



New IRS Documents Show Lerner Did Not Need Conservative Group Donor Lists – Emails Mention “Secret Research Project” by Top IRS Official

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Documents also reveal that 75% of targeted non-profit groups were conservative, just 5% were liberal

(Washington, DC) – Judicial Watch today released [a new batch](#) of Internal Revenue Service (IRS) email documents revealing that under former IRS official Lois Lerner, the agency seems to acknowledge having needlessly solicited donor lists from non-profit political groups. According to a [May 21, 2012, memo](#) from the IRS Deputy Associate Chief Counsel: “such information was not needed across-the-board and not used in making the agency’s determination on exempt status.” Later, in her May 10, 2013, remarks in which Lerner first revealed in response to question she planted about the IRS targeting of conservative groups, she conceded that the requests for donor names was “[not appropriate, not usual.](#)” The new documents obtained by Judicial Watch also reveal that 75% of the groups from whom the lists were solicited were apparently conservative, with only 5% being liberal.

The documents came in response to an October 2013 Judicial Watch Freedom of Information Act (FOIA) lawsuit ([Judicial Watch, Inc. v. Internal Revenue Service \(No. 1:13-cv-01559\)](#)) filed against the IRS after the agency refused to respond to four FOIA requests dating back to May, 2013. The emails are contained in the sixth batch of documents the IRS has been forced to produce in response to the Judicial Watch FOIA lawsuit.

Contained in the newly released IRS documents is [an email](#) from Deputy Associate Chief Counsel Margo L. Stevens that was sent in response to a question from Lerner concerning attempts to return donor lists the IRS had controversially obtained. In Stevens’ May 21, 2012, email to Lerner, she wrote:

Lois, I wanted to get back with you with respect to your question whether TEGE [Tax Exempt & Government Entities] could return to those organizations from whom donor names were solicited in questionnaires following their submission of applications for recognition of their tax exempt status (under 501(c)(4)), now that TEGE has reviewed those files and determined that such information was not needed across-the-board and not used in making the agency’s determination on exempt status.

Key parts of this email and other documents the IRS produced to Judicial Watch have been blacked out. (Many of the documents are completely blacked out (or partially redacted) seemingly because they are allegedly “pre-decisional” or “deliberative,” information that might be exempt from disclosure under FOIA. The Obama administration’s decision to withhold this information is completely discretionary and is not required by law.)

A [subsequent IRS email thread](#) on June 27, 2012, revealed that inappropriately obtained donor lists were being used for a “secret research project” and that a top official wanted then-Acting IRS Commissioner Steve Miller to decide how to handle the issue. The email exchange, with the Subject line “donor names,” included the following:

- June 27, 2012: 8:59 AM — David L. Fish, [IRS acting director of Exempt Organizations Rulings and Agreements](#), to Holly Paz:

[Joseph Urban](#) [IRS Technical Advisor, Tax Exempt and Government Entities] had actually started a secret research project on whether we could, consistent with 6104, argue that [REDACTED] Joe was quite agitated yesterday when I told him what we were doing. (He was involved when the initial question was raised, but we didn’t continue reading him in). At one point he started saying that this was a decision for Steve Miller—I told him we were already doing it, and that I didn’t know whether Lois had already talked to Nikole [former IRS Chief of Staff to IRS Commissioner Steve Miller] about this. Would not be surprised if he already started working on Lois.

- June 27, 2012 9:02 AM — Holly Paz to David L. Fish:

Thanks for the heads up. The decision was made by Steve, based on advice from P and A. [Procedure and Administration]

Lerner’s and other IRS officials’ concerns about how to handle these donor lists came on the heels of an advisory from the Treasury Inspector General for Tax Administration (TIGTA) to her and other IRS officials in late March 2012 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.” The documents produced do not detail the “secret research project” nor disclose how the IRS used the donor names the agency improperly obtained.

Then-IRS Commissioner Miller initially testified to Congress on May 17, 2013 that “instructions had been given to destroy any donor lists,” but donor lists were actually produced to the House Ways and Means Committee four months later. The House Ways and Means Committee also announced at May 7, 2014 [hearing](#) that, after scores of conservative groups provided donor information “to the IRS, nearly one in ten donors were subject to audit.” In 2011, as many as [five donors](#) to one conservative (c)(4) organization were audited, according to the *Wall Street Journal*. And this past June, the IRS [admitted wrongdoing](#) in releasing the conservative National Organization for Marriage’s (NOM) confidential tax return and donor list, which were published in March 2012 by the Human Rights Campaign. The Human Rights Campaign is the chief political rival to NOM; its [outgoing president](#) had been named a national co-

chair of the Obama Reelection Campaign. The IRS reportedly agreed to pay NOM \$50,000 to settle the lawsuit.

The documents obtained by Judicial Watch also include a [July 18, 2012](#), email to Lerner from [Judith Kindell](#), senior technical adviser to Lois Lerner, showing that 75% of the nearly 200 non-profit 501 (c)(4) political activist groups targeted by the IRS were conservative, and only 5% were liberal:

Of the 199 (c)(4) cases, approximately 3/4 appear to be conservative leaning while fewer than 10 appear to be liberal/progressive leaning groups based solely on the name. The remainder do not obviously lean to either side of the political spectrum.

Shortly after this email exchange, another email chain on [June 28](#) between Lerner and Holly Paz, the [former director of the Office of Rulings and Agreements](#), shows that Lerner believed that the TIGTA and congressional inquiries into the IRS's practices were "dangerous":

- June 28, 2012 8:57 AM — Paz to Lerner: "Now TIGTA wants to talk to me. I am guessing they read this morning's paper. [Apparent reference to *Wall Street Journal* article concerning IRS scrutiny of Karl Rove's Crossroads GPS tax exempt status] Will keep you posted."
- June 28, 2012 9:13 AM — Lerner to Paz: "Not alone. Wait til I am there."
- June 28, 2012 09:17 AM — Paz to Lerner: "Sorry. Too late. He already called me. It was not about WSJ. Just him trying to get better understanding of the scope of the [House Ways and Means Committee Chairman Dave] Camp [R-MI] request."
- June 28, 2012 8:22 AM — Lerner to Paz: "Just as dangerous. I'll talk to you soon. Be there in half hour."

The "dangerous" Camp request to which Paz and Lerner referred was apparently a reference [to a letter sent in May](#) by Republican Chairman of the House Ways and Means Committee, David Camp, to IRS Commissioner Douglas Shulman requesting copies of all 501(c)(4) applications from 2010 and 2011. Despite the consternation expressed about the "dangerous" Camp applications request, an [August 14, 2012](#), email from Lerner to Paz revealed that as of that date, "...no one from the Hill has shown up to look at them."

The new documents also include emails further contradicting President Obama's February 2014 excuse that the IRS targeting was entirely the fault of "[bonehead decisions in local offices](#)." Obama was parroting Lois Lerner's May 2013 claim that the targeting of conservative groups was the fault of "[low-level employees in Cincinnati](#)" for the targeting of conservative groups. In the months leading up to the 2012 presidential election, Lerner and other top IRS officials made it clear that no "advocacy" applications should be approved or denied without express approval from Lerner's office in Washington, DC:

- [June 20, 2012](#): — Email from IRS attorney Michael C. Seton to managers in Exempt Organizations division defining targeted groups' approval procedures:

Please inform the reviewers and staff in your groups that before issuing any favorable or initial denial rulings on any cases with advocacy issues, the reviewers must notify me and you [Lerner and other senior IRS staffers] via e-mail and get our approval. No favorable or initial denial rulings can be issued without your and my approval. The e-mail notification includes the name of the case, and a synopsis of facts and denial rationale. I may require a short briefing depending on the facts and circumstances of the particular case.

- [June 29, 2012](#): – Email from Lois Lerner to Nikole Flax apparently criticizing the IRS Exempt Organizations Determinations Unit for taking too long to categorize non-profits as political and directing that top Washington IRS official Holly Paz would settle disputes over who was to be targeted:

Although Quality was on board and involved with the training, we are seeing some tendency for Determs staff to continue to over-develop political activity issue. When asked why, they say they are concerned that if they don't, Quality will ding them. If can't reach agreement, it comes to Holly.

- [June 26, 2012](#): — Email from Lerner to Holly Paz and Cindy Thomas in which Lerner notes that TIGTA asked for files directly from the Federal Records Center and warns that this makes sense in “context of a really sensitive investigation alleging political bias by the IRS.” [The Federal Records Act \(FRA\)](#) requires the preservation of official e-mails at the National Archives Federal Record Center. This email from Lerner was [dated during the same time period](#) during which the IRS claims her emails were lost and her Blackberry was “wiped clean” and “removed as scrap for disposal ...” [In violation of Section 3106 of the FRA](#), the IRS failed to notify the Archives that Lerner's emails were missing.

The IRS also produced an email exchange in which Lerner takes issue with IRS spokesman [Dean Patterson](#), who had revealed March 8, 2012, *Roll Call* article the existence of a “companion process” for administering applications for tax-exempt status. After Lerner received an advisory from TIGTA asking to discuss the *Roll Call* article, [the following email exchange](#) occurred:

- April 2, 2012: 7:00 PM — Lerner to Patterson:

Importance: High. As you can see below [email from TIGTA Audit Manager Thomas Seidell], we are meeting with TIGTA later this week. They have given us a list of topics they want to discuss. I am not familiar with the *Roll Call* article he sites –can you shoot us a copy please? Thanks

- April 3, 2012: 8:59 AM — IRS Public Affairs Specialist Burke Anthony to Lerner :

Lois, per your request, here is the *Roll Call* article. I put Dean's quote in bold; it's about 17 graphs into the story:

“Dean Patterson, a spokesman for the IRS, denied the existence of a special committee but said the IRS has a “companion process that administers the same provisions of the tax law in the context of new applications for tax-exempt status. The legal issues and the information that will inform our discussions will be similar in both contexts.”

- April 3, 2012: 9:26 AM — Lerner to Anthony:

Thanks—sorry, but I really have no clue what he means by a companion process that “administers the same provisions of the tax law in the context of new applications for tax -exempt status. The legal issues and the information that will inform our discussions will be similar in both contexts.” As I will need to talk to TIGTA about this on Thursday, perhaps you can give me a better sense of what he is referring to? I could guess, but don’t want to be guessing in this context.

On October 9, 2013, Judicial Watch filed a [FOIA lawsuit](#) against the IRS asking the District Court for the District of Columbia to compel the agency to produce records of all communications relating to the review process for organizations seeking 501(c)(4) non-profit status since January 1, 2010. The lawsuit also asked the court to order the IRS to provide records of communications by former IRS official Lois Lerner concerning the controversial review and approval process. The IRS failed to respond to the four FOIA requests at issues in this lawsuit dating back to May 2013.

The communications sought by Judicial Watch covered portions of the same period for which the IRS on June 13, 2014, [notified the Senate Finance Committee](#) that Lerner’s emails had been lost or destroyed but did not notify the Court or Judicial Watch about these missing emails. In response to our request for more information, U.S. District Court Judge Emmett Sullivan held a [July 10 hearing](#) and order the IRS to produce sworn declarations about its efforts to find and restore Lerner’s allegedly missing emails.

And then on August 25, Department of Justice attorneys for the IRS conceded to Judicial Watch that Lerner’s “missing emails” (and all government records) had been backed in case of catastrophe but that it would be too “onerous” to search this backup system for Lerner’s emails. The Justice Department has since put out anonymous statements alleging Judicial Watch “misheard” what its lawyers said and that the agency did not disclose “new” information about a back-up system.

It is not in dispute that the existence of any back-up system was withheld from the court despite two orders ([order 1](#), [order 2](#)) demanding specifically sworn declarations about where Lerner’s emails may be residing and effort to obtain them. The Obama administration has refused Judicial Watch’s requests to amend the sworn declarations and finally inform Judge Sullivan directly about this back-up system. Administration lawyers have steadfastly refused and subsequently submitted a “[status report](#)” to the Court on August 29 that, again, makes no mention of any back-up system.

Judicial Watch lawyers are preparing now to ask the Court for relief in light of the Obama administration’s continuing obstruction and contempt for Judge Sullivan’s orders.

“Again, Judicial Watch has uncovered more shocking emails from the IRS, forced out by a lawsuit and a federal court,” said Judicial Watch President Tom Fitton. “Now we learn the stunning news that Obama’s IRS had a ‘secret research program’ using illicitly-obtained confidential donor lists of conservative and Tea Party organizations that opposed President Obama’s agenda or reelection. With all this IRS abuse, it is no wonder Lois Lerner said that questions by Congress and others were ‘dangerous.’ And it is well past time that President Obama should be held to account about his repeated and recent falsehoods about his IRS scandal. Next up: Judicial Watch will ask Judge Sullivan for help in

requiring the Obama IRS to stop its obstruction and disclose the no-longer-missing emails of Lois Lerner and other IRS officials.”

<http://www.judicialwatch.org/press-room/press-releases/judicial-watch-new-irs-documents-show-lerner-need-conservative-group-donor-lists-emails-mention-secret-research-project-top-irs-official/>