacy group based on the BOLO criteria. However, many were lobbying issues, that did not meet the political advocacy threshold.

Determinations received Operational Assistance Requests from the Taxpayer Advocate Office on some of the advocacy cases. Ms. Thomas requested assistance from EO Technical on how to respond to the requests.

In July 2011, the BOLO criteria was changed after a briefing in June 2011 with the EO Director. EO Technical was involved in the wording change. The advocacy team changed the criteria later. Stephen Seok and Steven Bowling were involved. There was no approval process for changing the BOLO.

We showed Ms. Thomas the criteria email used for developing the June 2011 EO Director briefing. She thought that the screeners came up with this criteria after they identified the advocacy issue and prior to the BOLO issuance. Once the BOLO was issued, the screeners used the BOLO criteria for identifying advocacy cases.

EO Technical's Justin Lowe and Hilary Goehausen performed a triage of all the identified advocacy cases. Ms. Thomas did not think it was very helpful. She was unsure what the comments on the cases meant. They went back and forth a few times revising the comments. EO Technical only reviewed the information available on TEDS, so they did not want to commit to recommending closing a case based upon their review.

In November 2011, EO Technical issued a draft guide sheet to help work the advocacy cases. Ms. Thomas met with group manager Steve Bowling and Stephen Seok to review the triage results and guide sheet to try and figure out what to do with the cases. During this meeting, they discussed the development of an advocacy team to review the cases. Mr. Seok became coordinator of the team in December 2011.

When asked about any concerns about the development of the advocacy issues, Ms. Thomas stated that she should have raised the issue to Rob Choi, former Rulings and Agreements Director, when she was not getting timely assistance from EO Technical.

Determinations should also not have used the term Tea Party to refer to advocacy cases. They did not think about how it would look to outsiders. Tea Party was just used as a shorthand for political advocacy cases. Everyone in Determinations knew what was meant by it – ensure consistency in processing political advocacy cases.

Ms. Thomas was not reviewing suggested changes to the BOLO during this time. Managers would send changes to Steve Bowling, who would have the BOLO updated. If Mr. Bowling disagreed with an update, he would raise it to Ms. Thomas.

Ms. Thomas was not involved in the January 2012 change to the BOLO and did not approve it. Stephen Seok and Steve Bowling developed the change.

Section 501(c)(3) organizations are not informed of the 270 day standard for processing applications. The cycle time of a case begins on the control date (postmark date) and ends when the case is closed. It is a calendar day measurement.

ejm
8/9/12

Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: Gary Muthert, Determinations Specialist, Screener
Sharon Light, Technical Advisor, EO Director
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 15, 2012

Time: 2:45 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

[redacted] 26 U.S.C. § 6103 (Binder 1, pp.4-5) John Shafer, Screener
Manager, asked Mr. Muthert to complete research of the TEDS system to see if there were any
26 U.S.C. § 6103 more [redacted] applications or similar entities like the [redacted] Mr. Muthert began his 26 U.S.C. § 6103
§ 6103 searches around March 1, 2010 and performed queries using various criteria, including Tea Party, Patriots, 9/12, and subsection (c)(4). He arranged the (c)(4) query results alphabetically and
selected organizations that could be political based upon their names like [redacted] 26 U.S.C. § 6103
[redacted] 26 U.S.C. § 6103 etc. During the first week, he identified 3-4 Tea Party organizations. Some
organizations identified were § 501(c)(3) applications.

When Mr. Muthert was acting for John Shafer, he created a spreadsheet of 18 identified organizations on April 5, 2010. (Binder 1, pp. 10-11). He does not have any other documentation of the organizations he identified while researching TEDS. He continued performing searches a few times a week for 30-60 days. Once the Be On The Lookout (BOLO) listing was issued, he stopped completing searches. The BOLO never had the actual criteria used to identify the cases. Tea Party was a shorthand for anything political. He was not involved in the criteria included on the BOLO.

He identified around 30 applications during his searches. The applications were pulled out of general inventory.

AM Seidell asked about the criteria used in the EO Director's briefing paper that John Shafer provided to EO Technical. (PA6.u; Binder 1, pg. 38) Mr. Muthert responded that he probably gave Mr. Shafer the criteria. He sent an email to Mr. Shafer in March 2010 with the criteria he was using for his TEDS searches. Mr. Muthert does not have the email anymore.

Screeners complete a check sheet after reviewing each application. Mr. Muthert referred to it as a 51 sheet. He believes that a check sheet has been used for at least 5 years, and possibly 10 years. It was used prior to TEDS, but the sheet does not match the TEDS system. If the case is on TEDS, Mr. Muthert would select BOLO as the case category. He would assign the case to the correct group on TEDS. If the case is on paper, he would write BOLO on the outside of the case file. He may also select the political issues box on the check sheet and write BOLO next to it.

cjm
8/16/12

DARRELL E. ISSA, CALIFORNIA
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House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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LAWRENCE J. BRADY
STAFF DIRECTOR

June 28, 2012

The Honorable J. Russell George
Inspector General for Tax Administration
Treasury Inspector General for Tax Administration
City Center Building
1401 H Street, N.W., Suite 469
Washington, D.C. 20005

Dear Mr. George:

Over the past several months, the Internal Revenue Service (IRS) sent many organizations, operating under tax exempt status, lengthy and detailed questionnaires that many are equating to a campaign of intimidation.¹ While the IRS should provide appropriate scrutiny of organizations applying for tax exempt status, several experts suggest that these recent IRS questionnaires exceed appropriate scrutiny. For example, Marcus Owens, who ran the IRS's exempt organizations department for a decade, called the IRS initiative an "overreach."²

Moreover, the IRS must apply the same criteria for all organizations applying for tax exempt status. News reports, however, indicate that the IRS effort lacks balance, with conservative organizations being the target of the IRS's heightened scrutiny. *Roll Call* contacted several liberal groups and reported that none had received the recently-sent questionnaire:

[A] spokesman for Protect-YourCare, a 501(c)(4) set up to defend the new health care law, said the group has not received any kind of questionnaire from the IRS. Another liberal 501(c)(4) granted tax exempt status in May received only a modest six-part questionnaire.³

¹ Janie Lorber, "IRS Oversight Reignites Tea Party Ire: Agency's Already Controversial Role Is in Dispute After Questionnaires Sent to Conservative Groups," *Roll Call*, March 8, 2012; Susan Jones, "IRS Accused of 'Intimidation Campaign' Against Tea Party Groups," *CNSNews.com*, March 7, 2012.

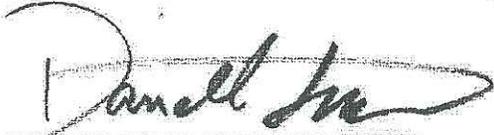
² Janie Lorber, "IRS Oversight Reignites Tea Party Ire: Agency's Already Controversial Role Is in Dispute After Questionnaires Sent to Conservative Groups," *Roll Call*, March 8, 2012.

³ *Id.*

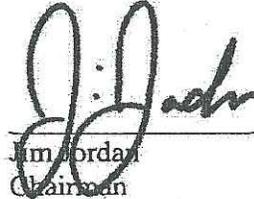
The Honorable J. Russell George
June 28, 2012
Page 2

On March 8, 2012, Committee staff and Treasury Inspector General for Tax Administration (TIGTA) staff discussed potential problems with IRS's recent effort to increase scrutiny of organizations operating under 501(c)(4) status. We understand that because of our March meeting, TIGTA is conducting ongoing work to better understand this IRS initiative. We would greatly appreciate if you provided Committee staff periodic updates and a copy of TIGTA's final report on this matter.

Sincerely,



Darrell Issa
Chairman



Jim Jordan
Chairman
Subcommittee on Regulatory
Affairs, Stimulus Oversight and
Government Spending

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

The Honorable Dennis Kucinich, Ranking Minority Member
Subcommittee on Regulatory Affairs, Stimulus Oversight, and Government Spending



INSPECTOR GENERAL
FOR TAX
ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20005

July 11, 2012

The Honorable Jim Jordan
Chairman, Subcommittee on Regulatory Affairs,
Stimulus Oversight and Government Spending
Committee on Oversight
and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Jordan:

Thank you for your letter dated June 28, 2012, regarding concerns with the Internal Revenue Service's (IRS) oversight of organizations applying for tax-exempt status. Your letter specifically mentioned questionnaires that the IRS has issued which may exceed appropriate scrutiny and a potential lack of balance in the use of criteria for reviewing organizations that are applying for tax-exempt status. We appreciate your interest in ensuring that the IRS has processes in place to effectively and fairly administer tax-exempt laws.

As stated in your letter, after our meeting with the Committee staff, our Office of Audit recently began work on this issue. We would be happy to provide a status update to the Subcommittee staff and provide a copy of our interim and final reports on the matter when they are issued.

Please contact me should you have any questions regarding this matter, or have your staff contact Mr. Matthew Sulphen, Counselor to the Inspector General, at (202) 927-7266.

Sincerely,

A handwritten signature in black ink that reads "J. Russell George".

J. Russell George
Inspector General

Identical letter sent to:

The Honorable Darrell Issa
Chairman, Committee on Oversight
and Government Reform



INSPECTOR GENERAL
FOR TAX
ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20005

July 11, 2012

The Honorable Darrell Issa
Chairman, Committee on Oversight
and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Issa:

Thank you for your letter dated June 28, 2012, regarding concerns with the Internal Revenue Service's (IRS) oversight of organizations applying for tax-exempt status. Your letter specifically mentioned questionnaires that the IRS has issued which may exceed appropriate scrutiny and a potential lack of balance in the use of criteria for reviewing organizations that are applying for tax-exempt status. We appreciate your interest in ensuring that the IRS has processes in place to effectively and fairly administer tax-exempt laws.

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Please contact me should you have any questions regarding this matter, or have your staff contact Mr. Matthew Sutphen, Counselor to the Inspector General, at (202) 927-7266.

Sincerely,

A handwritten signature in black ink that reads "J. Russell George".

J. Russell George
Inspector General

Identical letter sent to:

The Honorable Jim Jordan
Chairman, Subcommittee on Regulatory Affairs,
Stimulus Oversight and Government Spending

EO Email Review

16,691 Total Email Messages
5,617 Total Hits in 2,277 Emails/Documents

JOSEPH R. HERR - 3048 Emails

Keywords - Hits

Tea - 910

Patriots - 39

9/12 - 18

(c)(4) - 533

ELIZABETH L. HOFACRE - 3692 Emails

Keywords - Hits

Tea - 857

Patriots - 19

9/12 - 39

(c)(4) - 496

GARY A. MUTHERT - 281

Keywords - Hits

Tea - 323

Patriots - 1

9/12 - 2

(c)(4) - 476

JOHN H. SHAFER - 2593 Emails

Keywords - Hits

Tea - 392

Patriots - 19

9/12 - 16

(c)(4) - 233

CINDY M. THOMAS - 7077 Emails

Keywords - Hits

Tea - 872

Patriots - 6

9/12 - 42

(c)(4) - 324

Determinations Process
Planning

MEMO OF CONTACT

Participants: Holly Paz, Director, Rulings and Agreements
David Fish, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: May 17, 2012

Time: 10:30 am.

Subject: Details about the development of the June 2011 briefing document regarding the advocacy issue

Details:

We received a briefing document on May 16th that was provided to the EO Director as background for a meeting in June 2011 to discuss the emerging advocacy issue. This briefing paper stated that:

- EOD Screening has identified an increase in the number of (c)(3) and (c)(4) applications where organizations are advocating on issues related to government spending, taxes and similar matters. Often there is possible political intervention or excessive lobbying.
- EOD Screening identified this type of case as an emerging issue and began sending cases to a specific group if they meet any of the following criteria:
 - "Tea Party," "Patriots" or "9/12 Project" is referenced in the case file
 - Issues include government spending, government debt or taxes
 - Education of the public by advocacy/lobbying to "make America a better place to live"
 - Statements in the case file criticize how the country is being run
- Over 100 cases have been identified so far, a mix of (c)(3)s and (c)(4)s. Before this was identified as an emerging issue, two (c)(4) applications were approved. PA6.u

The specific criteria used to identify these types of cases concerned us because it included direct references to specific organizations and beliefs. As a result, we requested additional information from Ms. Paz. She suggested a meeting.

The briefing was developed by Tax Law Specialists in EO Technical and EO Guidance. Justin Lowe, EO Guidance, was the primary author. It was reviewed by Mike Seto, Acting Manager, EO Technical.

The criteria included in the briefing was developed by the manager of the emerging issues group in Cincinnati assigned to advocacy at the time the issue was identified (Group 7825) along with members from his group. The Be On The Lookout (BOLO) spreadsheet (PA6.v) included this criteria as an emerging issue when EO Determinations officially began using it in August 2010. Prior to the BOLO, emerging issues were communicated through emails. The emerging issue was transferred to Group 7822 in August 2010, and this group is still responsible today.

During the EO Director briefing in June 2011, concerns were raised over the language of the criteria. The Determinations Unit in Cincinnati was asked to revise the wording and the BOLO was updated in July 2011. The updated wording included lobbying, which § 501(c)(4) organizations are allowed to do without any limits. Ms. Paz will provide us a copy of this version of the BOLO. Many applications were being identified for the advocacy issue inappropriately based upon this new criteria. The BOLO was again updated to focus on political advocacy. (Note: Ms. Paz said that they were still unhappy with the wording of the criteria and are trying to improve it).

Initially, all the advocacy cases were worked by one person. In December 2011, a team was set up to review advocacy cases with an agent from each Determinations group. This was done to help spread knowledge of the area to all Determination groups. EO also provided additional contacts in EO Headquarters for the team working advocacy issues. Justin Lowe (Guidance) and Hilary Goehausen (Technical) were to help the team with any issues.

I asked for a breakdown of who were the executives during this whole process.

Holly Paz was Acting EO Technical in February 2010. She went on maternity leave until June 2010, when she resumed the acting position.

Rob Choi was Director, Rulings and Agreements until December 2010 (retired)

Holly Paz was Acting Director, Rulings and Agreements from January 2011 through September 2011.

David Fish was Acting Director, Rulings and Agreements from October 2011 through January 2012.

Holly Paz again acted as Director, Rulings and Agreements beginning in February 2012 until she was given the position permanently.

AM Seidell then turned to our concerns with the nature of the criteria in the briefing paper. Based upon this criteria, it appears the complaints being made in the media by certain groups are valid. In addition, it appears to contradict the testimony of the Commissioner before Congress. Ms. Paz agreed that the initial criteria was not a good way to identify advocacy cases. However, it is common to refer to certain groups by name for identification purposes in Determinations. For example, the "Occupy" and (b)(3):26 groups are listed specifically on the BOLO. I.S.C. 61

Ms. Paz indicated that even with this criteria, any questionable political activity by an organization would have still been identified by the screeners and forwarded to the advocacy group. They found no evidence of bias in the identification process of advocacy cases. The wording of the criteria was poor, but there was no malice.

AM Seidell explained that we will next discuss this issue with our Director. More than likely, an email will be sent to raise the issue immediately and get it on the table for discussion. We will be asking for more details on the events during the development of the advocacy issue and the BOLO.

cjm
5/2/12

Document: EO Director's responses to 3 questions asked by Director Paterson.

Purpose: To document the responses of the EO Director regarding the criteria for identifying advocacy cases.

Source: Lois Lerner, EO Director

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

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

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

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

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

26 U.S.C. § 6103

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, rather than the charitable activity and no indicators 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 (b)(3) 26 U.S.C. 6103 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.

Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IA

MEMO OF CONTACT

Participants: Stephen Seok, Senior Agent
Holly Paz, Director, Rulings and Agreements
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: August 7, 2012

Time: 1:00 pm

Subject: Information on involvement in the advocacy emerging issue for timeline

Details:

In December 2011, Mr. Seok was transferred to Group 7822. The group manager, Steve Bowling, asked him to lead the advocacy team. He performed the following activities as team coordinator:

- Assigning cases to team members
- Holding meetings with the team
- Elevating issues/questions to group manager
- Discussing case development with team members
- Reviewing development letters and providing feedback
- Providing help to team if able; if not forward issue to group manager
- Working own advocacy cases
- Set up a small committee of advocacy team members to develop template questions for development letters

Template questions were developed with the aid of the guidance from EO Technical as well as development of their own questions. Two other advocacy team members and Mr. Seok developed the template questions. Once completed Mr. Seok sent the template questions to Mr. Bowling for review. The questions then were forwarded to Cindy Thomas, Determinations Manager, for review. This occurred in February/March 2012. (W/P Binder 1, pg. 94-107) The team also developed a template development letter and forwarded it to the group manager, but it was never used.

The tracking sheet was already in use when Mr. Seok became coordinator of the advocacy team. It would be populated with new cases after the secondary screening. Mr. Bowling would sign off the case as an approved advocacy case before it was added to the tracking sheet by Mr. Seok. He

would document this secondary screening in the Case Chronology Record. If the case was not an advocacy case, it would be put back into general inventory.

Mr. Seok prepared status reports when he felt it was necessary, or when Mr. Bowling requested one. He had two team meetings during his time as coordinator. He only has meeting minutes for one of them. (w/p Binder 1, pg. 110)

When Mr. Seok took over as coordinator, Mr. Bell had 26 U.S.C. § 6103. The rest of the open cases were begun by Ms. Hofacre. Ms. Hofacre had sent development letters to the applicants. Most of the advocacy inventory was not in development when Mr. Seok took over. They were on hold while Mr. Bell was coordinator. The cases were started to be developed when the EO Technical guidance was received in November 2011.

Mr. Seok does not have any concerns with how the cases were processed. He always referred to the cases as advocacy cases.

He had input to the January 2012 BOLO criteria change. It was discussed during a meeting. The BOLO changes as issues arise during case reviews. Other types of cases may be identified as participating in political activities. For example, it started with Tea Party cases, but eventually included Occupy cases.

As of May 2012, Mr. Seok is no longer working on the advocacy cases.

He was not influenced by anyone outside the IRS when developing the BOLO criteria for identifying advocacy cases.

ejm
8/9/12

MEMORANDUM OF DISCUSSION

Audit # 201210022

DATE: 01/16/2013

TIME: 3:15-4:15 PM

SUBJECT/PURPOSE: Overall Concerns with Case Review Results

PRESENT: Lois Lerner Exempt Organizations (EO) function Director
 Holly Paz EO function Rulings and Agreements Director
 Troy Paterson TIGTA

SOURCE: Teleconference

NOTE: Prior to the meeting, Lois stated that she wanted to have a high-level meeting about case review results prior to her staff and the TIGTA audit team discussing the cases in detail. The following are highlights of the conversation.

- Lois:** Lois stated she wanted to meet with me personally before meeting on the individual cases we provided to the IRS. Lois said that the EO function does not have a lot of issues with the shorter list that we gave the EO function of cases that did not go to the advocacy group and TIGTA believes should have. However, Lois said the EO function is having issues with the larger list of cases that went to the advocacy group and TIGTA believes should not have gone to the advocacy group. She stated she was not sure how many the EO function has reviewed so far. However, she believed it was around 60. She stated that the EO function only agreed with one case so far. Lois stated that TIGTA seems to be focused solely on what the application explicitly says regarding political campaign intervention. However, Lois stated that the EO function does not think it can look only at what an organization is calling "political campaign intervention". Many of the applications the IRS receives are not prepared by tax professionals and the preparers do not have a lot of experience with what information should be provided and may not understand the definition of "political campaign intervention" versus the definition of "issue advocacy" or what constitutes lobbying. Therefore, Lois stated that the EO function believes it must do due diligence to determine if what is being stated in the application is actually the case. For example, if an organization states that it will be doing a small amount of "political campaign intervention" and a lot of advocacy work. The EO function may look at the advocacy work and determine that it believes that work to be "political campaign intervention". Therefore, the EO function cannot just conduct a cursory review of what is on the application. Instead, it needs to know specifically what an organization is doing or plans to do. **Troy:** I stated that it was my understanding that the criteria were changed in 2011 to include political campaign intervention, lobbying, and advocacy. However, it had to be changed again because too many applications were going to the advocacy group. **Lois:** Lois stated that she wanted to clarify that. New criteria were put into place by National Office in July 2011. Unbeknownst to Lois and Holly, Lois stated the criteria were changed by EO function staff in Cincinnati because they believed the criteria were too broad. Lois stated that was not her view. Lois stated the criteria have since changed and the EO function has put controls in place to ensure it is not changed again without management knowing about it. Lois stated the EO function is focusing on political campaign intervention, but it must review applications closely to ensure that what new organizations are doing or plan to do is actually what it states on the application. In other words, we erred on the side of caution.
- Lois:** Lois stated that there is often a fine line between what is and is not political campaign intervention. For example, Lois referred to the criteria we used in the case review regarding nonpartisan candidate forums/debates. Organizations may state in the application that they will conduct nonpartisan candidate forums, but we may find out that only party is invited. In that case, it would be political campaign intervention. Lois stated that it really came down to the facts and circumstances of each case. Lois then stated that she and Holly would look at the case review criteria we provided more closely, but upon glancing at the criteria, she had a few concerns. First, she asked where we got the criteria. I responded that the criteria regarding political campaign intervention came from a guide that was prepared by the EO function, which was based on revenue rulings. Second, she wanted to know where we came up with the 35 percent figure. I stated that we needed some figure to guide our case reviews, but that we were aware that no figure is stated in the statute. Lois stated that the EO function could not agree with the 35 percent figure, or any figure for that matter. She stated that the IRS has been vocal in the press that the figure being thrown around about keeping your political activities at 49 percent is wrong. She stated that

the statute only says "primary purpose". It does not define primary purpose as a particular percentage of activity or dollars spent. I stated that TIGTA would not be publishing that figure in the report, but we needed some type of guidepost to help our case reviewers spot something that might potentially involve "significant" political campaign intervention. Lois stated that, again, the EO function might read an application that states that political campaign intervention involved 10 percent of an organization's activities, but would perform its own work to determine if activities the organization was not counting as political campaign intervention should be. Third, Lois asked about the criteria involving future activities. I stated that we had heard recommendations from the EO function that it could send cases to the ROO for future follow-up. Therefore, we were thinking that the IRS could not review something the organization states it "may" do in the future. Lois stated that she disagreed. She stated that most applications are for organizations that are not currently operating. Therefore, if the EO function did not review planned activities, most of its work would go away.

- **Lois:** Lois stated that the determinations unit is the best place to catch things before they go away. Examinations generally happen after acts have already been committed and Lois stated that the IRS doesn't have the resources to be examining all the tax-exempt organizations that are out there. Her view is that the determinations process should be very detailed so the administrative record includes a very specific list of what the IRS agreed the organization can do now and in the future. In the future, if the organization does the opposite of what it said it would do, the EO function can retroactively revoke the organization to the date of the determination. If the administrative record is silent on a particular point, the EO function can only revoke the tax-exempt status of the organization going forward. Unfortunately, sometimes the EO function makes a mistake and states that it is permissible for a tax-exempt organization to do something. When the EO function finds that something was done wrong and the administrative record for the determination states the organization could do a specific activity, we do not penalize the organization. It was the EO function's mistake.
- **Troy:** I stated that I understood the points that Lois and Holly had made and I would need to consider them in light of the results of further discussions on the case review. Then, TIGTA will need to state whether it agrees, partially agrees, or fully disagrees with the IRS's views on our case reviews. **Lois:** Lois stated that she understood the difficulty TIGTA faces because this is one of the more complicated areas that the EO function must administer.
- **Troy:** I then stated I was still concerned that if the criteria is to look at any case that mentions advocacy, lobbying, or politics that most cases (specifically section 501(c)(4) cases) would go to the advocacy group and it would be overwhelmed. **Lois:** Lois stated that she might be overstating the IRS's view a bit. She stated that she believed that when TIGTA and IRS started discussing specific cases that there would be more to it. For example, she believed that while an organization may specifically state that it was not or would not be conducting political campaign intervention, another part of the organization's package would state that the organization planned to put up election signs on its grounds. That could very well be political campaign intervention. Therefore, she thought that we would see contradictions in the application were a main reason why the EO function was disagreeing with TIGTA's results. **Troy:** I stated that TIGTA would really like to know about these contradictions. TIGTA reviewed more than just check boxes about whether political campaign intervention was occurring and we may have overlooked something. **Lois:** Lois asked Holly to add a column to the spreadsheet results TIGTA had provided with the reasons the IRS did not agree. Lois then asked if TIGTA could meet on Friday. I stated that we could. Therefore, Lois asked that Holly put this information together and get it to us before Friday so that we could use the document to guide the meeting. Lois stated that she would be present for the initial meeting on Friday due to the sensitivity of the issues being discussed. I stated that I would be in attendance also.

**Consistency in Identifying and Reviewing Applications for Tax-Exempt
Status Involving Political Activity
Objective IIC**

MEMO OF CONTACT

Participants: Holly Paz, Director, Rulings and Agreements
Judy Kindell, Senior Technical Advisor
Hilary Goehausen, EO Technical
Troy Paterson, Audit Director
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: January 25, 2013

Time: 11:30 am

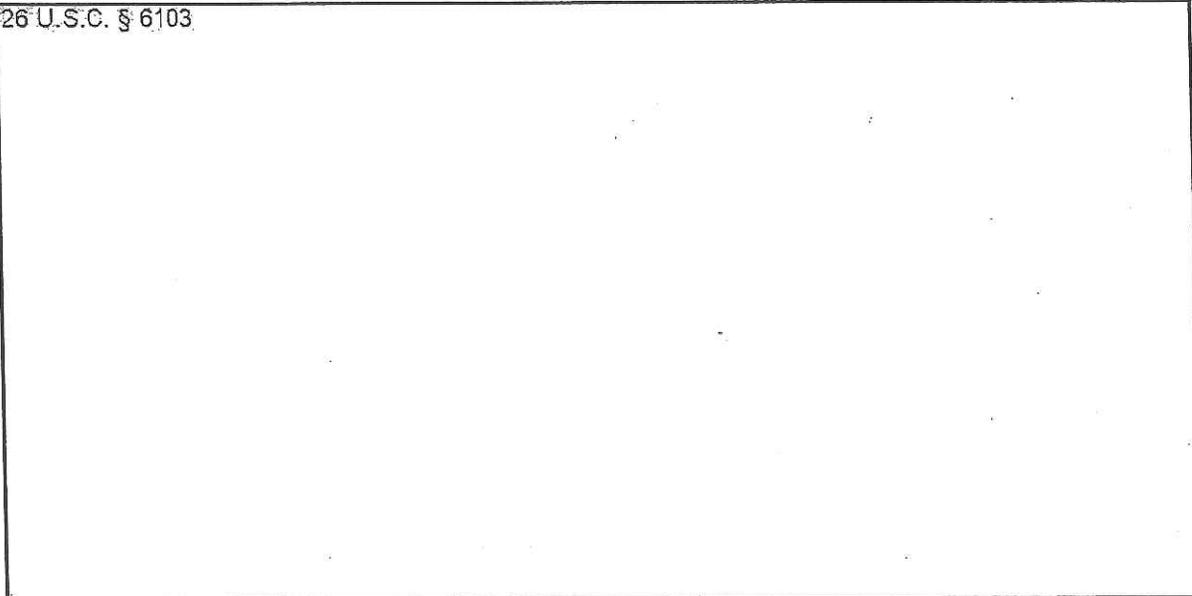
Subject: EO comments on exception cases

Details:

Ms. Paz stated that they have gone through a "chunk" of cases and wanted to discuss some issues with us. The following is the list of cases discussed and the issues involved.

IIC Case exceptions that EO does not agree with:

26 U.S.C. § 6103



Ms. Paz then went through a few common issues that they saw during the case reviews completed so far.

- Candidates for office are on the Board of Directors. We may have handled this situation inconsistently with the IIIA review.

[Redacted]

26 U.S.C. § 6103

- 501(c)(3) cases have a different threshold for political intervention.

[Redacted]

26 U.S.C. § 6103

- 501(c)(3) organizations with a related 501(c)(4) organization – resource sharing agreement. Applications state separate activities, but need to look at the facts and circumstances.

[Redacted] 26 U.S.C. § 6103

- Some applications have "code words" that raise a red flag. They include "mobilizing people", "increase accountability of government officials" and "leadership training". When organizations that use these types of vague descriptions are later audited, EO usually finds problems. Ms. Kindell stated that leadership training ends up being candidate training.

[Redacted] 26 U.S.C. § 6103

- 26 U.S.C. § 6103

[Redacted]

26 U.S.C. § 6103

Director Paterson commented that he thought if the activity was only a possibility in the future, that the bucketing recommended a referral to the ROO. Ms. Kindell agreed. If the case looks ok with only 501(c)(4) activities, but there may be some political intervention in the future, a ROO referral would be prepared. Some organizations are engaged in advocacy that does not violate election law, but may violate tax law. The organizations do not know the difference.

The conversation turned to what is next for this review. EO will send us their comments on the first 60 cases reviewed to date on Monday. We will go through them and select cases to discuss further with EO. AM Seidell and myself will go to DC to meet with EO next Thursday.

Director Paterson mentioned that we are on a tight timeline. TIGTA is supposed to brief the Hill in March, and we would like to provide EO with a draft copy of the report prior to the meeting. Ms. Paz appreciated the opportunity to review the report prior to the briefing.

AM Seidell asked if the criteria being used to review the exceptions is any advocacy. Ms. Paz stated that since there is no percentage test for the level of allowable political intervention, EO needs to look to see if what the organization is calling general advocacy is in fact political intervention. This requires additional information in many cases.

Director Paterson asked if EO agreed with any IIC exceptions. Ms. Paz responded a couple.

Review of Internal Revenue Service's Process for Reviewing Applications for Tax
Exemption by Potential 501(c)(4)-(6) Organizations
Audit # 201210022

Memorandum of Discussion

— = Redacted by the Permanent
Subcommittee on Investigations

Participants: Cincinnati Submission Processing Center Walkthrough

Holly Paz, Acting Director, Rulings and Agreements (R&A) Office, Exempt Organizations (EO) Function, Tax Exempt and Government Entities (TE/GE) Division

Telephone #: [REDACTED]

Cindy Thomas, Program Manager, Determinations Unit, R&A Office, EO Function, TE/GE Division

Telephone #: [REDACTED]

Sherry Whitaker, Manager, Submission Processing Programs, Business Systems Planning (BSP), TE/GE Division

Telephone #: [REDACTED]

Carol McCorkle, Program Manager, Receipt & Control Operations, Cincinnati Submission Processing, Wage and Investment (W&I) Division

Telephone #: [REDACTED]

Jennifer Jett, Program Analyst, Operations Maintenance & Support, BSP Office, TE/GE Division

Telephone #: [REDACTED]

Sharon Lasley, Program Analyst, Operations Maintenance & Support, BSP Office, TE/GE Division

Telephone #: [REDACTED]

EO Determination Unit -- John Weld Peck Federal Building

Holly Paz, Acting Director, R&A Office, EO Function, TE/GE Division

Telephone #: [REDACTED]

Cindy Thomas, Program Manager, Determinations Unit, R&A Office, EO Function, TE/GE Division

Telephone #: [REDACTED]

Ron Bell, Internal Revenue Agent, Determinations Unit, R&A Office, EO Function, TE/GE Division

Telephone #: [REDACTED]

Tyler Chumney, Acting Group Manager, Group 7822, Determinations Unit, R&A Office, EO Function, TE/GE Division

Telephone #: [REDACTED]

John Shafer, Group Manager, Determinations Unit, R&A Office, EO Function, TE/GE Division

Telephone #: [REDACTED]

Nancy Heagney, Internal Revenue Agent, Determinations Unit, R&A Office, EO Function, TE/GE Division

Telephone #: [REDACTED]

— = Redacted by the Permanent Subcommittee on Investigations

Treasury Inspector General for Tax Administration

Tom Seidell, Audit Manager, TE/GE / Human Capital Programs, Management Services and Exempt Organizations (MSE) Division

Telephone #: [REDACTED]

Cheryl Medina, Lead Auditor, TE/GE / Human Capital Programs, MSE Division

Telephone #: [REDACTED]

Michael McGovern, Auditor, TE/GE / Human Capital Programs, MSE Division

Telephone #: [REDACTED]

Date: May 1, 2012

Time: 8:30 a.m. to 10:00 a.m. Cincinnati Submission Processing Center
10:30 a.m. to 11:30 a.m. John Weld Peck Federal Building

Locations: Cincinnati Submission Processing Center
John Weld Peck Federal Building (550 Main Street, Cincinnati, OH)

Purpose: To conduct a walkthrough to obtain an understanding of how the EO function's determination process operates when reviewing applications for tax exemption by potential 501(c)(4)-(6) organizations.

Details of Discussion

Note: Our walkthrough began at the Cincinnati Submissions Processing Center (CSPC) where the determination applications are received, and then we returned to the John Weld Peck Federal Building to resume discussions related to the EO Determination Unit's processing activities related to the application packages.

CSPC Walkthrough

At the start of the CSPC walkthrough Ms. Whitaker provided the attendees a folder containing a number of documents to assist with understanding the processing of applications at the CSPC. These documents consisted of:

- A flowchart depicting TEDS front-end processing of EO determination applications.
- The projected and actual receipts and hours for EO determination applications and user fees for Fiscal Years 2011 through 2013.
- The number of EO and EP determination applications received at CSPC for FYs 2009 to 2012.
- An Application Identification Sheet (AIS), which enables the IRS to associate the additional correspondence or documents requested by the IRS with the organization's application case file to facilitate processing of the application.
- Form 8718, User Fee for Exempt Organization Determination Letter Request.
- Copy of blank Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

Ms. Whitaker indicated that the process described below is the same for the processing of both Forms 1023 and 1024.

Guidelines for Processing Determination Applications and User Fees

Internal Revenue Manual (IRM) 3.45.1 contains the procedures for the processing of Employee Plan (EP) and EO determination applications and user fees.

Date Stamping of Determination Application

The postmark and IRS received dates are stamped on the bottom, front page of the determination application after the envelope containing the EO determination application is opened. Also, a Document Locator Number (DLN) is stamped on the determination application as well as Form 8718, User Fee for Exempt Organization Determination Letter Request. Applications are sorted by Form and then by remittance or non-remittance. Any remittances received are attached to the front of the package.

Document Preparation of Application Package

Document preparation entails verifying that all required information is available on the application. All notations/edits recorded during the document preparation phase are denoted in red ink. If any information is missing, research is completed to try and find it. If a payment voucher is not completed, one will be prepared and stamped with "Prepared by IRS" at the bottom.

The Power of Attorney (POA) form is also reviewed during the document preparation phase. If the POA is invalid, then the attorney does not receive any correspondence from the IRS related to the determination application. This POA is not added to the Centralized Authorization File.

Input of Application to LINUS Versus TEDS

IRM 3.45.1 identifies the criteria about whether a determination application package should be input to LINUS or TEDS. For instance, if an application contains an insufficient user fee or an outdated (obsolete) application is used to request a determination for tax-exempt status, then these types of circumstances will result in the application package being input to LINUS; otherwise, the application documents normally will be scanned into TEDS.

If an outdated (obsolete) determination application is received, the CSPC does not have the legal authority to reject the application. In this type of situation, the application is input to LINUS at the CSPC and a notice generated via LINUS. The generated notice is sent to the EO Determination Unit in downtown Cincinnati for mailing. If a new application is submitted to the Determination Unit as a result of the notice, then the application package is sent to the CSPC for initial processing.

CRX is the system used to generate acknowledgement letters for applications that have been input to TEDS.

Input of Determination Application User Fee into LINUS

Each application package is placed in a tub and routed to the EP/EO Determination User Fee Unit for processing of the remittance. Each tub contains about 30 application packages. The user fee, EIN, and organization name is input (data transcription) to LINUS. Form 8718, User Fee for Exempt Organization Determination Letter Request, should be included by the organization with each Form 1024 application. The Form 1023 application includes a payment voucher, so a separate form is not needed.

Scanning of Application into TEDS

After data entry of the applicable payment information into LINUS, the application package is placed in a cart for scanning into TEDS. The application packages awaiting scanning are batched in groups of five, with the earliest receipt date first. A "separator sheet" is used to segregate the various types of documents enclosed in the application package. If unscannable documentation is received with the determination application, such as a hard copy book or disk, then a checksheet is prepared and a note is written indicating the nature of the document that could not be scanned. The checksheet containing the notation is scanned, so that the determination specialist will be aware that the unscannable documentation is available. The separator sheets within each application package are not removed after scanning has been completed. A separator sheet is also placed between the batches when they are in the cart awaiting scanning.

A sign-out sheet is completed before removing a batch from the cart prior to scanning into TEDS. If the applicant establishes that the application merits expedite processing, or there are indications that it is a potential expedite, then it is flagged as an expedite in TEDS.

We were informed that amendments and foundation follow-up cases have not been input to TEDS. These cases are filed at the Federal Records Center.

As the application is being scanned, the employee can view the documents to look for any errors like a crooked image.

Data Completion

About 90 percent of available Form 1023 information is transcribed using the scanned documents displayed on the TEDS screen. This transcription is performed so that applicable information can be posted to the Master File.

If there is a problem with the application during the data completion stage, then the case is systemically sent to a classifier for research. Once resolved, the case is sent back systemically to complete the data transcription process.

In some instances TEDS will flag a document within the application package for a "manual ID" (manual review) because TEDS cannot properly read the scanned document to determine whether all required line items have been completed. For example, if there is a blank page as part of the scanned image, TEDS will flag it for human review. The employee will delete these pages.

Data Verification

A different employee from the one who completed the data transcription will verify the information. During the verification stage manual edit checks are performed for certain data originally transcribed during the Data Completion stage (e.g., DLN, postmark, and IRS received dates). The data verification is performed by manually inputting specific fields (EIN and DLN) to ensure it matches with what the initial transcriber input. This is referred to as a double-blind. Other transcribed fields are visually verified by comparing them to the scanned image of the application. This process is referred to as "double verification."

Processing Timeframes

Data completion and verification, including processing of the determination application payment, should be completed within six workdays. The application payment should be deposited within 72 hours.

Processing of Forms 1023 should be completed within 270 days from the postmark date. This benchmark is a statutory requirement of the Internal Revenue Code. The applicant can take legal action if a determination is not made within this timeframe.

Processing of Requested Supplemental Information

If a determination specialist requests additional information from an organization for an application that has already been input to TEDS, then the requested information should be sent by the organization directly to the CSPC where the documentation will be scanned, assuming the organization properly follows the mailing directions associated with the request for additional information. However, if the organization does not properly follow the mailing directions, but instead sends the requested documentation directly to the EO Determination Unit in Cincinnati, then the determination specialist will prepare an Additional Document Filing (ADF) sheet and send the received documentation to the CSPC for scanning. If one of the EO Determination field offices (e.g., Laguna Niguel) receives the organization's response to the request for additional information, then the additional documentation that is received is not scanned until case closure.

Responses to additional information requests can also be faxed to either the agent or CSPC. If the case is being worked on paper, then the additional information will not be scanned into TEDS.

Agents should print and include an Additional Information Sheet (AIS) with all additional information requests. This will have a barcode on it to help associate the documentation with the original application. Many times, the responder does not include the AIS with the additional information. If so, one will be printed and scanned into TEDS along with the additional documentation.

EO Determination Unit Processing Activities

Screening of EO Determination Applications

Most of the screeners are Grade 12, but there are also 3 Grade 13 screeners. The purpose of the screening process is to determine if the application package is complete to enable a determination about qualification for tax-exempt status. There is a checklist used during the screening process. A copy of the checklist will be provided to us.

On average about 35 percent of daily screened cases are closed on merit (i.e., sufficient information is available to make a determination). About 20 percent of daily screened cases require full development. The remaining 45 percent of daily screened cases consist of Accelerated and Intermediate Processing cases, both of which relate to applications that require research, clarifying minor procedural information, and/or securing missing items needed to make an application substantially complete before approving exemption.

A demonstration was provided using an actual Form 1023 application about how TEDS documents are screened. During this demonstration we were informed that individuals listed in Part V of Form 1023 are researched / queried on the Terrorist Listing during the screening process. Other things checked are the fundraising activities, incorporating date and the BOLO listing of emerging issues. The amount of contributions is also checked to ensure the correct user fee was paid. Under \$10,000 in contributions results in a lower fee.

A secondary screening is conducted for certain types of cases, such as credit counseling and emerging issues. Mr. Chumney's group has been assigned responsibility for the screening of auto revocations and emerging issues. A case can be closed on merit during secondary screening.

At the conclusion of secondary screening a chronology entry is added to the Case Chronology Record (CCR) by the screener indicating the actions taken. Also, the case is updated to "74PC" status by the screener, so that the case file is systemically sent to the manager for review if it is ready to close.

As an aside, it was mentioned that non-disclosable documents, such as the CCR, are placed on the left, inside cover of the case file.

BOLO (Be on the Lookout) Spreadsheet

The BOLO spreadsheet, which is used throughout the determination process, is comprised of four worksheets: Watch List, Coordinated Processing, Emerging Issues, and Potential Abusive Transactions. Applications with issues that fall into one of these four categories are considered "specialty type cases." There are currently informal guidelines for the handling of these types of cases. The informal guidelines are in the process of being incorporated into the IRM. When a specialty type case is identified, a referral is sent to the appropriate group that has experience with the particular type of specialty case issue. Further action is suspended on the determination application until a response is received about how to proceed from the group that was referred the specialty case. A referral form is being developed.

Full Case Development Process

TEDS/EDS Status Code 51 denotes an unassigned case requiring full development; whereas, TEDS/EDS Status Code 52 denotes an assigned case requiring full development.

We were provided a handout of an actual Form 1024 application, including EO Letter 1312 (a.k.a., development letter for EO applications) that requested additional information from the organization to make a determination about the application for tax exempt status. Mr. Bell discussed his rationale (basis) for requesting each of the additional information items requested in Letter 1312. This discussion was very insightful and allowed us to clearly understand the basis for requesting each additional item of information from the applicant as a result of statements in the application that conflicted with researched information posted on the organization's website.

Audit Manager Seidell asked why it would be necessary for a determination specialist to request the names of an organization's contributors (several 501(c)(4) Tea Party organizations have indicated that the IRS is requesting contributor names as part of the determination process). Mr. Shafer responded that if an organization is receiving substantial funds from a candidate or Section 527 political organization, it could be an indicator that the organization is not meeting its primary operational purpose, adding that it "boils down to facts and circumstances in each case." The requirements of any grants received could also affect the determination decision. Mr. Shafer commented that an organization could expend most of its funds on political activities and still qualify as a (c)(4), adding that the political activities test is not limited to the dollars expended, but also includes an assessment of the nature of the organization's activities.

Future Year Follow-Up by Review of Operations (ROO)

Some approved determination applications are sent to the ROO function for future year follow-up to ensure that the organization is complying with its exempt purpose if there are some indicators / issues that the determination specialist deems warrant monitoring (follow-up) in future years once the organization has been operating for a reasonable period of time.

Preparer: Mike McGovern 05/03/2012

** AUDIT LOG
Purpose - Capture Key Events **

= Redacted by the Permanent
Subcommittee on Investigations

TIGTA OA: Process for Reviewing Applications for Tax Exemption
Audit Code: 2012-10-022

Date	Initials	Description
3/29/12	CJM	<p>Director Paterson issued the following email to Legislative Affairs informing them of our audit:</p> <p>Joel,</p> <p>This e-mail is to inform you of an audit we plan to conduct of the IRS's process for reviewing applications for tax exemption by potential section 501(c)(4), 501(c)(5), and 501(c)(6) organizations, which will be included in our Fiscal Year 2013 Annual Audit Plan. Currently, we do not have an associated audit number. Once we receive a number, I will provide it to you.</p> <p>To develop an understanding of the controls in the area, we will be conducting a limited amount of planning to develop the appropriate scope for this audit. We will follow the established process of coordinating interviews and requests through the appropriate points of contact within the Tax Exempt and Government Entities Division's Exempt Organizations function. Once we have completed our planning, we will prepare and issue an engagement letter. If you have any questions or comments, please feel free to contact me or the research team mentioned below.</p> <p>Troy Paterson Audit Director Phone: [REDACTED] e-mail: troy.paterson@tigta.treas.gov</p> <p>Tom Seidell Audit Manager Phone: [REDACTED] e-mail: thomas.seidell@tigta.treas.gov</p> <p>Cheryl Medina Lead Auditor Phone: [REDACTED] e-mail: cheryl.medina@tigta.treas.gov</p>
4/30-5/2/12	CJM	<p>AM Seidell and Auditors McGovern and Medina visited Cincinnati, OH for a walkthrough of the application process and to obtain information on the availability of data. PA1.a PA1.c PA1.l</p>
5/3/12	CJM	<p>Requested data from TEDS and EDS to assist in planning:</p> <p>Hi Cindy,</p> <p>We would like to request some data from both the TEDS and EDS systems.</p>

Date	Author	Description
		<p>We will refine are requests later; but for now we would like to familiarize ourselves with what is available using the criteria below. All the requested fields may not be available on one or both systems.</p> <p>From TEDS – four Excel spreadsheets</p> <ul style="list-style-type: none"> -We would like one spreadsheet with the total number of Case Type "I" Section 501(c)(4) open cases, broken out by status code. -We would like one spreadsheet with the total number of Case Type "I" Section 501(c)(4) closed cases beginning July 1, 2010 through the present, broken out by status code. -We would like a detailed listing of open Section 501(c)(4) cases with the following fields: <p>TEDS Case Number EDS Case Number EIN Case Type "I" - Initial Subsection "04" Current Status Code Current Status Date Postmark Date/Control Date Employee ID Number Group Number</p> <ul style="list-style-type: none"> -We would also like a detailed listing of Section 501(c)(4) cases closed beginning July 1, 2010 through the present using the same fields listed above. <p>We realize that not all cases are worked through completion in TEDS, but our understanding is that almost all cases are initially scanned into TEDS, so the volumes should be accurate, even if the status' are not up to date.</p> <p>We are also requesting similar data from EDS.</p> <ul style="list-style-type: none"> -We would like one spreadsheet with the total number of Case Type "I" Section 501(c)(4) open cases, broken out by status code. -We would like one spreadsheet with the total number of Case Type "I" Section 501(c)(4) closed cases beginning July 1, 2010 through the present, broken out by status code. -We would like a detailed listing of open Section 501(c)(4) cases with the following fields: <p>TEDS Case Number EDS Case Number EIN Case Type "I" - Initial Subsection "04"</p>

Date	Author	Description
		<p>Current Status Code Current Status Date Postmark Date/Control Date Employee ID Number Group Number</p> <p>-We would also like a detailed listing of Section 501(c)(4) cases closed beginning July 1, 2010 through the present using the same fields listed above.</p> <p>If any part of this request is not possible due to system limitations, please let me know. If at all possible, we really would appreciate receiving this data in the next week, to help us focus our review. If you have any questions, please feel free to contact me or Tom. Thanks for your help.</p> <p>Cheryl Medina</p>
5/8/12	CJM	<p>Team meeting held by AM Seidell to discuss results of Cincinnati trip with new team member Evan Close. Went through Congressional concerns and developed areas for possible audit. Areas include selection bias, whether questions are reasonable, timeliness (standards), time for processing cases overall, and consistency of what was requested between types of organizations.</p>
5/14/12	CJM	<p>Sent the following email to Holly Paz, Director, R&A requesting EO responses to Congressional requests:</p> <p>Hi Holly,</p> <p>We would like to request the responses to other recent Congressional requests related to Exempt Organizations. We have identified the following requests:</p> <p>October 6, 2011, House Ways and Means, Charles Boustany March 1, 2012, House Ways and Means, Charles Boustany (follow-up to October 6, 2011 request) February 16, 2012, Senate March 14, 2012, Senate</p> <p>In addition, the response you provided to us for the Representative Issa request stated that a supplemental response was still being prepared. Once this is completed, we are also requesting a copy of this response.</p> <p>Thanks for your help with this.</p> <p>Cheryl Medina</p>
5/15/12	CJM	<p>Director Paterson held a team planning meeting in Stoneham to discuss the focus of this review. Initially, we went through the processing of applications based upon our visit to Cincinnati. We discussed what our scope for the audit should be based upon</p>

Date	Author	Description
		<p>the information received. We decided to focus just on § 501(c)(4) organizations based upon the fact that only (c)(4) organizations have been identified as advocacy cases and that all the media attention has focused on (c)(4) organizations. Director Paterson is concerned with the timeliness of the advocacy cases. Some go back to 2009 and still are not closed. We may have to interview agents and managers to determine if there are any obstacles in the process. We then discussed the scope of the audit. Director Paterson sees us issuing an interim report and then a final report. We can split up the audit work into two parts: first sample for selection bias of advocacy cases by determining if all the identified advocacy cases should have been included and a second sample of cases not identified as advocacy and determine if they should have been included. The second part of the review would determine if the advocacy cases are predominantly of one political affiliation, whether the same questions are asked and whether they are appropriate. We would limit the review of questions to requests made after the draft guidance was issued in December 2011. We will probably be taking statistical samples of the non-advocacy cases and review 100% of the advocacy cases. We will use the same data for both parts of the review (interim and final). We will also document the process used to develop the advocacy emerging issue. The only outcomes we see now would be related to taxpayer burden.</p>
5/15/12	CJM	<p>Sent the following email to Holly Paz and Cindy Thomas:</p> <p>Holly/Cindy,</p> <p>I am just checking on the status of the remaining items we requested during our visit to Cincinnati. According to my records, we are still waiting for the following:</p> <ul style="list-style-type: none"> - Sensitive Case Report for the review of cases by DC - Quality standards from TEQMS - EO Director briefing from June 2011 - Sample of cases to begin familiarizing ourselves with the Determinations process <p>When do you think we will be getting this additional information?</p>
5/16/12	CJM	<p>Received a briefing paper from Holly Paz, Director R&A, for a meeting with Lois Lerner, Director, EO. <u>PA6.u</u> I raised concerns with AM Seidell on the criteria listed for identifying advocacy cases (bullet #2). He discussed it with Director Paterson and it was decided to send the following email to Holly Paz requesting some additional details:</p> <p>Hi Holly,</p> <p>We have a couple of questions on this briefing paper.</p> <ul style="list-style-type: none"> - Who developed this briefing paper (where did it come from)? - How was the criteria used by screeners (bullet #2) developed? Who made this decision? - What decisions were made as a result of the briefing paper/meeting and were they

Date	Author	Description
		<p>documented? If so, please provide the documentation. (e.g., meeting minutes, memo to file, etc.)</p> <p>Any more details on how this briefing was developed and what resulted from it would be greatly appreciated. Thanks.</p> <p>Cheryl</p>
5/17/12	CJM	AM Seidell and myself had a conference call with Holly Paz and David Fish, Rulings and Agreements, to discuss the briefing paper and our concerns with the criteria used to identify advocacy cases. <u>PA6.u</u> <u>PA2.j</u>
5/17/12	CJM	AM Seidell discussed our concern with the criteria used to identify advocacy cases with Director Paterson. <u>PA6.u</u> <u>PA6.v</u> The documentation received from the IRS indicates that Tea Party groups were being targeted. Director Paterson will discuss issue with Acting AIGA, Martin, to determine what we do with the information.
5/18/12	CJM	Director Paterson discussed issue with Acting AIGA Martin. Decided that we should prepare an IRS Commissioner briefing on the issue, but not anything for public dissemination. <u>PA2.m</u> Briefing paper forwarded to Acting AIGA Martin.
5/21/12	CJM	<p>AM Seidell sent the following email to Holly Paz, Director, Rulings and Agreements:</p> <p>Holly,</p> <p>I informed my Director (Troy Paterson) about the c3/c4 advocacy briefing paper and our discussion on Thursday. He will be briefing the Inspector General and told me he will contact Joseph Grant and Lois to let them know.</p> <p>Thanks</p> <p>Tom</p>
5/22/12	CJM	Director Paterson held a conference call with Lois Lerner, EO Director, to discuss our concern with the criteria used to identify advocacy cases. <u>PA2.n</u>
5/23/12	CJM	<p>Director Paterson sent the following email to Legislative Affairs:</p> <p>Joel,</p> <p>As promised, we now have an audit number for our research into the IRS's process for reviewing application for tax exemption by potential 501(c)(4)-(6) organizations. The audit number is 201210022. If you have any questions, please let me know.</p> <p>Troy Paterson Audit Director Phone: 404-338-7476</p>

Date	Author	Description
5/24/12	CJM	<p>I sent the following email to Holly Paz, Director R&A regarding outstanding documentation:</p> <p>Hi Holly,</p> <p>I was just going through my list of requested documentation, and saw that there are a couple of outstanding items. We have not received the Sensitive Case Report for the cases reviewed by Headquarters. We also have not received the responses to the Congressional requests, but I believe you said Legislative Affairs would be providing them to us. Is there a contact for these responses?</p> <p>Thanks</p>
5/24/12	CJM	<p>Holly Paz response:</p> <p>Cheryl,</p> <p>Legislative Affairs actually sent me the responses to the Congressional requests yesterday. I tried to forward them on to you earlier this morning but it bounced back saying the file size is too big. I am going to break them up into separate emails and send on to you in a moment. Same for Sensitive Case Reports.</p> <p>Holly</p>
5/29/12	CJM	<p>Discussed statistical sample computations with AM Seidell. Since we already have concerns with the identification of advocacy cases being biased, we decided to use a high error rate in our sample computations. We will compute our samples using a 90 percent confidence level, 50 percent error rate, and 5 percent precision rate. We will also use May 31, 2012 as the cut-off date for obtaining the data to select our samples from. In addition, we will review 100 percent of the identified advocacy cases for bias and appropriateness of questions.</p>
6/1/12	CJM	<p>Director Paterson held WebEx Meeting to discuss draft audit plan with AM Seidell and myself. Went through the objectives and revised as deemed necessary. Discussed statistical samples – decided that we only need to look at closed merit/accelerated/intermediate processed cases. All cases with political issues are supposed to be sent to full development by the screeners, so open merit cases should not involve political activity. It was decided that we only need to use a 10 percent error rate for these cases. We will still use a 50 percent error rate for the full development sample.</p>
6/1/12	CJM	<p>Sent the following email to Cindy Thomas, Determinations Manager, requesting updated Determination case information:</p> <p>Cindy,</p> <p>We would like to request an updated copy of the advocacy case tracking sheet used by the advocacy team. If possible, we are requesting the information through May 31, 2012.</p>

Date	Author	Description
		<p>Also, we would like an updated listing of open and closed Section 501(c)(4) cases from EDS. The following is the criteria for this request:</p> <ul style="list-style-type: none"> -We would like a spreadsheet with all Case Type "I" Section 501(c)(4) closed cases beginning May 1, 2010 through May 31, 2012. -We would also like a detailed listing of Case Type "I" Section 501(c)(4) open cases. <p>Both listings should include the following fields:</p> <ul style="list-style-type: none"> TEDS Case Number EDS Case Number EIN Organization Name Case Type "I" - Initial Subsection "04" Current Status Code Current Status Date Postmark Date/Control Date Employee ID Number Employee Name Group Number Employee Post of Duty (if possible) <p>If you have any questions, feel free to contact me or Tom Seidell. I will be out of the office next Monday and Tuesday. Thanks for your help.</p> <p>Cheryl Medina Treasury Inspector General for Tax Administration Phone [REDACTED] Fax # 781-279-0336</p>
6/11/12	CJM	Discussed case reviews with AM Seidell. We agreed that we will need a case analysis document for our review of advocacy cases to document our decision on whether questions were necessary to make a determination.
6/13/12	CJM	Acting AIGA Martin held meeting to discuss draft audit plan. He wants to avoid the word bias and instead use inconsistency. He also wants to make the issue of timeliness more prominent by making it a separate objective and ensure we determine who knew what when and who made the decisions on the criteria changes throughout the emerging issue development. He would also like us to include the § 501(c)(3) cases that were identified as advocacy in our case reviews, so we will complete a 100 percent review of identified advocacy cases. He requested more background be added to the audit plan to explain the Determinations process.
6/14/12	CJM	Sent the following email to Holly Paz, Director, Rulings and Agreements, and received a response:

[REDACTED] = Redacted by the Permanent Subcommittee on Investigations

Date	Author	Description
		<p>From: Medina Cheryl J TIGTA [mailto:Cheryl.Medina@tigta.treas.gov] Sent: Thursday, June 14, 2012 2:34 PM To: Paz Holly O Subject: TIGTA Follow-up Question</p> <p>Hi Holly,</p> <p>I need to confirm something with you. Are the screeners only identifying advocacy cases related to political campaign intervention for the advocacy team? So, the advocacy team is not looking at lobbying or general advocacy cases; only political advocacy?</p> <p>Thanks.</p> <p>Cheryl Medina</p> <p>Response: That is correct. The screeners are looking for cases with indicators of significant amounts of political campaign intervention, not lobbying or issue advocacy. 501(c)(4)s can engage in an unlimited amount of lobbying germane to their exempt purpose. 501(c)(3)s can also engage in a certain amount of lobbying. In contrast, political campaign intervention cannot be a 501(c)(4) organization's primary activity and 501(c)(3)s are prohibited from engaging in campaign intervention. Thus, the advocacy team is focused on campaign intervention, not lobbying.</p>
6/14/12	CJM	<p>Sent the following email to Holly Paz, Director, Rulings and Agreements and received an initial response:</p> <p>We will check and get back to you ASAP.</p> <hr/> <p>From: Medina Cheryl J TIGTA [mailto:Cheryl.Medina@tigta.treas.gov] Sent: Thursday, June 14, 2012 3:09 PM To: Paz Holly O Subject: Verification of EDS Information</p> <p>Holly,</p> <p>We are unable to find four cases from the advocacy tracking sheet that are listed as 501(c)(4)s on the EDS data you provided us. We are hoping you can provide us with confirmation that the applications are controlled on the EDS. The cases do have EDS #'s so we are trying to determine why they are not on our EDS extract of 501(c)(4) applications.</p> <div data-bbox="422 1648 917 1816" style="border: 1px solid black; padding: 5px;"> <p>26 U.S.C. § 6103</p> </div>

Date	Author	Description
		<p>Thanks for your help.</p> <p>Received response: <u>PALs</u></p>
6/20/12	CJM	<p>Due to a timing difference between the scope of the EDS data we requested and the actual extract date, [REDACTED]</p> <p>[REDACTED] 26 U.S.C. § 6103</p> <p>[REDACTED] We requested additional EDS data to ensure we received all applicable cases that were open as of May 31, 2012:</p> <p>Holly/Cindy,</p> <p>We would like to request some additional EDS data. This request includes closed 501(c)(4) Initial requests that were closed June 1st through June 5th. The data should include the same fields as our initial request.</p> <p>TEDS Case Number EDS Case Number EIN Organization Name Case Type "I" - Initial Subsection "04" Current Status Code Current Status Date Postmark Date/Control Date Employee ID Number Employee Name Group Number Employee Post of Duty (if possible)</p> <p>Thanks for your help.</p>
6/20/12	CJM	<p>Discussed which types of cases to include in our EDS universe for Objective IIIA with AM Seidell. Went through the status codes to determine which cases to include. AM decided on the following for the open cases: 51 (unassigned), 52 (assigned), 55 (waiting for closing approval), 53 (manager returned to specialist), 37 (group suspense – could include FTE cases that would be full development), 74 (awaiting managerial review (TEDS)), 58 (in transit), 31 (in review), 75 (group inventory), 57 (TEDS awaiting closure on EDS) and 32 (returned on review memo). The following are the status codes for the closed cases: [REDACTED] 26 U.S.C. § 6103 [REDACTED] 11 (FTE) and 4 (withdrawn).</p> <p>Also received additional EDS data requested for June 1-5, 2012. Three cases appear to be full development cases [REDACTED] 26 U.S.C. § 6103 [REDACTED] and [REDACTED] 26 U.S.C. § 6103 [REDACTED] that were not on our original EDS data extract. The other status codes refer to merit closures (6 and 9) or returned incomplete (3). [REDACTED] 26 U.S.C. § 6103 [REDACTED]</p> <p>[REDACTED] 26 U.S.C. § 6103 [REDACTED] Since we are not looking at</p>

Date	Author	Description
		open merit cases and incomplete applications would not have been sent for full development, we do not need to include them in our universe.
6/22/12	CJM	Audit Plan approved. PA2.c Discussed with Director Paterson the possibility of requesting the merit closed case sample now before the engagement letter is issued. He does not have a problem with it. He suggested we put in the request that we have the facilities to ensure the data is protected.
6/22/12	CJM	Requested the merit closed sample cases from Cindy Thomas, Determinations Manager.  C3.3 Received the following reply from Ms. Thomas: Cheryl, I'm checking with my Processing Section to see whether they have any concerns with this. I'll get back with you early next week to let you know if they have any concerns and to let you know when you can expect to start receiving the cases.
6/26/12	CJM	Received response from Cindy Thomas, Determinations Manager, regarding shipping the closed cases directly to us: Cheryl, For control purposes, the Processing Section prefers to request the cases be sent back to us and they'll forward the cases to you. They'll start requesting the cases right away and you should expect to start receiving some by next week.
6/26/12	CJM	AM Seidell sent the following response to Cindy Thomas, Determinations Manager, regarding receipt of closed cases: Cindy, I understand the Processing Section's desire to control the cases, but in this instance I think the cases should be sent directly to us without going through the Determinations Unit. As you are aware, outside organizations have made allegations that the IRS targeted specific organizations and treated them unfairly. Due to the seriousness of these allegations and the definition used in the BOLO spreadsheet identifying specific organizations and issues they raise, I think the cases should be sent directly to us from the Federal Records Center. Tom Thomas F. Seidell Audit Manager TIGTA Phone: 
6/26/12	CJM	AM Seidell sent the following email to Lois Lerner, EO Director, to schedule an opening conference:

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Date	Author	Description
		<p>Lois/Dawn,</p> <p>I'd like to schedule the opening conference for the subject audit. Our schedules are pretty open, so if you can get back to me with some dates/times I'd appreciate it.</p> <p>Thanks</p> <p>Tom</p>
6/26/12	CJM	<p>Director Paterson spoke with Lois Lerner, EO Director, regarding our request for the closed cases being shipped directly to us from the Federal Records Center. She completely understands our position, but there may be an issue. If a FOIA request comes in, EO needs access to the cases. Also, Congressional committees that are involved in tax writing can request IRS files without § 6103 restrictions. She plans to speak with Joseph Grant, Acting Director, TEGE. Ms. Lerner later called Director Paterson again and told him that Dave Camp, Chairman House Ways and Means, has made a request for all closed determination cases, and the Determinations Office is currently making copies to fulfill this request.</p>
6/27/12	CJM	<p>AM Seidell held a team meeting to discuss the status of the review and assign objectives. Auditor Close will be working with us until October when he will begin the Fair Tax review. Objectives I and II will be assigned to me. Objective IIIA is assigned to Auditor McGovern; Objectives IIIC, IIID and the overall objective III summary are assigned to Auditor Close, and Objective IIIB is TBD, depending on when Objectives IIIA and IIIC are completed. We plan to issue an interim report after the completion of Objectives I-III. Objective IVA is assigned to me (501(c)(3) cases) and Auditor McGovern (501(c)(4) cases). Auditor McGovern will complete the overall objective summary. Once we begin receiving case files, we will get together and go through a few so everyone is on the same page.</p>
6/27/12	CJM	<p>Discussed scope period for case reviews with AM Seidell. Advocacy listing is through June 5, 2012 instead of the requested May 31, 2012. However,</p> <div data-bbox="418 1245 1458 1459" style="border: 1px solid black; padding: 10px; text-align: center;"> <p>26 U.S.C. § 6103</p> </div> <p>We will then decide to include them or not in our review.</p>
6/28/12	CJM	<p>AM Seidell spoke with Holly Paz, Director Rulings and Agreements, to obtain more details on Rep. Camp's request for applications. He requested all § 501(c)(4) applications received in 2010 and 2011. Ms. Paz stated that this included around 4,440 applications. The Determinations Office has been photocopying for about a week now. (Auditor's Note: Many of our requested cases are included in Rep. Camp's request. This may delay us receiving cases. We can no longer receive the cases directly from the Federal Records Center, and will most likely have to copy the closed cases upfront instead of receiving the originals. In addition, if the Determinations Office is using its photocopying machines to fulfill Rep. Camp's request, then we will not be able to use them, further slowing the process for us.)</p>

Date	Author	Description
6/28/12	CJM	Director Paterson held his third quarter meeting with EO Director Lois Lerner. Holly Paz, Director Rulings and Agreements, was also present. Discussed current situation with obtaining case files. <u>PA2.r</u>
7/2/12	CJM	<p>AM Seidell and Director Paterson had teleconference with Holly Paz and Cindy Thomas, Rulings and Agreements, to discuss how we will get copies of our sampled cases. We previously sent them the listing of merit closed cases. They said 40 of them are in Cincinnati and they will make copies for us. Another 65 cases are either at the Federal Records Center or at the Processing Center. They cannot locate 15 of them right now, but are still looking. We will send them the rest of our sample case listings, but they will focus on locating and copying the closed ones first. They will make copies of all the cases and ship them to us, around 28 cases per box, so we do not need to go to Cincinnati.</p> <p>I will send the rest of the sampled case listings to them. AM Seidell would like Auditor Close to come up to Stoneham on July 16-17, so we can begin going through the cases together and determine how we will review them.</p>
7/2/12	CJM	<p>Sent the following email requesting the rest of our sampled cases:</p> <p>Cindy/Holly,</p> <p>Based upon your teleconference this morning with Tom and Troy, I am sending you the attached listings of sampled case we need copies of for our review. We have split up the EDS listings between open and closed, at least at the time the data was provided to us. Of course, I'm sure some things have changed. We identified the POD of the Agent assigned to the open cases based upon the Group Number you provided. We hope this makes locating them a little easier. We sorted the closed cases by TEDS number because we were told that is how they are filed, but some cases do not have a TEDS number. We also require 100 percent of the advocacy cases from the latest listing you provided us. I have attached the listing for your reference.</p> <p>No one will be in the office on Thursday or Friday this week, so it would be better if you do not ship any cases with a delivery date prior to July 9th (next Monday).</p> <p>If you have any questions, or need additional information from us, please let me know. Thank you for your help.</p> <p>Cheryl Medina <u>PA6.ff C.2.3</u></p>
7/5/12	CJM	Held opening conference. <u>PA2.c</u>
7/9/12	CJM	<p>Sent the following email to Holly Paz, Director R&A, requesting contact names:</p> <p>Holly,</p> <p>Attached please find our initial listing of "people" we wish to speak with for our</p>

Date	Author	Description
		<p>review. If there are others that you feel we need to speak with to completely understand the development of the advocacy issue, please include them in the contacts you provide us. A.2.2</p> <p>Also, during our opening conference, I jotted down that you were going to provide a listing of cases that were closed as part of the recent training given to Revenue Agents. I believe there are 41 cases that received a favorable determination.</p> <p>Thanks, and if you have any questions, feel free to contact me.</p>
7/10/12	CJM	Received the merit closed cases. EO is still looking for four of 120 cases.
7/11/12	CJM	<p>26 U.S.C. § 6103 I re-requested it from Karen Allen, who sent us the cases:</p> <p>Karen,</p> <p>Thanks for all the hard work it took to locate and copy these cases. I have just gone through them all to match them up with what we requested.</p> <p>26 U.S.C. § 6103</p> <p>26 U.S.C. § 6103</p> <p>If you need any additional information, please let me know. You can include this case in the next batch you send to us. We have a couple of case requests outstanding. Thanks again.</p>
7/12/12	CJM	<p>Sent the following email to Holly Paz, Director Rulings and Agreements, requesting the latest response to a Congressional request:</p> <p>Hi Holly,</p> <p>The IRS received another Congressional request on June 18, 2012 from the Senate Finance Committee. We would like a copy of the IRS's response once it is completed. I have attached the request for your reference. Thanks.</p> <p>Cheryl Medina PA5.bb</p>

Date	Author	Description
7/13/12	CJM	Discussed what criteria we are going to use when reviewing cases with AM Seidell. It was decided that we will use what the Screeners should have used – political campaign intervention. As we go through the first cases together next week, we will develop criteria for what we consider political campaign intervention. If we identify exception cases, the faulty criteria, such as the BOLO, will be the cause for the case not being identified or being incorrectly identified as an advocacy case.
7/16/12	CJM	<p>26 U.S.C. § 6103</p> <p>Sent the following email requesting the correct case:</p> <p>Hi Karen,</p> <p>We received another box of cases on Friday. I'm not sure if you sent it or not, but thanks.</p> <p>26 U.S.C. § 6103</p> <p>Cheryl Medina</p>
7/16/12	CJM	<p>Auditor Close traveled to Stoneham, so we could begin going through cases as a team and determine the best way to review them. AM Seidell and auditors, Medina, McGovern and Close reviewed several cases and determined how to review them. We went through the draft methodology for case reviews and the schedules developed to capture are review results, making changes. We developed the order for the workpapers in the case files. AM Seidell assigned Objective IIIB cases to Auditor Close, and IIIA cases to Auditor McGovern. We have not receive any cases related to Objective IIIC to date.</p> <p>We also discussed the cases closed during a May 2012 training session. If Determinations decided that the additional questions originally asked were unnecessary and closed the case without receiving additional information, then we can conclude for Objective IV that the questions were not necessary, and we do not have to review the case to come to a conclusion.</p>
7/16/12	CJM	<p>Sent the following request to Holly Paz, Director R&A:</p> <p>Hi Holly,</p> <p>Just checking on the status of a couple of things with you. During the opening conference, we mentioned that we hoped to be in Cincinnati the week of July 30th, to speak with people involved with the advocacy issue. You were going to check on people's schedules for that week. I also sent you a listing of "people" we want to speak with. Have you been able to come up with a list of</p>

Date	Author	Description
		<p>people we should speak with and determine if the week of July 30th works with people's schedules?</p> <p>Also, during our opening conference, we discussed our engagement letter request for all documentation, including emails, related to the decisions made regarding what to do about the increased volume of advocacy cases. When do you think we will receive this documentation?</p> <p>Cheryl Medina</p>
7/17/12	CJM	<p>Received response from Holly Paz on site visits.</p> <p>Attached is the list of closed advocacy cases you requested. I have inserted the names of the individuals meeting the criteria of your interview request into your potential interviewees document. I have now heard back as to schedules from most, but not all, of these individuals. A number of the Cincinnati folks (including Cindy, Joseph Herr and Liz Hofacre) are not available the week of 7/30. Moreover, Lois would like me to sit in on all the interviews so that we will be in the best position to respond to TIGTA's report and recommendations, and I am unable to travel to Cincinnati that week due to a teaching commitment Wednesday afternoon. It looks like the beginning of the week of 8/6 would be better for the Cincinnati interviews and the week of 7/30 would be better for DC interviews. Does that work for you? If so, as far as next steps, would you like us to reach out to people to set up specific interview times or will you reach out to them directly? If you'd like us to do it, for how long should we schedule each interview?</p> <p>In regard to the request in your engagement letter for all documents and correspondence related to EO's response to and decision-making process for addressing the increase in applications for tax-exempt status from organizations involving potential political advocacy issues, I have a few questions. Could we talk briefly by phone tomorrow?</p> <p>Thanks,</p> <p>Holly</p>
7/17/12	CJM	<p>Auditor McGovern identified cases during his review for Objective IIIA</p> <div data-bbox="412 1514 1474 1686" style="border: 1px solid black; padding: 5px; text-align: center;"> <p>26 U.S.C. § 6103</p> </div> <p>Discussed with AM Seidell. We will use the Form 1023 information to complete this objective, if available, to determine if the case should have been forwarded to the advocacy team.</p> <p>In addition, Auditor McGovern identified that</p> <div data-bbox="412 1822 1474 1856" style="border: 1px solid black; padding: 2px;"> <p>26 U.S.C. § 6103</p> </div>

Date	Author	Description
26 U.S.C. § 6103		<p style="text-align: right;">26 U.S.C. § 6103</p> <p>Discussed with AM Seidell and he wants us to request 26 U.S.C. § 6103</p> <p>We will do this on a weekly basis, as needed.</p>
7/18/12	CJM	<p>Received email from Holly Paz, Director R&A, regarding site visits. People in Cincinnati not available the week of 7/30, but people in DC are. Cincinnati is available the week of 8/6. Planning trip to DC for week of 7/30 and trip to Cincinnati week of 8/6. She also has questions on our request for documentation related to advocacy decisions and would like to talk about it. She will call me.</p>
7/18/12	CJM	<p>Spoke with Holly Paz, Director, R&A. She wanted clarification on what types of documentation we are looking for. She questioned whether we wanted the specialists to send their decisions on the advocacy cases. I explained that we are trying to develop a timeline of actions taken during the whole development of the advocacy issue – who made decisions and when – more at a higher level than the Specialists. She commented that since we requested copies of the advocacy cases, she didn't think we wanted the case-related info for this request, but wanted to make sure she understood. We decided that she will ask people to look for documentation from January 2010 through May 2012. She is going to request it be sent to me by the middle of next week, so we have time to go through it before our meetings in DC.</p> <p>We discussed the May 2012 training in Cincinnati. Cases were not closed during the training. They used live cases to discuss how to ask questions for additional info without being too broad; Holly considered it a workshop. After the 1 ½ day training, a team comprising EO Technical, EO Guidance and Determinations, completed a "bucket exercise" and went through every open advocacy case. Two people independently looked at each case and applied the training to it. If the two people agreed on how the case should be handled, it was put in one of three buckets: approved, minor development, or full development. They only looked for advocacy related issues, so each case was then assigned to a Specialist for review and closure to make sure the application included all required documentation, such as a signature or bylaws, etc. This review took several weeks.</p> <p>TEGE's new space does not have a separate security office like the old space. We will have to call Holly from the lobby and she can come down and get us. We will need a temporary access card to use the elevator, similar to their other space. There is no food or cafeteria in the building, so everyone has to go out at lunch.</p>
7/23/12	CJM	<p>Emailed Holly Paz, Director R&A, to inform her that the week of August 6th is good for us to visit Cincinnati. I also asked if she had set up anything for our DC trip next week.</p>
7/23/12	CJM	<p>Sent the following email to Karen Allen, Records, requesting additional case files:</p> <p>Hello,</p> <p>Thanks so much for the cases last week. We are beginning to go through them and unfortunately, need some additional cases. The attached spreadsheet includes the information we need. Most of them are</p>

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		<p>26 U.S.C. § 6103</p> <p>We plan to send you additional requests on a weekly basis, if needed, as we continue to go through the cases already provided to us. If you have any questions, please feel free to contact me. Thanks for your help.</p> <p><u>6.2.4, Additional Request Tab</u></p>
7/23/12	CJM	<p>Discussed case reviews with AM Seidell.</p> <p>26 U.S.C. § 6103</p> <p>AM Seidell thinks that we should request the Form 1023, because that is what the screener used for identifying political advocacy. This will mean requesting Form 1023 for about 40 percent of our completed cases to date. AM Seidell would like a count of the number of affected cases and will review some of them during our weekly meeting on 7/25/12.</p>
7/25/12	CJM	<p>AM Seidell held first weekly team meeting to discuss progress of case reviews. Went through audit plan and discussed status of each objective. Objective I – began receiving emails yesterday related to activities for the timeline. Objective II – began reviewing emails from objective I. Objective IIIA – received 158 of 265 requested cases. Have reviewed around 90 cases to date. Objective IIIB – received 116 of 120 requested cases. Have reviewed around 40 cases to date. Discussed issue of cases originally filed with a Form 1023. AM Seidell decided that if we have a complete F1023 or 1024 in the case file and can make a determination on whether case should have been considered advocacy related, then we do not need to request the F1023. Only if there is not enough info do we need to obtain the F1023 to review.</p> <p>Discussed miscoded cases (cases on EDS as (c)(4)s and included in our sample), but application approved for a different section. Need to research IDRS to determine what code section the accounts have listed on the BMF.</p>
7/26/12	CJM	<p>Director Paterson held conference call with AM Seidell and myself to discuss sensitive questions we will ask of EO personnel during our site visits. We need to determine when people knew about the Tea Party criteria and whether they had any input to the criteria. We also need to ask if there was any outside influences that affected the criteria.</p> <p>We also discussed a need for a Counsel opinion. EO has decided to destroy any donor lists received at their request from the applicants. The law states that this additional information should remain part of the administrative record. Director Paterson agreed that we should get an opinion, even though we understand EO's need not to disclose the donor information.</p> <p>We also discussed potential inconsistent treatment of taxpayers. Advocacy organizations were given an extra 60 days to respond to requests for additional information. Regular applicants were not given this extra time. Director Paterson does not think it is inconsistent treatment if the advocacy organizations were asked to provide a lot more information than a regular applicant. EO gave the extra time</p>

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		because it asked for too much information to begin with.
7/30-8/1/12	CJM	AM Seidell and myself completed site visit in DC to perform interviews.
8/1/12	CJM	<p>Director Paterson visited Stoneham and held audit team meetings. He first asked about the status of the case reviews - how many we requested and how many completed to date. We discussed the need for us to request other case files related to a Form 1023 application to be able to review the Form 1024 application.</p> <p style="text-align: center;">26 U.S.C. § 6103</p> <p>We discussed potential application processing issues that we need to keep in mind going forward, but we can't deal with during this review. AM Seidell gave a brief overview of our possible exception cases.</p> <p style="text-align: center;">26 U.S.C. § 6103</p> <p>Are these cases supposed to go to the advocacy team, or were they considered ok by the screeners? We will have to compare the non-advocacy exception cases to the advocacy cases to determine what caused some cases to be selected but others not. AM Seidell and myself gave some details of our visit to Washington DC. Based upon how the case reviews are going and our need to request additional files to complete some reviews, Director Paterson does not want to set a due date for the interim report.</p>
8/2/12	CJM	Discussed the assignment of Objective IIIC cases with AM Seidell. Recommended that the cases be split between Auditors Close and McGovern by code section - Close completes the (c)(3) cases, including the timeliness analysis, and McGovern completes the (c)(4) cases. McGovern will review the (c)(4) cases again for Objective IV. AM Seidell agreed.
8/6-8/8/12	CJM	AM Seidell and myself visited Cincinnati, OH to perform interviews.
8/9/12	CJM	<p>AM Seidell held weekly team meeting. We went through the audit plan, discussing the status of each objective. Auditors Close and McGovern have just about finished reviews of the cases received to date. AM Seidell and myself have completed the first round of interviews to develop the timeline of events for the advocacy issue. Hopefully, we will receive more cases next week.</p> <p style="text-align: center;">26 U.S.C. § 6103</p> <p>AM Seidell will speak with Director Paterson to determine if we need to replace the cases in our sample. Our 1/3 meeting with Director Paterson is scheduled for August 15th at 1:00. I need to complete a briefing document for the meeting.</p>
8/9/12	CJM	<p>AM Seidell spoke with Director Paterson about</p> <p style="text-align: center;">26 U.S.C. § 6103</p>
8/13/12	CJM	Scheduled a teleconference on 8/15/12, at 2:45 pm, with Gary Muthert, Determinations, to discuss his role in initially identifying Tea Party cases. Ms. Paz will also participate in the call.
8/15/12	CJM	Director Paterson held 1/3 meeting. AM Seidell went through the briefing paper and

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		<p>discussed the status of each objective. PA2.5 Lack of management oversight appears to be one of the main causes of the problems found for processing the advocacy cases. We then went through the draft timeline of events I developed. A2.1 Director Paterson had several questions on the various entries. It was also agreed that we do not need the third column highlighting the officials involved. He will go through the timeline and start to select which entries we should include in an appendix to our report. Office of Audit agreed to brief the Government Oversight Sub-committee by September 2012. Director Paterson already discussed this with the new AIGA, Greg Kutz. We will also have to brief the IRS Commissioner before the sub-committee briefing.</p>
8/16/12	CJM	<p>Received response to my request for listing of organizations that were approved without providing additional requested information.</p> <p>Cheryl,</p> <p>Your understanding of the process post bucketing is correct. Unfortunately, I checked with Cindy and Sharon and we do not have a [26 U.S.C. § 6103]</p> <p>[26 U.S.C. § 6103] This can be determined based on review of the individual files, but there is no master list. Similarly, [26 U.S.C. § 6103]</p> <p>[26 U.S.C. § 6103]</p> <p>Holly</p> <hr/> <p>From: Medina Cheryl J TIGTA [mailto:Cheryl.Medina@tigta.treas.gov] Sent: Tuesday, August 14, 2012 1:37 PM To: Paz Holly O Subject: Bucketing Results Request</p> <p>Hi Holly,</p> <p>I am still getting through all the emails and documents you provided us. I have another request. After the bucketing in May 2012, it was determined that [26 U.S.C. § 6103]</p> <p>[26 U.S.C. § 6103] If I understand what occurred, [26 U.S.C. § 6103]</p> <p>[26 U.S.C. § 6103]</p> <p>You provided a recent tracking sheet that includes which bucket the cases fell into, but I am not sure if [26 U.S.C. § 6103]</p> <p>[26 U.S.C. § 6103]</p>

Date	Author	Description
		<p>26 U.S.C. § 6103</p> <p>Thanks.</p> <p>Cheryl Medina</p>
8/27/12	CJM	<p>Discussed advocacy case review with AM Seidell. Most of the cases do not have the bucketing result sheets in the files. However, based upon the case tracking sheet, we know the results of the bucketing, and they sometime disagree with our review of the cases. I suggested we need to request all the bucketing sheets to determine why the particular recommendations were made and see if we missed something in the original case file. We will only consider comments made on the original application, and not any additional research completed by the bucketer. The initial screener would not have had the additional research to make his determination on whether the case should go to the advocacy group or not.</p> <p>AM Seidell reviewed a few advocacy cases and agreed we need the bucketing sheets.</p>
8/28/12	CJM	<p>Contacted Holly Paz, Director R&A, and requested all of the bucketing sheets. She has them all in electronic form, and will send them on a flash drive to me.</p>
9/4/12	CJM	<p>Sent the following email to Cindy Thomas, Manager, EO Determinations:</p> <p>Cindy,</p> <p>During our meeting in Cincinnati, you told us that you sent an email requesting the status of the guidance every 30 days. Do you still have those emails? If so, can you please forward them to me? Thanks.</p> <p>Cheryl Medina</p>
9/4/12	CJM	<p>Received response from Cindy Thomas, Manager, EO Determinations:</p> <p>I completed a cursory review of the folder that I set up and don't see them. I'll send you the ones I found that talk about status. Also, I'll ask Steve Bowling if he has any of the emails. He was the manager with oversight of these cases and he initiated an email to me asking the status and that prompted me to send the emails to Holly asking the status.</p> <p>NOTE: We weren't initially sending the emails asking for a status update --- only started doing that after things didn't seem to be moving. Then, we stopped sending the emails at some point --- I'm not sure when but my guess would be when Lois was brought in.</p>
9/12/12	CJM	<p>Greg Kutz, new MSE AIGA, held meeting with audit team, including Director Paterson, to discuss review. AM Seidell gave some background on the issue being reviewed. Then he began going through the objectives. Discussed our interviews of Headquarters and Field employees and the development of the timeline of events. Mr. Kutz asked if we can highlight cases (generically) in the report to show the delays that occurred. He also asked if we are checking for consistent questions between advocacy</p>

Date	Author	Description
		<p>and non-advocacy cases (we are not). Mr. Kutz wanted to know what we saw us reporting. We have to be very careful. Quantitative or factual information is safe to report. He questioned whether we know for sure that no one in Headquarters new the Tea Party was being targeted prior to June 2011. He suggested we have the Office of Investigations conduct interviews, under oath, to determine who knew what when. It was decided to ask the IRS Commissioner during the September briefing when Headquarters knew about the criteria. Director Paterson will elevate this to the Acting DIGA.</p> <p>Mr. Kutz also asked how many applications were withdrawn and if we knew why the organizations withdrew them. I commented that [redacted] 26 U.S.C. § 6103 [redacted] Mr. Kutz asked if we could contact the organizations to determine why they withdrew their applications.</p> <p>Mr. Kutz asked Director Paterson to contact his assistant to set up a Part 2 meeting to continue our discussion. Second meeting scheduled for October 1st.</p>
9/13/12	CJM	<p>AM Seidell held weekly team meeting. We discussed the status of the objectives. Objectives I and II are basically done barring any additional information being provided. Objective III is the case reviews. We still have not received 128 cases (IIIA 28, IIIB 3, IIIC 97). AM Seidell stated that if we do not receive a case, we will not replace it. It will be UTD. Similarly, if there is missing documentation from the case files that precludes us from reviewing the case, we will not replace it as well. If we do not have bucketing sheets for a case, we will re-request them. Once EO decides it has sent us all the cases, I will develop a listing of any cases we did not receive or have missing documentation one final time to attempt to receive them from EO.</p>
9/25/12	CJM	<p>AIGA Kutz visited Stoncham. We had an audit team meeting with him, including Director Paterson via phone. PA2.u</p>
9/25-26/12	CJM	<p>Auditor Close visited Stoneham. AM Seidell, Auditor Close and myself went through Close's completed § 501(c)(3) advocacy cases. AM Seidell commented that he needs to make sure the "why" we consider a case an exception or not is included in the auditor comments of the case review schedule. If there is any hint of political campaign intervention, we will consider the case ok for the advocacy group because (c)(3) organizations cannot participate at all in them.</p> <p>EO stopped work on the advocacy cases while developing the letter giving organizations that had not responded to a development letter 60 extra days to respond. Auditor Close asked how he should treat this hold time for his timeliness analysis. AM Seidell stated that this time should not negatively affect the organization. In some cases, [redacted] 26 U.S.C. § 6103 [redacted] then the time needs to be backed out of the timeliness analysis. [redacted] 26 U.S.C. § 6103 [redacted] that the clock still runs. We went back and forth on this and AM Seidell decided we need a Counsel opinion on this issue.</p>
9/26/12	CJM	<p>Auditor McGovern found an original page of a document in case file 184 for objective IIC. I mailed it back to EO Determinations.</p>

Date	Author	Description
9/27/12	CJM	<p>Sent the following email to Holly Paz, Director, Rulings and Agreements:</p> <p>Hi Holly,</p> <p>I need some clarification on the issuance of the 60-day extension letter. Were these letters issued to all organizations that had not responded to a development letter, or to just those that were already untimely in their responses to the requests for information? For example, if an organization still had 5 days of the 21-day response period to reply, would it have received a 60-day extension?</p> <p>Information in the emails you sent me indicate [REDACTED]</p> <p>[REDACTED]</p> <p>26 U.S.C. § 6103</p> <p>Thank you.</p>
9/28/12	CJM	<p>Received response from Holly Paz, Director, R&A, or 60-day extensions:</p> <p>Cheryl,</p> <p>My apologies for the delayed response. I have been out sick the last two days. [REDACTED]</p> <p>[REDACTED]</p> <p>26 U.S.C. § 6103</p> <p>Holly</p>
10/3/12	CJM	<p>AM Seidell held status meeting with team. Discussed Director Paterson's meetings with Acting TEGE Commissioner, Joseph Grant, and EO Director, Lois Lerner. He went over the shortened timeline with each of them and asked the about any outside influences and when did they know about the criteria used to identify advocacy cases. Mr. Grant will get back to Director Paterson. Ms. Lerner was not happy with the questions. She commented that the timeline was incomplete. Director Paterson sent her the full timeline for review. He also thinks we may use the full timeline as an appendix to the report. AM Seidell then asked for the various case counts – received and reviewed, for the three samples. Auditor Close is supposed to move on to another project starting October 15, 2012. If he is close to completing his case analyses, AM Seidell hopes to keep him on a little longer.</p>

Date	Author	Description
10/10/12	CJM	AM Seidell held status meeting with the team. Director Paterson and AIGA Kutz met with Acting Deputy IG McKenney to discuss briefing the Hill. McKenney stated there will be no briefings until we have finalized our conclusions. He would like us to ask EO directly who directed the use of the criteria for identifying advocacy cases. If we do not receive an adequate response, we will refer it to the Office of Investigations. There is a conference call with the IG tomorrow to brief him on the status of the audit as well. We have not received any comments on the timelines provided to the EO Director by Director Paterson. We then went over the status of the case reviews.
10/15/12	CJM	Team held 2/3 meeting with Director Paterson. PA2.x Still have not received 15 cases and have around 10-12 cases for which we have requested additional documentation. Objectives I & II – on hold while waiting for feedback from Joseph Grant and Lois Lerner. Provided the timeline to Lois Lerner, but have not heard back. Also waiting for a response from Grant and Lerner on the 3 questions asked by Director Paterson. He will follow up with both of them. If we receive a response that no one knows who directed the use of the criteria for identifying advocacy cases, then we will refer the issue to OI. Director Paterson is also waiting to hear about the rescheduling of the IG meeting on the audit and he received agreement from AIGA Kutz that we will not brief IRS Commissioner Schulman, who is leaving, but will wait for Acting Commissioner Steven Miller. Objective IIIA – continue to review cases. Need to check for 26 U.S.C. § 6103 Auditor McGovern thinks there is missing information that we re-requested, but did not receive. Objective IIIB – for 3 missing cases, include the replacements for them, but we need to state in the report that we did not receive the originally sampled cases. IIIC – criteria we are using is political campaign intervention only. We need to break out exceptions – no political intervention, limited intervention, and only maybe in the future, but not now. Auditor McGovern mentioned the ROO referrals being recommended by the bucketers. I need to check the new IRM to see if this process is included, or if we need to make a recommendation. Auditor McGovern also mentioned that the bucketers only make recommendations. All the cases are quality reviewed, and there have been a few that changed the bucket recommendation. Director Paterson mentioned that Acting DIGA McKenney talked about whether the cases were approved in bucketing due to pressure to close the cases. We estimated that the case reviews will be initially completed by the end of October. Director Paterson is tentatively visiting Stoneham the week of 11/5 to review the exception cases. We also have to decide how we will get agreement to the facts from EO. With the large volume of exceptions, we may need to group them into similar scenarios and only discuss a sample with EO. EO may not agree to this. I asked about us issuing the interim report. Director Paterson doesn't think AIGA Kutz likes the idea. If we do not issue an interim report, we will need to do a lengthy addendum to the audit plan so we can complete objective IV. This may also provide EO ample time to review all the exceptions if it wants to.
11/6/12	CJM	Director Paterson held team meeting during visit to Stoneham. Discussed Objective IV. It was decided that we will use the questions identified by EO as unnecessary to review the advocacy cases and determine if any unnecessary questions were asked. <u>D.2.4</u> Since EO completed this review for 166 cases, <u>D.2.5</u> we will complete the rest only. We will first review a 10 percent sample of the EO completed cases to verify

Date	Author	Description
		<p>their analysis. We will also need to determine if permanent procedures have been put in place so the targeted review of certain organizations does not reoccur. What corrective actions have been taken by EO? Director Paterson decided that we will not request any missing development letters from the case files. We will only review what we have received.</p> <p>We will need to submit an addendum to change to Objective IV. We also need to add a new objective (IIC) to include the 501(c)(3) analysis in the audit plan. We will add 6 weeks to the calendar days and 70 staff days. Holiday leave and the delay in receiving cases will be the reason. Director Paterson will also discuss a second addendum with AIGA Kutz for the time it takes to discuss the large number of exception cases with EO.</p>
11/6-8/12	CJM	<p>Director Paterson visited Stoneham and reviewed some exception cases from Objectives IIIA, IIIB, and IIIC.</p>
11/7/12	CJM	<p>Director Paterson sent the following email to Holly Paz, Director, Rulings and Agreements, regarding EO's comments to the timeline:</p> <p>Holly,</p> <p>Thank you again for taking the time to review and provide feedback on the 3 questions we submitted and the long timeline. We have a few follow-up questions:</p> <ol style="list-style-type: none"> 1. In the response to questions 2 and 3, Lois states that the manager of the screening group responded that, "The following are issues that could indicate a case to be considered a potential 'tea party' case and sent to Group 7822 for secondary screening. 1. 'Tea Party', 'Patriots' or '9/12 Project' is referenced in the case file. 2. Issues include government spending, government debt and taxes. 3. Educate the public through advocacy/legislative activities to make America a better place to live. 4. Statements in the case file that are critical of the how the country is being run." Does this mean that the manager of the screening group developed this criteria? If not, who created the criteria? We're trying to determine if anyone in EO function management sanctioned the use of the criteria. 2. On the May 14, 2012 entry on the timeline, the EO function changed the additional details column to read "Concluded, in light of case law on what is educational, that "propaganda" activities <u>should be</u> [emphasis added] considered part of an organization's social welfare activities in analyzing whether it is primarily engaged in promoting social welfare." Earlier, you provided an e-mail from Tom Miller that states "I could not find anything, but my analysis is that propaganda activities <u>should not be</u> [emphasis added] included in an organization's activities that promote social welfare in analyzing whether it is primarily engaged in promoting the SWI within the meaning of the regulations. Did the EO function inadvertently leave out the word "not" in its feedback or are we misinterpreting Tom Miller's e-mail?" 3. On the May 2012 entry on the timeline, the EO function deleted our wording that the EO Technical employee was reviewing all case files and closing letters prior to issuance. Our interview write-up states that case files were being reviewed and closing letters were being reviewed prior to issuance. Is this the case, or are only the development letters being reviewed?

Date	Author	Description
		<p>As always, we appreciate the assistance and we look forward to your response.</p> <p>Troy</p>
11/8/12	CJM	<p>After beginning sampling of EO review of advocacy cases for Objective IV, determined that we cannot rely on it. Auditor McGovern found errors in the review. <u>D.2.5</u> Discussed with Director Paterson and Audit Manager Seidell. We will have to do a 100 percent review of the advocacy cases to determine if any questions identified by EO as unnecessary were asked.</p>
11/8/12	CJM	<p>Sent the following email to Holly Paz, Director Rulings and Agreements.</p> <p>Hi Holly,</p> <p>The attached document is the review completed by <u>Judy Kindell</u> to identify unnecessary questions being asked in the advocacy development letters. We have identified 4 cases (highlighted) that are not included on the May/June 2012 advocacy listing we are using in our review.</p> <p>What happened to these cases and why would they be removed from the tracking sheet? Are there any other cases that were removed from the advocacy listing? Why and how many?</p> <p>Thanks for any information you can provide.</p> <p>Cheryl</p> <p><u>D.2.5</u></p>
11/9/12	CJM	<p>Received response from Holly Paz, Director, Rulings and Agreements, to Director Paterson's email above:</p> <p>Troy,</p> <p>Please see answers to your follow-up questions below. Please let me know if you have any further questions or if you think a discussion would be helpful.</p> <p>Holly</p> <p>1. In the response to questions 2 and 3, Lois states that the manager of the screening group responded that, "The following are issues that could indicate a case to be considered a potential 'tea party' case and sent to Group 7822 for secondary screening. 1. 'Tea Party', 'Patriots' or '9/12 Project' is referenced in the case file. 2. Issues include government spending, government debt and taxes. 3. Educate the public through advocacy/legislative activities to make America a better place to live. 4. Statements in the case file that are critical of the how the country is being run." Does this mean that the manager of the screening group developed this criteria? If not, who created the criteria? We're trying to determine if anyone in EO function management sanctioned the use of the criteria.</p> <p>EO executive management did not sanction use of 1-4 above as criteria for identifying</p>

Date	Author	Description
		<p>advocacy cases. Because the BOLO only contained a brief reference to "Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) and 501(c)(4)" in June 2011, I, as Acting Director of EO Rulings & Agreements, sought clarification as to the criteria being used to identify these cases in light of the diversity of applications selected under this "tea party" label (e.g., some had "tea party" in their name but others did not, some stated that they were affiliated with the "tea party" movement while others stated they were affiliated with the Democratic or Republican party, etc.). My inquiry prompted the EO Determinations Program Manager to ask the manager of the screening group what criteria were being used to label "tea party" cases ("Do the applications specify/state 'tea party'? If not, how do we know applicant is involved with the tea party movement?"). We understand that the screening group manager asked his employees how they were applying the BOLO's short-hand reference to "tea party" and was told by his employees that they included organizations meeting any of criteria 1-4 above as falling within the BOLO's reference to "tea party" organizations.</p> <p>2. On the May 14, 2012 entry on the timeline, the EO function changed the additional details column to read "Concluded, in light of case law on what is educational, that "propaganda" activities should be [emphasis added] considered part of an organization's social welfare activities in analyzing whether it is primarily engaged in promoting social welfare." Earlier, you provided an e-mail from Tom Miller that states "I could not find anything, but my analysis is that propaganda activities should not be [emphasis added] included in an organization's activities that promote social welfare in analyzing whether it is primarily engaged in promoting the SW within the meaning of the regulations. Did the EO function inadvertently leave out the word "not" in its feedback or are we misinterpreting Tom Miller's e-mail?"</p> <p>I am afraid that the wording of my question to Tom has contributed to the confusion. You can see I said we were seeing inflammatory talk, which I characterized as propaganda. "Propaganda," however, is a term with legal significance. So, Tom's email went on to discuss what constitutes "propaganda" versus what is "educational," for purposes of characterizing the inflammatory talk. He says that, "Posting of some questionable or snarky articles will not undue otherwise OK material . . . the bar [for whether material is educational] is quite low." The example in his second paragraph about the Institute for Historical Review shows just how difficult it is to conclude that inflammatory talk is actually "propaganda" rather than "educational." Senior members of the team bucketing the advocacy cases discussed Tom's email in light of the inflammatory talk we were seeing and concluded that it would be considered educational under existing precedents.</p> <p>3. On the May 2012 entry on the timeline, the EO function deleted our wording that the EO Technical employee was reviewing all case files and closing letters prior to issuance. Our interview write-up states that case files were being reviewed and closing letters were being reviewed prior to issuance. Is this the case, or are only the development letters being reviewed?</p> <p>EO Technical employees are reviewing all development letters to organizations in buckets 2 and 3 prior to issuance. Designated EO Technical employees are also available to answer questions the Determinations specialists may have after receiving responses to those development letters. While EO Technical employees are reviewing all development letters, typically on favorables, EO Technical does not review the closing letter itself because these</p>

- Redacted by the Permanent Subcommittee on Investigations

Date	Author	Description
		are essentially form approval letters . All denial letters, however, are being closely coordinated between EO Technical and EO Determinations.
11/9/12	CJM	Asked Audit Manager Seidell a question regarding the criteria for unnecessary questions. <u>D.2.4</u> A question asking for resumes of directors, employees, etc. of the organization will be considered requesting information regarding employment other than for the organization (Criteria F) and will be deemed unnecessary.
11/14/12	CJM	<p>Director Paterson replied to Holly Paz, Director Rulings and Agreements, regarding her response documented on 11/9/12 log note above:</p> <p>Holly,</p> <p>Thank you again for the follow-up responses. In response to question #1, you mention that EO function executive management did not sanction the use of the 1-4 criteria we listed in our original questions. You also mention that the EO function Determinations Program Manager asked for the criteria from the screener manager and the screener manager asked his employees for the specific criteria. To be clear, does this mean that the EO function Determinations Program Manager and screener manager were not aware of the specific criteria being used prior to employees providing the criteria in response to the screener manager's request? In other words, no one in the EO function management chain sanctioned the use of the criteria.</p> <p>Troy [REDACTED]</p>
11/19/12	CJM	<p>Sent email to Karen Allen, EO Determinations Records, and Holly Paz, Director, Rulings and Agreements:</p> <p>Hi Karen,</p> <p>We are still waiting for 5 case files and 1 additional request for missing documentation. I have attached a list. If we do not receive the cases by November 30th, we will have to report that they could not be located for our review.</p> <p>Thanks.</p> <p>Cheryl Medina</p>
11/19/12	CJM	<p>Audit team held meeting with Director Paterson and AIGA Kutz to discuss audit status. <u>PA2.bh</u> Acting DIGA McKenney was unable to attend. We first discussed the timeline. AIGA Kutz suggested we explain that some cases were worked early on but never resolved. He agrees that the entire timeline will be good as an appendix to the report, but should put an abbreviated timeline in the body of the report. We should also include a criteria timeline to show when changes to the criteria took place, and that no manager knew of the criteria for 13 months. We then discussed the timeliness</p>

Date	Author	Description
		<p>of 501(c)(3) case processing. We should include a chart showing the distribution of cases by number of days. A possible recommendation would be to create a management report to notify them when a case is getting close to the 270-day time standard. We also can recommend improved form and instruction guidance on the 270-day standard. In the report background we need to explain the different subsections and what they can and can't do related to political campaign intervention. The law and the Treasury regulations related to political campaign intervention are different. We should find out how this happened and possibly recommend a change for consistency. AIGA Kutz would like a breakdown of our exceptions for Objectives IIIC and IV by Tea Party, 912, and Patriots for the report. To shorten the amount of time it will take to get the report out, AIGA Kutz would like us to create an outline for discussion prior to beginning writing the report. Also, we can start writing it while waiting for EO's agreement to the facts on the exception cases.</p>
11/19/12	CJM	<p>Holly Paz, Director Rulings and Agreements, responded to Director Paterson's second request for clarification:</p> <p>Troy,</p> <p>Your reading of our response to question #1 is correct. The EO Determinations Program Manager and screener manager were not aware of the specific criteria being used prior to employees providing the criteria in response to the screener manager's request in June 2011. No one in the EO management chain sanctioned the use of the four criteria listed in your question #1 below.</p> <p>Holly</p> <hr/> <p>From: Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov] Sent: Wednesday, November 14, 2012 10:01 AM To: Paz Holly O Cc: Seidell Thomas F TIGTA; Medina Cheryl J TIGTA; Lerner Lois G Subject: RE: Responses</p> <p>Holly,</p> <p>Thank you again for the follow-up responses. In response to question #1, you mention that EO function executive management did not sanction the use of the 1-4 criteria we listed in our original questions. You also mention that the EO function Determinations Program Manager asked for the criteria from the screener manager and the screener manager asked his employees for the specific criteria. To be clear, does this mean that the EO function Determinations Program Manager and screener manager were not aware of the specific criteria being used prior to employees providing the criteria in response to the screener manager's request? In other words, no one in the EO function management chain sanctioned the use of the criteria.</p>
11/19/12	CJM	<p>Response to request of Holly Paz, Director R&A, about 4 cases removed from the advocacy tracking sheet:</p>

Date	Author	Description
		<p>Cheryl,</p> <p>26 U.S.C. § 6103</p> <p>26 U.S.C. § 6103</p> <p>26 U.S.C. § 6103</p> <p>Holly</p>
11/19/12	CJM	<p>Additional email from Holly Paz, Director R&A, on a 26 U.S.C. § 6103</p> <p>26 U.S.C. § 6103</p> <p>26 U.S.C. § 6103</p>

Date	Author	Description
		26 U.S.C. § 6103
11/29/12	CJM	Director Paterson, Audit Manager Seidell, and myself held first meeting to discuss the report and start drafting a report outline for review by AIGA Kutz. A few decisions were made. The subsection chart in the background needs to include a row on whether the organizations have to apply or notify the IRS. I need to ask for the number of applications received for c3-c6 for FY 2009-2012. Before we recommend that a management report identifying c3 applications approaching the 270 day standard for processing be developed, we need to find out if there is already one available. ASS.a ASS.b
11/29/12	CJM	Received final available cases from Determinations.
11/30/12	CJM	Sent the following email to Holly Paz, Director R&A Hi Holly, We would like to request some statistics on the number of applications received for Fiscal Years 2009-2012, broken out by fiscal year and subsection for 501(c)(3), (c)(4), (c)(5), and (c)(6) organizations. If you have any questions, please let me know. Thanks. Cheryl Medina PA6.mrr
12/5/12	CJM	Director Paterson, Audit Manager Seidell, and myself had second meeting to discuss report outline. ASS.d Good progress was made on the overall presentation of the

Date	Author	Description
12/7/12	CJM	<p>results of our review and the outline was updated during the meeting. <u>ASS.e</u> I need to make additional changes to the outline, so it can be discussed with AIGA Kutz.</p> <p>I received the following response email from Holly Paz, Director, R&A:</p> <p>Bucketing occurs after screening. We have not yet determined how long we will continue to bucket cases identified in screening as advocacy cases. We have not implemented a bucketing process for other types of cases and do not have plans to do so at this time, but if, as we go forward, we see a need for such a process with other types of applications, we will implement it at that time.</p> <hr/> <p>From: Medina Cheryl J TIGTA [mailto:Cheryl.Medina@tigta.treas.gov] Sent: Thursday, December 06, 2012 7:35 AM To: Paz Holly O Subject: Bucketing Review Questions</p> <p>Hi Holly,</p> <p>You stated that after the initial bucketing exercise of the existing advocacy cases was completed in May 2012, bucketing has continued on all new advocacy cases identified. When in the process does this occur (e.g., after screening?) and how long will you continue with bucketing? Have you or do you plan to implement this process for other types of applications?</p> <p>Thanks,</p> <p>Cheryl Medina</p>
12/7/12	CJM	<p>I received the following response email from Holly Paz, Director, R&A:</p> <p>The BOLO criteria for identifying advocacy cases have not changed since May 2012.</p> <hr/> <p>From: Medina Cheryl J TIGTA [mailto:Cheryl.Medina@tigta.treas.gov] Sent: Thursday, December 06, 2012 9:31 AM To: Paz Holly O Subject: Another criteria question</p> <p>Holly,</p> <p>Sorry, but I just thought of another question. You changed the BOLO criteria in May 2012 when you issued the memo with new approval procedures. Is this still the criteria to identify political cases, or has it changed since May? If it has changed, can you send me the changes and what it is currently?</p> <p>Thanks,</p> <p>Cheryl Medina</p>

Date	Author	Description
12/10/12	CJM	<p>AM Seidell spoke with Holly Paz, Director Rulings and Agreements, about obtaining agreement to the facts for our Objectives IIIA, IIIB, IIIC, and IV exception cases. He sent the following email afterwards:</p> <p>Holly,</p> <p>Attached are the excel files containing the four analyses I mentioned during our phone conversation earlier today. I added a brief description below for each of the files. I also plan on forwarding another analysis on the number of cases that had developmental letter with unnecessary questions. I'm hoping we can get together the week of January 7th to discuss. If you have any questions please let me know.</p> <p>Attached files:</p> <p>IIIA – all 501(c)(4)open/closed full development cases sample (Cases that we believe should have gone on advocacy listing). <u>C.2.9</u></p> <p>IIIB – all 501(c)(4) merit closed cases sample (Cases that we believe should have gone on advocacy listing). <u>C.3.7</u></p> <p>IIIC – advocacy cases (Cases that we believe did not contain indications of significant political campaign intervention (c4) or any (c3) and therefore should not have gone on advocacy listing). <u>C.4.6</u></p> <p>IIC – timeliness analysis of 501(c)(3) advocacy case processing (501c3 cases on advocacy listing when organization could have sued for declaratory judgment at some point while case was in process). <u>E.4.3</u></p> <p>Thanks</p> <p>Tom</p>
12/12/12	CJM	<p>AIGA Kutz held message conference to discuss report outline with AM Seidell, Director Paterson, and myself. <u>A5.9</u> The main question we need to answer is, did the IRS target certain groups and what was the impact if it did. The answer is Yes, the IRS did target because it didn't follow the regulations for identifying political organizations. We need to use the Condition, Criteria, Cause and Effect format to present an unbiased report. We will have two findings: did the IRS target and what was the effect of the targeting on the organizations. The effect finding will include the inconsistency case review results, the delays, and the unnecessary questions. AIGA Kutz would like us to include clips for documents and charts/graphs throughout the report. He asked us to consider a delay timeline. He also asked if we know the status of the organizations that were held up for 13 months. We do not, but will request an updated advocacy tracking sheet to determine if any cases are still open. We also discussed the report title. It needs to be direct and respond to the allegations. I am to draft the report based upon this meeting.</p>
12/14/12	CJM	<p>Received the following email from Holly Paz, Director R&A, regarding the exception cases:</p>

Date	Author	Description
		<p>Tom,</p> <p>I skimmed through the attachments and am concerned about our ability to be ready for a meeting to discuss our thoughts in January as a number of our folks familiar with this area of the law will be starting to take use or lose leave soon and those folks have been tasked with working the open advocacy cases as quickly as possible. Could we possibly push the meeting back into February?</p> <p>Holly</p>
12/20/12	CJM	<p>AM Seidell held a conference call with Holly Paz, Director R&A:</p> <p>Audit Manager Seidell spoke with Holly Paz regarding Ms. Paz's email that the EO function would not be able to discuss our case reviews (Objective III) until early February. I told Ms. Paz that Representative Issa's staffers were requesting a status briefing on the review and that we wanted to provide EO the opportunity to provide input to our case reviews before we brief Congress. I suggested that we discuss the 17 cases in the first two spreadsheets (IIIA and IIIB) the week of January 14 via conference call, and then following up in person to discuss the cases in Objective IIIC. Ms. Paz said she was more concerned about having enough time to review the Objective IIIC cases because that spreadsheet contained over 100 cases. Ms. Paz said she would discuss this option with the EO members reviewing the cases to see if it was doable and would get back to me by tomorrow.</p>
12/20/12	CJM	<p>AM Seidell sent the following email to Holly Paz, Director Rulings and Agreements:</p> <p>Holly,</p> <p>Attached are the results of our audit tests to determine if developmental letters contained questions that were deemed unnecessary by EO. As we discussed, for criteria we used the list of 7 questions/areas identified as unnecessary by EO (Attachment 1) as well if the applicant received a subsequent letter from EO to disregard any previously asked questions. We would appreciate receiving any input you may have regarding the results of this test.</p> <p>I also look forward to hearing from you about our proposed schedule to discuss the results of our case reviews.</p> <p>Thanks</p> <p>Tom</p> <p>D.2.4 D.2.5</p>
12/21/12	CJM	<p>AM Seidell received the following email regarding discussing the exception cases with EO:</p> <p>From: Paz Holly O [mailto:Holly.O.Paz@irs.gov] Sent: Friday, December 21, 2012 12:12 PM</p>

Date	Author	Description
		<p>To: Seidell Thomas F TIGTA Subject: review of cases</p> <p>Tom,</p> <p>We discussed the timeline you and I spoke about yesterday and will try to have reviewed at least a sizeable number of the cases by the dates you mentioned. Our folks who will be doing the review are now out until the beginning of the year. We will update you as to the status of our review the end of the first week of January so we can set exact dates and times for our discussions.</p> <p>Holly</p>
1/9/13	CJM	<p>AM Seidell sent the following email to Holly Paz, Director, Rulings and Agreements, regarding EO's review of the exception cases:</p> <p>Hi Holly,</p> <p>I hope you had a nice holiday. I'm checking in to see how far along you are on the cases.</p> <p>Thanks</p> <p>Tom</p>
1/11/13	CJM	<p>Briefing held with Acting DIGA, Mike McKenney, AIGA Kutz, Director Paterson, AM Seidell and myself. EA2-ff We first discussed the targeting of groups and the criteria used. We do not have the May 2010 email first issued citing Tea Party as the criteria. Acting DIGA McKenney commented that the IRS should be required by law, just like TIGTA, to retain all emails for a certain amount of time. We should ask EO Director Lois Lerner about this email. AIGA Kutz will ask TIGTA's CIO George Jakabcin about the retention requirements. We need to include in the report that in some cases, the application did not show any political campaign intervention, but it was found once the application was processed. AIGA Kutz mentioned that Senator Hatch is interested in the donor question, so we need to have this information ready. He also asked us what recommendations we plan to make. They include formalizing in the IRM the process for approving BOLO additions or changes, and the need for training. AIGA Kutz suggested we recommend expeditious processing of the old advocacy cases that are still open. The ones open longer than average.</p> <p>AIGA Kutz informed Acting DIGA McKenney that we still need to go through the exception cases with EO. Acting DIGA McKenney will brief IG George about this review. TIGTA will brief the Hill in March on this review. Senate Finance will want a briefing, too.</p>
1/14/13	CJM	<p>Director Paterson received an email from EO Director Lois Lerner regarding our exception cases. C.4.7</p>
1/15/13	CJM	<p>Director Paterson, AM Seidell, and myself discussed EO Director's email regarding exception cases. I researched the four cases mentioned to determine if we were inconsistent in our treatment of them. 26 U.S.C. § 6103</p>

Date	Author	Description
		<p style="text-align: center;">26 U.S.C. § 6103</p> <p>Director Paterson requested our methodology with the criteria we used to review the cases. He also requested an email from Holly Paz, Director Rulings and Agreements, that confirms only political advocacy should be reviewed. I forwarded both to him.</p> <p>AM Seidell suggested we make hotel reservations for the last week of January in DC to discuss the cases.</p>
1/15/13	CJM	<p>Director Paterson sent Lois Lerner, EO Director, the criteria we used to identify our exception cases. C.L.G.</p>
1/15/13	CJM	<p>Director Paterson had a conference call with EO Director and Director R&A, to discuss at a high level the case reviews. PAZ.GD</p>
1/24/13	CJM	<p>Director Paterson sent the following email and received a response regarding the May 2010 criteria email sent to Determinations Specialists:</p> <p>From: Paterson Troy D TIGTA [mailto:Troy.Paterson@tigta.treas.gov] Sent: Thursday, January 24, 2013 8:51 AM To: Paz Holly O Subject: E-Mail Retention Question</p> <p>Holly,</p> <p>Good morning.</p> <p>During a recent briefing, I mentioned that we do not have the original e-mail from May 2010 stating that "Tea Party" applications should be forwarded to a specific group for additional review. After thinking it through, I was wondering about the IRS's retention or backup policy regarding e-mails. Do you know who I could contact to find out if this e-mail may have been retained?</p> <p>Troy</p> <hr/> <p>From: Paz Holly O [mailto:Holly.O.Paz@irs.gov] Sent: Friday, January 25, 2013 5:40 AM To: Paterson Troy D TIGTA Subject: RE: E-Mail Retention Question</p> <p>Troy,</p> <p>I have not dealt with this issue before and do not know who you would need to contact regarding this question. I will raise this up and try to identify the appropriate contact person. In the meantime, I will ask the folks in EO Determinations to search their electronic and paper files again to see if we can locate the email.</p> <p>Holly</p>

Date	Author	Description
1/25/13	CJM	Had conference call with EO to discuss its review of case exceptions. <u>C.4.10</u>
1/31/13	CJM	AM Seidell and myself traveled to DC to meet with EO and discuss exceptions. <u>C.4.15</u>
1/31/13	CJM	Director Paterson, along with AIGA Kutz, briefed the IG on this audit.
1/31/13	CJM	<p>Director Paterson received the following response from Holly Paz regarding the May 2010 email and IRS retention requirements:</p> <p>From: Paz Holly O [mailto:Holly.O.Paz@irs.gov] Sent: Thursday, January 31, 2013 5:15 AM To: Paterson Troy D TIGTA Cc: Lerner Lois G Subject: RE: E-Mail Retention Question</p> <p>Troy,</p> <p>I'm sorry we won't get to see you today. We have reached out to determine the appropriate contact regarding your question below and have been told that, if this data request is part of e-Discovery, the coordination needs to go through Chief Counsel. The person to contact regarding e-Discovery requests is Glenn Melcher. His email address is Glenn.J.Melcher@ircounsel.treas.gov and his phone number is [REDACTED]</p> <p>Holly</p>
1/31/13	CJM	<p>Director Paterson sent a request to Glenn Melcher, IRS Counsel, regarding IRS email retention:</p> <p>Glenn,</p> <p>Good morning. My name is Troy Paterson and I work with the Treasury Inspector General for Tax Administration. Holly Paz within the Tax Exempt and Government Entities Division's Exempt Organizations (EO) function referred me to you for some assistance on one of our audits (the engagement letter is attached). During the audit, we were informed that an e-mail was sent in May 2010 by someone in the EO function's Determinations Unit in Cincinnati Ohio to forward all "Tea Party" applications for additional review by a particular Determinations group. The EO function has not been able to locate this e-mail. Therefore, we would like to determine whether internal e-mails from May 2010 have been archived or retained in some manner. If so, how would we go about obtaining a copy of the e-mail?</p> <p>Any assistance you could provide would be appreciated.</p> <p>Troy Paterson Director, Tax Exempt and Government Entities/Human Capital</p> <p>Glenn Melcher read the email, but never responded.</p>

[REDACTED] = Redacted by the Permanent Subcommittee on Investigations

Date	Author	Description
		<p>From: Melcher Glenn J [mailto:Glenn.J.Melcher@irs.counsel.treas.gov] Sent: Thursday, January 31, 2013 8:31 AM To: Paterson Troy D TIGTA Subject: Read: RE: E-Mail Retention Question</p> <p>Your message</p> <p>To: Melcher Glenn J Subject: RE: E-Mail Retention Question Sent: Thursday, January 31, 2013 7:34:56 AM (UTC-05:00) Eastern Time (US & Canada)</p> <p>was read on Thursday, January 31, 2013 8:31:06 AM (UTC-05:00) Eastern Time (US & Canada).</p> <p>No further response was received.</p>
2/4/13	CJM	<p>Director Paterson, AM Seidell and myself held conference call to discuss report message. Director Paterson briefed us on his meeting with the IG regarding this audit.</p>
2/7/13	CJM	<p>Director Paterson briefed AM Seidell and myself on meeting with AIGA Kutz. AIGA Kutz was interested in the status of the report, in particular the Highlights page. Director Paterson stated that he had written something, but due to size limitations, it is very general. We will also need to leave room for an office of audit comments section. AIGA Kutz then informed Director Paterson of a meeting with the Office of Investigations he had. Randy Silvis of OI used to work with the e-fraud team which has access to all IRS emails and can search for the May 2010 email we are trying to obtain. The search can be completed using key words and people's names. It was decided that AM Seidell and myself will develop a listing of people for certain time periods and criteria that we want to search.</p>
2/13/13	CJM	<p>I sent the following email to Holly Paz, Director Rulings and Agreements, requesting an estimated date for receiving EO's feedback on the rest of the exceptions.</p> <p>Hi Holly,</p> <p>I wanted to check on the review status of the rest of the exception cases (those related to cases not sent to the advocacy team) as well as the review of the timeliness and unnecessary question schedules we sent you. Do you have an estimate on when we will be receiving EO's comments? Thanks.</p> <p>Cheryl Medina</p>
2/20/13	CJM	<p>Sent request to Dr. Katz for our statistical sample projections. C.2.11</p>
2/25/13	CJM	<p>Director Paterson sent the discussion draft to Acting DIGA, Mike McKenny, and Chief Counsel, Mike McCarthy, for review prior to issuance.</p> <p>Good morning,</p> <p>Greg mentioned that, due to the sensitivity of the attached report, he would</p>

Date	Author	Description
		<p>like for us to obtain your feedback before we issue a discussion draft report to the IRS. Therefore, I am attaching a copy of the report for your review. If you have any questions or would like to meet to discuss, please let me know. I look forward to hearing from you.</p> <p>Troy Paterson</p>
2/25/13	CJM	<p>Director Paterson sent the discussion draft to Tom Dori, Auditor, to review our outcome measures prior to issuance.</p> <p>Tom,</p> <p>Good afternoon. I hope all is well.</p> <p>I was hoping you could help us out. Attached is a report we have written regarding how the IRS processes tax-exempt applications from organizations that potentially are involved in political campaign intervention. Due to the sensitivity of this report, our AIGA has asked that Chief Counsel and the DIGA review the report before we issue it as a discussion draft. In addition, Greg thought it would be a good idea for the report to be reviewed from an outcome perspective so we don't potentially revise our position with the IRS on outcomes between discussion draft and draft.</p> <p>Could you please review and let us know what you think of how we present our outcomes and whether you identify any additional outcomes we should consider? I would appreciate it.</p> <p>If you have any questions or would like to discuss, please let me know.</p> <p>Troy </p> <div data-bbox="982 1249 1429 1333" style="border: 1px solid black; padding: 2px;"> <p>— = Redacted by the Permanent Subcommittee on Investigations</p> </div>
2/25/13	CJM	<p>Tom Dori, Auditor, sent his response regarding our outcome measures:</p> <p>Hi Troy – I took a quick read through Appendix IV and the report body. Nothing jumped out at me as being out of line, and I did not see anything that you missed. If you have any other questions, let me know.</p> <p>Thanks,</p> <p>Tom</p>
2/25/13	CJM	<p>Director Paterson sent the following email to Lois Lerner and Holly Paz regarding issues identified during our review, but did not make it into the report:</p> <p>Lois and Holly,</p>

Date	Author	Description
		<p>Good afternoon. There were a couple of minor issues that we uncovered during our audit that are not significant enough to be included in our upcoming report. However, I thought I would forward them to you for your consideration.</p> <ol style="list-style-type: none"> Issue #1 – Miscoded Cases: We selected two samples of Section 501 (c)(4) applications from an EDS download provided to us by the EO function. However, when we reviewed the sampled case files, 14 cases with subsection (c)(4) on the EDS were actually not related to 501(c)(4) organizations. The subsections were incorrect on the EDS. We performed IDRS research on the 14 cases and found that 11 are still miscoded as 501(c)(4) organizations on the EOBFMP as well. 26 U.S.C. § 6103 <p style="border: 1px solid black; padding: 2px; margin-left: 40px;">Attached is a listing of the 14 cases for your use. E.2.10</p> <ol style="list-style-type: none"> Issue #2 – Form 1023 Instructions: Organizations applying for 501(c)(3) tax-exempt status are afforded the right to sue the IRS for declaratory judgment if a determination decision is not made within 270 days. However, the instructions for completing the Form 1023 application do not mention this right. Many of the organizations applying for 501(c)(3) tax-exempt status are small organizations run by volunteers and may not be aware of other existing guidance regarding this right, e.g., Revenue Procedure 2012-09 or Publication 557. These organizations are more likely to rely on the Form 1023 instructions for guidance. In addition, development letters to 501(c)(3) organizations include statements about the organization possibly losing the right to sue if they do not respond to the request for information timely. This may confuse organizations if it is the first time they have heard of this right. In future revisions of the Form 1023 instructions, we would suggest the IRS consider including information on an organization’s right to sue for declaratory judgment, as well as possibly a reference to the Internal Revenue Code, Publication 557, and/or the most current Revenue Procedure for further details. <p>I hope this information is useful to you.</p> <p>Troy [REDACTED]</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin-left: auto;"> <p>— = Redacted by the Permanent Subcommittee on Investigations</p> </div> <p>Lois Lerner, EO Director response:</p> <p>Thanks Troy—we’ll look into this.</p> <p><i>Lois J. Lerner</i> Director of Exempt Organizations</p>
2/27/13	CJM	<p>Received the following response from Holly Paz, Director, Rulings and Agreements, regarding some loose ends:</p> <p>Please see answers below.</p>

Date	Author	Description
		<p>From: Medina Cheryl J TIGTA [mailto:Cheryl.Medina@tigta.treas.gov] Sent: Wednesday, February 27, 2013 7:59 AM To: Paz Holly O Subject: Follow-up questions</p> <p>Hi Holly,</p> <p>I have a couple of questions to close some gaps in our information.</p> <ol style="list-style-type: none"> 1. Was the draft guidance provided to Determinations in November 2011 ever finalized? 2. Have any 501(c)(3) advocacy organizations sued the IRS for declaratory judgment because it has taken more than 270 days to make a determination? <p>Not to our knowledge.</p> <p>Thanks for your help with these.</p> <p>Cheryl Medina</p>
3/8/13	CJM	AIGA Kutz, Director Paterson, AM Seidell, and myself had a teleconference with TIGTA Counsel to discuss our report.
3/11/13	CJM	Sent revised report to AIGA Kutz.
3/19/13	CJM	<p>Director Paterson sent a pre-discussion draft of the report to Lois Lerner, EO Director, and Holly Paz, Director Rulings and Agreements:</p> <p>Lois and Holly,</p> <p>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.</p> <p>As always, if you have any questions or comments, please let me know.</p> <p>Troy Phone (Tuesday): [REDACTED] Phone (Monday, Wednesday-Friday): [REDACTED]</p>

[REDACTED] = Redacted by the Permanent Subcommittee on Investigations

Date	Author	Description
3/21/13	CJM	<p><u>AS6.g</u></p> <p>EO Director, Lois Lerner, sent the following message regarding our pre-discussion draft:</p> <p>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 time on the calendar for Mon to have the chat?</p> <p><i>Lois G. Lerner</i> Director of Exempt Organizations</p>
3/22/13	CJM	<p>Director Paterson sent the following email to schedule a meeting regarding the pre-discussion draft:</p> <p>Lois,</p> <p>Thank you for reviewing the report and offering to meet with us on Monday. Can you schedule a meeting for Monday morning to talk about your comments and concerns? Our executive, Greg Kutz, may be able to attend in person if he can work out the logistics. However, the rest of us will not be able to attend in person due to funding issues. Therefore, we will need a conference line also. I look forward to our discussion.</p> <p>Troy [REDACTED]</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin-left: auto;"> <p>— = Redacted by the Permanent Subcommittee on Investigations</p> </div>
4/17/13	CJM	Treasury Secretary Lew requested briefing from IG. Briefing held same day.
04/22/2013	TDP	I reviewed this document and noted adequate documentation of supervision (involvement) by Acting AIGA Martin, AIGA Kutz, Director Paterson, and A/M Seidell.
5/10/13	CJM	Received response from OI on search of IRS emails for identify of person who developed Tea Party criteria. <u>PA2.00</u>
5/10/13	CJM	IRS apologized for targeting Tea Party organizations in advance of our final report issuance.
5/10/13	CJM	TIGTA held briefings with Hill staffers. Provided Appendix VI (criteria timeline) and VII (comprehensive timeline) from our report.
5/13/13	CJM	Additional briefings held with several committee staffers.
5/13/13	CJM	House Ways and Means scheduled hearing for 5/17/13 at 9:00 am.
5/14/13	CJM	Final Report issued.

Process for Reviewing Applications for Tax Exemption
Closing Conference

MEMO OF CONTACT

Participants: Lois Lerner, Director Exempt Organizations
Meghan Biss, Technical Advisor
Greg Kutz, AIGA
Troy Paterson, Director
Tom Seidell, Audit Manager
Cheryl Medina, Senior Auditor

Date: March 25, 2013

Time: 11:00 am

Subject: EO comments on pre-discussion draft report

Details:

Director Paterson provided EO a pre-discussion draft of the report for review. Lois Lerner provided written comments for a discussion. AS6.w We went through the comments and the following are the main points made.

Comment 1: Although 501(c)(3) organizations are the majority of applications received, Ms. Lerner does not know what the total number of all other types of organizations combined is, so she does not think us saying most organizations are required to file is accurate.

Comment 2:

26 U.S.C. § 6103

Comment 3: We agree to change wording from actual to potential.

Comment 4: Ms. Lerner thinks the letters used the word expunged. Director Paterson asked if "destroyed" is ok because expunged may not be understood by everyone. She agreed.

Comment 7: Ms. Lerner wants more explanation of the application process.

Page 3: We need to determine the source of the figures cited by the Center for Responsive Politics. (Auditor's Note: The figures are from the Federal Election Commission. PAL.w)

Comment 9: Use of the term "political team" is inflammatory; the team is not just looking for political campaign intervention. It is referred to as the advocacy team because it is looking at all advocacy activities to make sure that social welfare is the primary activity. Ms. Lerner feels that the July 2011 criteria is what they should be reviewing: "Organizations involved with political, lobbying, or advocacy for exemption under 501(c)(3) or 501(c)(4)".

When a new issue is identified in Cincinnati (Determinations Unit), the EO Technical Unit requests a few cases to develop training. EOT sends development letters to the organizations, and some withdraw their applications. This requires additional cases to be requested from Determinations. All of this takes a while.

Director Paterson commented that the current criteria for identifying advocacy cases only refers to political campaign intervention and not all types of advocacy. Ms. Lerner stated that after the training in May 2012, the Specialists knew what political campaign intervention was, so changing the criteria to this was fine. The advocacy team is reviewing the applications for social welfare activities, not just political campaign intervention; all advocacy activities need to be considered.

Comment 10: Director Paterson asked how we should be referring to the various levels within the IRS. Ms. Lerner responded that at her level it would be the EO function or IRS; at Holly Paz's level it would be Rulings and Agreements; and at Cindy Thomas' level it would be Determinations.

Comment 11: Ms. Lerner is upset with the [26 U.S.C. § 6103] The report makes it appear that EO withheld information from us, which is not true. They have asked everyone, and no one knows who wrote the criteria. Mr. Kutz stated that someone has to know. Ms. Lerner stated that the staff put the BOLO together. She added that she has worked with TIGTA since 2001 and [26 U.S.C. § 6103]

26 U.S.C. §
6103

Comment 19: Organizations are required to file tax returns if they are denied tax-exempt status. If they have been in operation for 3 years and not filed an information return, if the organization is approved it will be automatically revoked.

Comment 21: Organizations must pay taxes retroactively if denied exemption.

Comment 23: The draft guidance was sent to Cincinnati for comment, not to use; training was provided instead of finalizing the guidance. There is a proposal to include 501(c)(4) guidance on the guidance plan for next year. This is not definite. Director Paterson commented that EO could respond to our recommendation to finalize the draft guidance with this action instead.

cjm
3/25/13

EXCERPT

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



*Tax-Exempt Applications Were
Inappropriately Identified for Processing
Based on Organization Names and Values,
but Corrective Actions Have Been
Taken Ineffective Oversight Resulted in
Delayed Processing of Tax-Exempt
Applications*

DRAFT

Phone Number / 202-622-6500
E-mail Address / TIGTACommunications@tigta.treas.gov
Website / <http://www.treasury.gov/tigta>



DRAFT - Tax-Exempt Applications Were Inappropriately Identified for Processing Based on Organization Names and Values, but Corrective Actions Have Been Taken Ineffective Oversight Resulted in Delayed Processing of Tax-Exempt Applications

We asked the Acting Commissioner, Tax Exempt and Government Entities Division; the Director, EO function; and other EO function personnel if the criteria were influenced by any individual or organization outside the IRS. All of these officials informed us that the criteria were not influenced by any individual or organization outside the IRS. Instead, IRS management stated that the criteria were developed solely by the Determinations Unit without managerial approval. IRS management informed us that the inappropriate criteria were developed by the EO function Determinations Unit for several reasons. The EO function developed and implemented inappropriate criteria due to ineffective oversight. For example, there was minimal management oversight or approval of the criteria before it was implemented. First, EO function Determinations Unit employees did not consider the public perception of using targeted, politically sensitive criteria when identifying these cases. In addition, the criteria developed shows a lack of knowledge in the EO Determinations Unit of what activities are allowed by IRC § 501(c)(3) and IRC § 501(c)(4) social welfare organizations. Lastly, inappropriate criteria were allowed to be implemented because there was no management oversight or approval of its development. There were no procedures in place to ensure that criteria developed by the Determinations Unit were approved by executive management.

EO function employees stated that they considered the "Tea Party" criterion as a shorthand term for all political cases.¹⁵ Whether the inappropriate criteria was shorthand for all political cases or not, developing and using criteria that focuses on organization names and values, instead of the activities permitted under the tax law, does not promote public confidence that tax-exempt laws are being adhered to impartially. In addition, the applications for those organizations that were identified for coordinated processing by the political team experienced additional delays and requests for unnecessary information that will be detailed later in this report.

Management Actions: Prior to July 2011, the EO function Director and the Acting Tax Exempt and Government Entities Division Commissioner stated that they were not aware of the improper coordinated processing criteria developed by the EO function Determinations Unit. After being briefed on the criteria in June 2011, the EO Director, EO function, immediately requested that the criteria be changed. In July 2011, the criteria were changed to focus on the activities of the organization. However, while this criteria was better than using organization names and values, it was subsequently changed by EO function Determinations Unit employees in January 2012 without executive approval because they believed the July 2011 criteria were too broad. The January 2012 criteria again focused on the values of organizations, instead of the activities of organizations. After 3 months, upon learning that the criteria had been changed again by the EO function Determinations Unit, the Director, Rulings and Agreements learned the criteria had been changed by the political team.

¹⁵ Based on our review of other criteria, the use of organization names on the BOLO listing is not unique to political cases.

Comment [KGDT20]: How do you know this, is this what they told us? Should we attribute to IRS? CM: We attributed it to the IRS.

Comment [KGDT21]: So we are saying all of this is local, what about HQ being unaware of what's going on in the field? CM: See reworded statement.

Comment [KGDT22]: Need to discuss whether the other 200 (100 tea party/9/12/patriot) and other 200 - how the "other 200" were selected? TDP: We do not know. Either the IRS was using "Tea Party" as shorthand and selecting any organization that was involved in political campaign intervention or the other 200 had something to do with the "values" in the criteria. We could not determine either way. Please see the next subsection on the next page.

Comment [KGDT23]: Isn't this a cause, HQ was admitted they were unaware of what was going on for 17 months? TDP: Agree - Removed statement.

Comment [KGDT24]: Were we OK with this? TDP/CM: The criteria is better than before, but still too broad.

Comment [KGDT25]: Again isn't this a finding of ineffective management, when was this changed and how long was it around? What did it say? TDP: Added how long this was around and that the criteria inappropriately focused on values. See Footnote 12 referring to Appendix V for all the various criteria that were used.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

January 28, 2013

MEMORANDUM FOR THE OFFICE OF CHIEF COUNSEL

FROM: Assistant Inspector General for Audit (Management Services and Exempt Organizations)

SUBJECT: Request for Assistance Regarding Internal Revenue Code Section 501(c)(4) and Treasury Regulation Section 1.501(c)(4)-1

In connection with our audit entitled *Consistency in Identifying and Reviewing Applications for Tax Exempt Status Involving Political Advocacy Issues* (Audit # 201210022), we are requesting the Office of Chief Counsel's opinion on the interpretation of Internal Revenue Code (I.R.C.) Section (§) 501(c)(4) made in Treasury Regulation § 1.501(c)(4)-1.

Background

I.R.C. § 501 states that, "An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503." Section 501(c)(4)(A) describes one type of organization included in this exemption as, "Civic 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."

Treasury Regulations were issued that provided further guidance on this I.R.C. § 501(c)(4). Treasury Regulation § 1.501(c)(4)-1 states 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.** An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements."

Appendices I and II include excerpts of I.R.C. § 501(c) and Treasury Regulation § 1.501(c)(4)-1.

	Initiator	Proofreader/ Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Office Symbols	IG:A:MSE	IG:A:MSE	IG:A:MSE					
Surname	Medina	Davis	Paterson					
Date	01/24/2013	1/24/13	01/24/2013					

Requested Counsel Opinion

It appears that the Treasury regulation contradicts the I.R.C. If an organization is required by law to operate **exclusively** for the promotion of social welfare, it's activities cannot be properly assessed using a lesser standard of **primarily** engaged in promoting the common good and general welfare of the people of the community and still meet the requirements of the law. The standards of **exclusively** and **primarily** are not the same when measuring levels of activity.

We are requesting Counsel's opinion on the following:

Is there any history of the Department of the Treasury's interpretation of I.R.C. § 501(c)(4) when developing Treasury Regulation § 1.501(c)(4)-1, any tax committee notes, or any other documentation that could explain the Department of the Treasury's requirement of organizations to only be **primarily** engaged in promoting general welfare of the community instead of operating **exclusively** for the promotion of social welfare.

Thank you for your assistance. If you have any questions, please contact Audit Manager Thomas Seidell at (781) 438-2215.

Appendix I

I.R.C. § 501(c) Excerpt

Sec. 501. Exemption from tax on corporations, certain trusts, etc.

-STATUTE-

(a) Exemption from taxation

An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

(c) List of exempt organizations

The following organizations are referred to in subsection (a):

(4)(A) Civic 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 particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Appendix II

Treasury Regulation 1.501(c)(4)-1 Excerpt

(a) *Civic organizations*—

(1) *In general.* A civic league or organization may be exempt as an organization described in section 501(c)(4) if—

- (i) It is not organized or operated for profit; and
- (ii) It is operated exclusively for the promotion of social welfare.

(2) *Promotion of social welfare*—(i) *In general.* 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. A *social welfare* organization will qualify for exemption as a charitable organization if it falls within the definition of *charitable* set forth in paragraph (d)(2) of §1.501(c)(3)-1 and is not an *action* organization as set forth in paragraph (c)(3) of §1.501(c)(3)-1.

MEMORANDUM OF INTERVIEW OR ACTIVITY

Type of Activity: <input type="checkbox"/> Personal Interview <input type="checkbox"/> Telephone Interview <input checked="" type="checkbox"/> Records Review <input type="checkbox"/> Other	Date and Time: April 17, 2013 through May 3, 2013
Activity or Interview of: Review of Electronic Mail in Support of the Treasury Inspector General for Tax Administration, Office of Audit	Conducted by: Special Agent in Charge James S. Jackson Electronic Crimes and Intelligence Division
	Location of Interview/Activity: TIGTA Headquarters 1401 H Street, NW. Suite 469 Washington, DC 20005

Subject Matter/Remarks

On April 17, 2013, the Treasury Inspector General for Tax Administration (TIGTA), Office of Investigations (OI), Electronic Crimes and Intelligence Division (ECID), received a request from the TIGTA Office of Audit to retrieve and conduct a keyword search of the electronic mail for Internal Revenue Service (IRS) Employees JOSEPH R. HERR, ELIZABETH L. HOFACRE, GARY A. MUTHERT, JOHN H. SHAFER and CINDY M. THOMAS. ECID was requested to use the keywords "Tea" or "Patriots" or "9/12" or "(c)(4)", to identify any electronic mail messages sent or received between the staff of the IRS Office of Exempt Organizations (EO), Determination Unit, that directed the Determination Unit staff to hold or stop processing applications for tax exempt status.

On April 18, 2013, the electronic mailboxes and decryption certificates for HERR, HOFACRE, MUTHERT, SHAFER and THOMAS were received from the IRS, decrypted and exported to searchable format by ECID, Digital Forensics Support Group (DFS) Special Agent (SA) KEVIN TREBEL. An initial automated search conducted by DFS SA KEVIN HOLSTON for the above keywords resulted in over 5,500 hits.

Between April 18, 2013 through May 3, 2013, a manual search and review of the above decrypted and exported electronic mail messages was accomplished by ECID, Special Agent in Charge JAMES S. JACKSON. This review revealed that there was a lot of discussion between the employees identified above, as well as other EO employees on how to process "Tea Party" and other political organization's tax exempt applications. The search also revealed that 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 group charged with reviewing these applications was not sure how to process them, not because they wanted to stall or hinder the application process. There was no indication from this electronic mail review that the pulling of these selected applications was politically motivated. The electronic mail traffic available indicated that there were unclear processing directions

Case Number:	Case Title:
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MEMORANDUM OF INTERVIEW OR ACTIVITY (continuation sheet)

and the group wanted to make sure they had guidance on processing the applications, so they pulled them in order to ensure they were all processed in a consistent manner.

Case Number:	Case Title:
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Stuber, Laura (HSGAC)

From: Carter Thomas E TIGTA <Thomas.Carter@tigta.treas.gov>
Sent: Thursday, April 24, 2014 3:31 PM
To: Stuber, Laura (HSGAC)
Cc: Lueptow, Michael (HSGAC)
Subject: FW: HSGAC PSI questions

Hi Laura,

Here are Greg Kutz's answers. I also believe one of the documents in the last release (TIGTA Bates No. 01694) relates to this issue. Please let me know if you have any questions or need further assistance.

Thanks,
Tom

Thomas E. Carter
Acting Deputy Chief Counsel
Treasury Inspector General for Tax Administration
1401 H. St NW, Room 414
Washington, DC 20005

(202) 927-0479 Office
(202) 622-3339 Fax

From: Kutz Gregory D TIGTA
Sent: Thursday, April 24, 2014 2:51 PM
To: Carter Thomas E TIGTA
Subject: RE: HSGAC PSI questions

We requested in February that OI review emails of certain individuals to determine whether they (OI) could identify an email that IRS had told us existed and then later said didn't, could be found. We also wanted to understand who had developed the inappropriate criteria. My letter was to Randy Silvis and that is who I primarily spoke to. We had a meeting in April with the IG to brief on the audit findings and OI was to brief on the status of request to review emails. At that point they expressed concerns about the scope of the email review, and I don't believe they had started pulling any emails at that point. I don't specifically recall Tim mentioning "fishing expedition" and my only reaction would be that we thought it would be prudent to look through emails for the reasons stated in the February referral letter. The ultimate resolution was to reduce the number of individuals whose emails were reviewed to a smaller number. I don't recall any disagreement since they had initially accepted the referral, but in the meeting the IG agreed that the emails should be reviewed before the report was issued. And they were.

Greg

From: Carter Thomas E TIGTA
Sent: Thursday, April 24, 2014 1:42 PM
To: Kutz Gregory D TIGTA
Subject: HSGAC PSI questions

Hi Greg,

Following up on our earlier conversation, I thought it might be better to get the answers in your own words to ensure accuracy and avoid me making any misrepresentations. Here are Laura's questions...

- 1) What is your reaction to Tim Camus describing OA's initial request for the "smoking gun" email as a "fishing expedition"
- 2) Describe any disagreement between OI and OA surrounding the OA request and how any disagreement was resolved.

If possible, I'd like to get this back to Laura by COB today. Please let me know if you have any questions or if you need more time.

Thanks,
Tom



INSPECTOR GENERAL
FOR TAX
ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20005

June 6, 2014

VIA ELECTRONIC AND FIRST CLASS MAIL

The Honorable Carl Levin
Chairman
Permanent Subcommittee on Investigations
United States Senate
Russell Senate Office Bldg., Room SR-269
Washington, D.C. 20510-2202

Dear Senator Levin:

This is in response to your letter of May 28, 2014, regarding the Subcommittee's investigation into oversight by the Internal Revenue Service (IRS) of § 501(c)(4) groups that engage in campaign activity. As part of this investigation, the Subcommittee reviewed the Treasury Inspector General for Tax Administration's (TIGTA) audit report entitled, "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review," Audit Report No. 2013-10-053. You asked us to respond to five questions. Our responses to your questions follow:

1. *Is it correct that the TIGTA audit found no evidence of political bias in how the IRS selected and reviewed 501(c)(4) applications filed by groups engaged in campaign intervention activities?*

The Office of Audit asked the Acting Commissioner, Tax Exempt and Government Entities Division; the Exempt Organizations (EO) Director; and Determinations Unit personnel whether the inappropriate criteria were influenced by any individual or organization outside the IRS. We reported that, "all of these officials stated that the criteria were not influenced by any individual or organization outside the IRS." I also testified before Congress that TIGTA found no evidence of political bias during this audit. However, it is important to note that the matter is being further reviewed.

2. *The TIGTA audit engagement letter stated the audit's "overall objective" was to examine the "consistency" of IRS actions in identifying and reviewing 501(c)(4) applications, including whether "conservative groups" experienced "inconsistent treatment." What conclusion did the TIGTA audit reach regarding whether conservative groups experienced inconsistent treatment by the IRS in comparison with liberal or progressive groups?*

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TIGTA's engagement letter actually stated that the overall objective of the audit was "to assess the consistency of the EO function's identification and review of applications for tax-exempt status involving political advocacy issues." Our overall objective was not to determine whether conservative groups experienced inconsistent treatment. Appendix I of our report shows that we, "determined whether the actions taken by the EO function to identify applications for tax-exempt status of organizations potentially involved in political campaign intervention were consistent" by reviewing all 298 potential political cases identified as of May 2012 that IRS forwarded to their team of EO specialists, as well as statistical samples of applications that the IRS did not forward to its team of EO specialists. In all, we reviewed more than 600 cases to determine if the applications involving political advocacy issues received consistent treatment. Our report concludes that:

"The inappropriate and changing criteria may have led to inconsistent treatment of organizations applying for tax-exempt status. For example, we identified some organizations' applications with evidence of significant political campaign intervention that were not forwarded to the team of specialists for processing but should have been. We also identified applications that were forwarded to the team of specialists but did not have indications of significant political campaign intervention. All applications that were forwarded to the team of specialists experienced substantial delays in processing."

Our audit report does not include the terms "conservative," "liberal," or "progressive," and TIGTA did not make any characterizations of the political views of any organizations.

3. *At a June 3, 2013 hearing before the House Appropriations Subcommittee on Financial Services and General Government, in response to a question about whether TIGTA's audit had "found any political motivation in reviewing tax-exempt applications," you testified:*

"But in the instance of the political activity matter, we did not uncover instances of groups that could readily be identified as being, you know, liberal, you know, for lack of a better term, that were treated in a manner that these Tea Party cases were."

Did you mean that the TIGTA audit uncovered instances where liberal groups were treated in a different manner than Tea Party groups? If so, please describe those instances and in what ways the liberal groups were treated differently.

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In the audit report, TIGTA did not characterize any organizations as liberal or conservative. Nor did we assess whether liberal groups were treated in a manner different than Tea Party groups. Our audit report used the terms Tea Party, 9/12, or Patriots because those were the terms the IRS represented it was using to select cases for further review for potential significant political campaign intervention. As stated in our audit report: "We identified some organizations' applications with evidence of significant political campaign intervention that were not forwarded to the team of specialists for processing but should have been. We also identified applications that were forwarded to the team of specialists but did not have indications of significant political campaign intervention."

In my testimony before the House Appropriations Subcommittee on Financial Services and General Government, I was conveying that, in the audit report, we did not characterize the political views of any organizations. Many of the names of the organizations used terms not readily categorized on the political spectrum, and we did not identify any objective criteria that we could use to label these groups in a manner that meets government auditing standards.

4. *Did the Be on the Look Out (BOLO) lists issued by the IRS ask IRS agents to be on the lookout for applications filed by progressive and liberal groups?*

As we stated in our audit report, we did not review the use of other named organizations or terms on the BOLO listings to determine if their use was appropriate, nor did our audit make any characterizations of the political views of any organizations. During our audit, we used the "Emerging Issues" section of the BOLO listing, which the IRS informed us was the criteria it used to identify potential political campaign intervention cases during the time period covered by our audit. However, the term "Progressives" appears on the BOLO listing in a section labeled "Historical." This BOLO entry refers to § 501(c)(3) organizations. The three "Progressive" cases included in the 298 potential political cases that were forwarded to the team of specialists as of May 2012 were § 501(c)(4) organizations. While we have multiple sources of information corroborating the use of Tea Party and other related criteria we described in our report, including employee interviews, e-mails, and other documents, we found no indication in any of these sources that "Progressives" was a term used to refer cases for scrutiny for political campaign intervention during the time period covered by our audit.

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5. *In his interview with the Subcommittee, Assistant Inspector General Gregory Kutz told the Subcommittee that all 501(c)(4) applications within the advocacy category of cases appeared to have received the same treatment by the IRS. Do you agree?*

Based on the recollection of Mr. Kutz, the response of "same treatment" would have referred to the delays in processing and tracking by the IRS of these cases. Specifically, as stated in our audit report, all applications (including 89 applications for § 501(c)(3) status) that we reviewed that were forwarded to the IRS team of EO specialists experienced substantial delays in processing. In addition, all of the 298 potential political cases that we reviewed were recorded on a tracking sheet by the IRS. However, it is important to note that no two applications were treated exactly the same since the information provided by applicants in each application differed. For example, for 296 of these cases,¹ as of December 17, 2012, 108 applications had been approved, 28 were withdrawn by the applicant, none had been denied, and 160 cases were open from 206 to 1,138 calendar days (some crossing two election cycles). In addition, the IRS Determinations Unit sent applicants requests for information that we later (in whole or in part) determined to be unnecessary for 98 (58 percent) of 170 organizations that received additional information request letters.

We hope this information is helpful. If you or your staff has any questions, please contact me at (202) 622-6500, or Acting Deputy Inspector General for Audit Michael McKenney at (202) 622-5916.

Sincerely,



J. Russell George
Inspector General

cc: The Honorable John McCain
Ranking Minority Member
Permanent Subcommittee on Investigations

¹ By December 17, 2012, two cases were no longer being processed by the team of EO specialists.