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ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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September 6, 2013

The Honorable James B. Comey, Jr.
Director
Federal Bureau of Investigation
953 Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Mr. Comey:

The Committee on Oversight and Government Reform is investigating the inappropriate treatment of certain groups applying for tax-exempt status. In an audit released on May 14, 2013, the Treasury Inspector General for Tax Administration found that the IRS asked inappropriate questions and targeted applicants.[1] The same day the audit was released, Attorney General Eric Holder announced the FBI would investigate the matter. The Attorney General stated:

> The FBI is coordinating with the Justice Department to see if any laws were broken in connection with those matters related to the IRS. Those were, as I think everyone can agree, if not criminal they were certainly outrageous and unacceptable. We're examining the facts to see if there were any criminal violations.[2]

A month after the Attorney General's comments, on June 13, 2013, at a hearing before the House Committee on the Judiciary, we were dismayed when your predecessor, Director Robert Mueller, was unable to answer even the most basic questions about the status of the FBI's investigation.[3] In one exchange, Mr. Mueller testified:

> Q Can you tell me some basics? Can you tell me how many agents, investigators you've assigned to the case?
>
> A I may be able to do that, but I'd need have to get back to you.

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[1] Treasury Inspector General for Tax Administration, *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review,* Reference Number 2013-10-053, May 14, 2013.
[2] Kevin Johnson and Gregory Korte, "FBI to investigate Tea Party tax affair," *CNN,* May 14, 2013. Available at <http://www.usatoday.com/story/news/politics/2013/05/14/irs-tea-party-investigation/2158899/>.
[3] *"Oversight Hearing on the Federal Bureau of Investigation": Hearing before the H. Comm. on the Judiciary,* 113th Congress (2013) (question and answer with Rep. Jordan).

Q Can you tell me who the lead investigator is?

A Off the top of my head, no.

Q This is the most important issue in front of the country in the last six weeks [and] you don't know who is heading up the case, who the lead investigator is?

A At this juncture, no.[4]

Mr. Mueller further testified that he did not know the status of interviews with victims of the IRS's targeting and had not been briefed on the issue since the investigation was launched. Director Mueller's lack of fundamental knowledge about an investigation regarding such an important matter was deeply troubling. The FBI recently sent the House Judiciary Committee limited answers to some of the questions posed to Mr. Mueller but failed to provide sufficient information about the status of the investigation.

In addition to apathy toward the IRS's activities, we are also concerned about allegations the Bureau involved itself in the scrutiny of organizations seeking to be recognized as tax-exempt. In one instance brought to the Committee's attention, a Tea Party group, the King Street Patriots, were contacted at least six times by the FBI, in addition to numerous other federal agencies. Again, the FBI provided only limited information to the Judiciary Committee in response to these questions.

To help the Committee better understand the circumstances surrounding the FBI's involvement as it relates to organizations seeking tax-exempt status, please provide the following information as soon as possible, but no later than noon on September 20, 2013.

1. All documents and communications referring or relating to the Internal Revenue Service's processing or evaluation of applicants for tax-exempt status from January 1, 2010, to the present.

2. All documents and communications referring or relating to the Tea Party or groups affiliated with the Tea Party movement from January 1, 2010, to the present.

3. All documents and communications referring or relating to the FBI's investigation into the IRS's mistreatment of groups applying for tax-exempt status from the IRS from May 10, 2013, to present.

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[4] *Id.*

In addition, I request a briefing for Committee staff on the FBI's inquiries concerning King Street Patriots and True the Vote. Please contact Tyler Grimm of the Committee staff by September 12, 2013, to schedule this briefing.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

Please contact Tyler Grimm or David Brewer with the Committee staff at 202-225-5074 if you have any questions about this request. Thank you for your attention to this matter.

Sincerely,

Darrell Issa
Chairman

Jim Jordan
Chairman
Subcommittee on Economic Growth,
Job Creation and Regulatory Affairs

Enclosure

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

The Honorable Matthew A. Cartwright, Ranking Minority Member
Subcommittee on Economic Growth, Job Creation and Regulatory Affairs

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Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.

3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.

4. Documents produced in electronic format should also be organized, identified, and indexed electronically.

5. Electronic document productions should be prepared according to the following standards:

   (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

   (b) Document numbers in the load file should match document Bates numbers and TIF file names.

   (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

   (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

   BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT,CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,

CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.

8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.

9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.

10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.

11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.

13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.

14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.

15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.

16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been

located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.

18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Schedule Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.

6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.

7. The term "employee" means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.