

Hearing with IRS Commissioner Koskinen

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Hearing with IRS Commissioner Koskinen

Wednesday, February 5, 2014
U.S. House of Representatives,
Committee on Ways and Means,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:35 a.m., in Room 1100, Longworth House Office Building, Hon. Charles Boustany [chairman of the subcommittee] presiding.

[The [advisory](#) of the hearing follows:]

Chairman Boustany. The committee will come to order.

Welcome, Commissioner Koskinen.

On December 20th the Senate confirmed John Koskinen as the 48th Commissioner of the Internal Revenue Service. Commissioner Koskinen joins the Service after a very distinguished career in the leadership of Freddie Mac, the U.S. Soccer Foundation, as deputy mayor and city administrator of Washington, D.C., and as deputy director for management at the Office of Management and Budget, and before that as CEO of a management consulting firm where he helped to turn around large and troubled organizations, a career I am sure that is fitting at this point in time.

Commissioner Koskinen's career has centered on stepping in and repairing failing institutions, from private companies to the D.C. Government to Freddie Mac.

And given the challenges facing the IRS, I am very hopeful that the troubled agency will benefit from your experience, Commissioner.

The IRS is staffed with hard-working men and women who do a tough job collecting \$2.4 trillion in annual revenue and administering our complex and outdated Tax Code. But in recent years public confidence in the IRS has been severely shaken. In 2011 the committee investigated rumors that the IRS was seeking to interpret the gift tax and apply it to donors to right-leaning social welfare organizations. These rumors were proven true. The committee immediately took action to successfully halt this sudden and unexplained enforcement from the IRS.

The committee then began investigating allegations that the IRS was delaying and harassing right-leaning applicants for tax-exempt status. These rumors were also proven true, despite 2 years of denials. And now the IRS has recently published draft rules that would essentially codify the continued targeting of these very same groups.

These insults to the public's trust have occurred during a time when the IRS is taking on vast new responsibilities under the President's health law while the agency continues to struggle with many of its core essential missions of revenue collection and taxpayer service.

As I mentioned, over 2 years ago the committee began investigating allegations that the IRS was harassing individuals and organizations on the basis of their personal and political beliefs. Early last year the Treasury Inspector General for Tax Administration released an audit finding the agency had in fact targeted groups based on their policy views. For instance, if they had sought to, quote, "make America a better place," end quote, or based on their views and had named themselves with the words Tea Party or Patriot.

Following the release of the TIGTA audit, the committee sought and reviewed roughly 400,000 internal IRS documents and interviewed dozens of IRS personnel, ranging from frontline screeners in Cincinnati, all the way up to the former Commissioner. However, this ongoing investigation has been delayed. We

have hit a roadblock because the IRS has yet to provide all of the emails of the former director of exempt organizations, Lois Lerner.

Despite the fact that the committees investigating the matter have not in 6 months received all these documents requested nor conducted all the interviews sought, the IRS released a report just weeks after the TIGTA report declaring that no wrongdoing had occurred. The IRS came to this conclusion without conducting an investigation or interviewing any of the managers involved.

Commissioner Koskinen, if you have been told that the investigation is complete and no targeting occurred, you have been misled.

Last weekend, the President claimed in an interview there was not, and I quote, "not even a smidgen of corruption at the IRS," end quote, and he blamed the targeting on, quote, "boneheaded decisions by a local office," end quote. Now, this committee has actually investigated the matter to a significant degree and found otherwise. I believe the President's staff is either very poorly informed or they are actually misleading him.

Despite the fact that the investigation is ongoing, in November 2013 the IRS also proposed new rules for 501(c)(4) organizations that would push many of these targeted groups out of the public square completely. The draft rules would upend regulations that have been in place since 1959. They would perversely incentivize political activity by 501(c)(3) charities.

These rules were proposed because of, in the IRS' words, quote, "considerable confusion," end quote, by IRS employees over 501(c)(4) political activity. But the Committee on Ways and Means has actually investigated the matter and interviewed frontline employees in the Exempt Organizations Division and the committee has found no confusion. IRS screeners were competent, well equipped to evaluate applications for tax-exempt status for groups with political activity. The new rules do not seek to clarify, they seek to silence.

We also spent time meeting with the victims, the organizations and individuals that had been targeted, something that the IRS still has not done. These problems come against the backdrop of an unprecedented backlog in applications for 501(c)(3) applications. This is up over 500 percent from a year ago. They come in the context of an estimated \$140 billion in improper payments processed by the IRS in the past 10 years and a growing plague of identity theft. In some cases identity theft has led to over a million dollars in fraudulent refunds going to single addresses or bank accounts, and in one case we have uncovered \$156,000 sent to a single address in Shanghai, China. This gross waste of taxpayer dollars must come to an end.

Finally, this occurs as the IRS begins implementing the single biggest change to the Tax Code in a generation, the healthcare law. The healthcare law has charged the IRS with administering 47 new tax provisions, collecting over \$1 trillion in tax increases, and looking at very complex tax credits, refundable tax credits.

So, Commissioner, the task before you is daunting. Your charge is to restore public confidence in the IRS, rid the agency of mismanagement and political bias, and stop the hemorrhaging of taxpayer dollars to crooks and fraudsters.

I want to emphasize, in this charge the Ways and Means Committee is your friend. We are not your adversary. But I cannot stress enough how important it is that we build a cooperative and productive relationship going forward. You will serve as Commissioner for 5 years, so your relationship with the committee will be a long one. It can be a productive relationship or it can be an adversarial relationship. We have to make this productive.

Just this week you announced, to my surprise, that you would change an earlier decision and award over \$43 million in bonuses to IRS employee union members. This occurred at a time when the IRS is constantly complaining about the scarce resources. Making matters worse, the IRS failed to inform the committee of this decision in advance of the announcement, despite knowing that this was a subject of concern for this committee and the subcommittee in particular. Adding insult to injury, as we will get to later, the IRS continues to withhold documents requested by this committee pursuant to the ongoing investigation.

Commissioner, we need you to turn these documents over. The agency owes us and the American people these documents so we can get this relationship off to the right start, we can clear the slate, get a clean slate going forward so that you can implement the reforms you want to do, restore the trust of the agency, and we can carry on our oversight activities, and then we can address some of the other ongoing future problems with the IRS.

So with that, I now yield to the distinguished ranking member from Georgia, Mr. Lewis.

Mr. Lewis. Good morning. Thank you, Mr. Chairman, for holding this hearing. I am pleased to welcome the new Internal Revenue Service Commissioner, John Koskinen, to the Ways and Means Oversight Subcommittee.

Mr. Commissioner, you have a tough job ahead of you, and I want to thank you for accepting this challenge, for being willing to serve. Please know that many of us want to work with you to address the financing, service, and staffing problems facing the IRS.

As you know, the recent omnibus funding bill provided \$11.2 billion for IRS operations in fiscal year 2014. This is a \$1 billion decrease from the year 2010. I am very concerned about the unavoidable reality of these budget cuts. Today there are 1,000 fewer IRS workers struggling to meet a heavier workload. Now it will take much longer for taxpayers to receive responses to their inquiries.

And the backlog is not a dream, it is grounded in cold, hard facts. The IRS staff must process 5 million more individuals' returns and answer 15 million more phone calls with \$1 billion less. Let me say that again: 5 million more returns, 15 million more calls, and \$1 billion less. My friends, you can only get out what you put in and you cannot get blood out of a turnip.

In particular, I am very concerned that the IRS' longstanding practice of assisting low-income, elderly, and disabled taxpayers in preparing their returns has been discontinued because of these cuts. Why is this Congress so determined to balance the budget on the backs of the poor?

Enforcing tax laws, collecting taxes, and providing service to taxpayers are some of the most vital responsibilities of our government. We cannot keep robbing Peter to pay Paul. Congress cannot cut the IRS budget and hope taxpayers will continue to receive the service they expect and they rightly deserve.

It is not just the Commissioner who has called for more resources, but also the IRS Oversight Board, the Taxpayers Advocate, and the Treasury Inspector General. When taxpayers cannot get the help they need and deserve from a Federal agency, they turn to us. I am hopeful that this committee and the Appropriations Committee will listen. We must do everything in our power to support this agency and its staff.

In closing, I would like to thank you for being here today. I look forward to your testimony and working with you and the members of this committee to address these important and other issues.

Thank you, Mr. Commissioner.

Thank you, Mr. Chairman.

Chairman Boustany. Thank you, Mr. Lewis.

Chairman Boustany. Now it is my pleasure to welcome our witness, the Honorable John Koskinen, Commissioner of the Internal Revenue Service.

Welcome, Commissioner. I know this is your first appearance before the Ways and Means Committee, subcommittee included, and certainly your first appearance since confirmation before Congress. So we welcome you. We thank you for your time today.

We look forward to discussing many of these very serious issues facing the IRS. And I want to assure you, we have shared goals in this, and we want to, as I said before, wasn't to clear the slate so that we can move forward to achieve the real reforms that you hope to institute, and this committee will be a partner with you in that.

Your written statement will be made part of the formal record. We will give you 5 minutes, as is customary, to deliver oral comments, and then we will open up for questions.

You may begin, sir, when you are ready.

STATEMENT OF THE HONORABLE JOHN KOSKINEN, COMMISSIONER, INTERNAL REVENUE SERVICE, WASHINGTON, D.C.

Mr. Koskinen. Thank you. Chairman Boustany, Ranking Member Lewis, and members of the subcommittee, I appreciate the opportunity to appear before you today to give you an overview of IRS operations, and I look forward to a productive working relationship for the remaining years of my term.

I am honored to serve as the IRS Commissioner and to have the opportunity to lead this agency and its dedicated employees because I believe that the success of the IRS is vital for this country. The IRS touches virtually every American. I want to outline for you what I believe are the IRS' key challenges and what I will focus on going forward.

First and foremost, we just started a new filing season last Friday. We sometimes lose sight of what a tremendous accomplishment it is for the agency to process efficiently almost 150 million individual taxpayer returns, with 120 million of them being filed electronically. I am confident that, thanks to the hard work of our employees, this filing season will go well.

Another priority for our agency is to put to rest all of the issues and concerns surrounding the application process for tax-exempt status. The management problems associated with 501(c)(4) applications have shaken public trust in the IRS. Under the leadership of former Acting Commissioner Danny Werfel, the IRS has already made great progress in this area, and it is my job to help make sure we complete the work. In every area of the IRS, taxpayers need to be confident that they will be treated fairly, no matter what their background or their affiliations. As the chairman noted, public trust is the IRS' most valuable asset.

The IRS also needs to build on the progress that has been made to improve tax compliance in a number of areas. One of the most critical is refund fraud caused by identity theft. The IRS has gotten much better at resolving identity theft cases. We closed 963,000 last year, almost double the number for the year before. And we are resolving cases faster. On average it now takes 120 to 135 days for new cases to be resolved compared to more than 300 days in previous years. But we can and will do better.

Along with enforcement, the IRS also needs to keep looking for ways to improve the service we provide to taxpayers which is critical to ensuring that our system of voluntary compliance works properly. We continue to upgrade our Web site, IRS.gov, and are adding more online tools and services this filing season to make it as easy as possible for taxpayers to determine the amount they owe and to pay that amount on time.

Another priority is fulfilling our responsibility to implement tax-related provisions of enacted legislation, including the Affordable Care Act and the Foreign Account Tax Compliance Act.

On the management side, I strongly believe that the success of the IRS depends on the experience, skills, and enthusiasm of our employees. I am committed to doing everything possible to ensure that they have the leadership, systems, and training to support them in their work and to allow them to reach their full potential.

To keep making progress in all the areas I just mentioned, the IRS needs to have adequate resources. I am deeply concerned about the significant reduction in the IRS budget over the last several years. As noted, our current funding level, at just under \$11.3 billion, is roughly \$900 million to a billion below what it was 4 years ago. We now have about 10,000 fewer employees than 4 years ago, including 3,000 fewer revenue agents and officers.

One of our biggest concerns is being able to deliver the services taxpayers need during the filing season. Last year, for example, about 40 percent of taxpayers who called the IRS were unable to reach an IRS employee. That is unacceptable. But we don't see that number improving much, if at all this year, and we are worried there will be often be extensive wait times for taxpayers trying to get through. Expanding our online offerings can only go so far to ameliorate this problem.

Amid our budget difficulties I recognize that there has been a loss of confidence within Congress in regard to the way the IRS has managed its operations. One of my responsibilities is to ensure that we quickly resolve management and operational problems that may arise so the Congress can be confident our funding will always be used wisely.

I look forward to working with Congress and with this committee to solve this budget problem. I hope that one of the legacies of the 4 years remaining in my term as IRS Commissioner is that we will be able to put the agency's funding on a more solid and sustainable basis.

That includes my preliminary comments, and I will be happy to entertain your questions.

Chairman Boustany. Thank you, Commissioner.

[The statement of Mr. Koskinen follows:]

Chairman Boustany. Two days ago the IRS announced it had reached a deal with the IRS employee union, the National Treasury Employees Union, to award over \$43 million in bonuses to unionized employees. The IRS also announced new bonuses for managers and executives, and this comes at a time when every agency is certainly struggling to do more with less, and we are open to that, we are sympathetic to that, and the IRS is blaming declining customer service on insufficient funding.

But many Americans, frankly, and I hear this in my district and I think others as well, are surprised to hear that IRS employees are unionized. They will be even more surprised at how much money is being spent on union activity. Last year, as oversight chairman, I looked into this question and found that in 2012, IRS employees used almost 600,000 -- 600,000 -- hours of official work time on union activity and spent hundreds of thousands of taxpayer dollars on travel expenses for union events.

So, I mean, I understand that the question of why IRS employees are unionized predates your confirmation. I mean, that is known. But can you tell us why the IRS is now reversing a decision that Danny Werfel when he was your predecessor made? He put these bonuses on hold. Why did you reverse that decision? And will union members continue to be able to use official time to engage in union activity, and will you seek to do something to change that type of what seemingly appears to be an abuse to the American people?

Mr. Koskinen. Mr. Chairman, I appreciate that question. First of all, let me make it clear, these are not bonuses, these are actually performance awards. They will not be made to every employee. In the last year that performance awards were made a third of the employees got no bonuses. The performance level is determined by managers, not the employees as we go forward.

Chairman Boustany. But are these built into the union contract?

Mr. Koskinen. The union contract provided or provides that the performance award pool will be 1.75 percent of bargaining unit employees. Last summer, Danny Werfel confronted a very difficult decision, which was in light of the sequester how many furlough days would be necessary to continue to operate the IRS. If the performance awards had been made last summer one of the options would have been to increase furlough days.

So the IRS under Danny's leadership took the position that under the contract the IRS had the ability to negotiate the 1.75 percent down to zero percent. The union disagreed, filed an unfair labor practice grievance and a lawsuit. All of those legal actions are pending.

In the negotiations with the union, we are negotiating a new 5-year agreement in which we are discussing with them the appropriate amount of time that should be spent on union activities. In the course of that agreement, we reached a settlement with the union that we would settle all of the unfair labor practice grievances, the lawsuits and everything else, not by providing a pool of 1.75, but providing a pool of 1 percent for performance awards that would be made according to the performance of the employees.

I would note that one of the achievements in that negotiation with the union is for the first time we will actually align the timing of performance awards for bargaining employees with the performance awards for managers in the IRS. The result of that transition is that we will not be paying any more performance awards this year than are in our budget. In effect, the performance awards for this year will be paid in the next fiscal year. So it is no additional funding cost to the IRS, it settles significant litigation, and it is performance awards made to a set of employees who have had no pay raises for 4 years. Up until this year and otherwise have been constrained in terms of limitations on their training, their travel, and the support we provide to them.

So ultimately, I think the morale of the IRS employees is a significant concern to everyone. Federal employees in general have had a tough time the last few years with no pay raises, the government shutdown, and furloughs. IRS morale has not been improved, obviously, with the discussions over the last year which focus on an important set of issues, but involve 800 employees in the Exempt Organization unit. We have almost 90,000 employees across the IRS.

So I think it is important to see this in the perspective in terms of they are performance awards, they will only go to probably somewhere between 50 and 65 percent of the employees, and they allow us to settle litigation which would have cost us, if we lost it, 1.75 percent rather than 1 percent. So we spent a lot of time thinking about this in the middle of the negotiations with the union and I am comfortable that it is appropriate. As I said to the union and the employees, it is an appropriate compromise and an important signal to our employees that we value their contributions to the operation of the agency.

Chairman Boustany. I appreciate your answer, but just so I can get a clarification, in the contract negotiations you are going to address official work time being used for union activity?

Mr. Koskinen. We are. We are discussing that and negotiating that with the union. We are looking at the official work time that is spent in other agencies. We are discussing with the union ways that work time can be used more efficiently. We have had significant, over 80 percent cuts in travel and training across the board, which has included travel for the union. So the amount of travel spent by unions for union business last year was relatively minimal.

I will say, as I said in my prepared testimony, that while I again understand the pressures trying to meet the sequestration levels of last year on the agency, my experience in the private sector is when times are tight, the first thing that goes is training. My experience is the last thing that should go is training. What we need to do is make sure that we provide sufficient training to our employees so that they are comfortable and adequately informed to deal with the American public. So we will spend more money this year on training, not as much as we have spent in the past, but probably more money than we spent last year.

Chairman Boustany. I just want to make clear that our constituents want to make sure that taxpayer dollars are being used for legitimate official activity and obligations and responsibilities and not for union organizing and political activity.

Mr. Koskinen. I think those are always legitimate concerns, but the unions legitimately are there. They have a negotiated right to represent employees. They are in fact an important partner for us in the management of the agency. And so there is a significant amount of work they do that is appropriate, is legitimate, and furthers the operational ability of the agency.

So I think it is an important question to make sure that it is within appropriate bounds, but there is a significant amount of union activity that is important and is legitimate and deserves to be supported.

Chairman Boustany. I thank you. We will follow this with you closely and look forward to seeing how the progress goes with these contract negotiations.

To change subjects now, for nearly 8 months this committee has had an outstanding request for all of Lois Lerner's emails. These files exist at the IRS. The committee is authorized to receive 6103 information, so no editing, censoring, or redacting should be necessary. Yet the agency has continued to withhold these documents, which impedes and prolongs this investigation.

Commissioner, can you tell the subcommittee how many Lois Lerner documents and how many emails still exist within the scope of this committee's request that we have not received?

Mr. Koskinen. I do not know the number of that. As you noted, along the way you have received over 500,000 pages of IRS information. My understanding is that we are working with the committee, continuing to work with the committee to get you the documents you need; that you already have the responsive and relevant Lois Lerner emails for the timeframe in question, but that our people are working with you and your staff to make sure that we get you all the information you need to resolve this investigation.

As you and I discussed, nobody wants this investigation to be completed sooner than I do. I think we need to get the facts out. We have six investigations going on. My hope is that some consensus about what went on will arise from those reports. I look forward to them. As the facts are actually determined by your investigation and the others, we will deal with those facts and my hope is then be able to move on, taking the necessary steps to assure not only the committee, but the public that the problems have been solved.

And as I said, I want everyone in the United States who is a taxpayer to understand and be confident that when they deal with the IRS, we will deal with them in a straightforward way. No matter what their political beliefs, no matter what organization they belong to, whatever church they belong to, whether they belong

to any church; that if you deal with the IRS, we will deal with you in a straightforward, honest way, and we will deal with everyone in the same way.

Chairman Boustany. Well, I just want to assure you that it is in your interest to clear this deck and in ours to get this investigation done so that you can move forward to institute the reforms. So I just want to make sure we have your solid commitment to expedite the forwarding of these documents that we have requested. We have a number of outstanding issues that we need to cover and we want to get these things cleared out as quickly as possible.

Mr. Koskinen. As I say, I think it is in everybody's interest. It is clearly in the interest of the agency, clearly I think in the interest of the public to get to the bottom of this as quickly as we can and then move forward with it.

I met with Chairman Camp. He gave me the list of the things he thought were outstanding. My understanding is we are well on the way to delivering at least half of those. We are I think narrowing the field, and our goal really is to have you feel comfortable that you have gotten the documents you need to close this investigation. And, as I say, my view is the facts will be what they are and we will deal with them accordingly.

Chairman Boustany. Thank you, Commissioner. Just this morning I reviewed with Ways and Means staff the seven items that Chairman Camp requested from the IRS.

Mr. Koskinen. Right.

Chairman Boustany. And as of this morning we have only received or really completed concerns on one of those seven. So if we can address that and get those seven items into the hands of the committee that Chairman Camp requested, that will certainly help us move forward.

Mr. Koskinen. It is at the top of our list. And I appreciated having a list because it again allows us to focus on what you actually need and what is left. My understanding is that I think we are doing better than the one, but we are clearly committed to working through that list with you and with the chairman.

Chairman Boustany. Thank you.

Last week Chairman Camp wrote asking that you provide all documents pertaining to the recent 501(c)(4) rulemaking that we both talked about today. It asked for these documents by February 13th. Can you confirm whether the IRS will provide these documents within the requested timeframe?

Mr. Koskinen. We and the Treasury just received that letter from the chairman. As you know, this is not a concluded rulemaking. We are in fact at the front end of the rulemaking. The draft proposal was issued before I became Commissioner, actually before my hearing, which made the hearing more interesting, and it asked for comments on the three basic issues of the regulations; that is, what should be defined as political activity, how much of that activity can be allowed for organizations of any kind and what the percentage is, and to which organizations in the 501(c) exempt area should any of those definitions and regulations apply.

At last count, I am told we have received over 21,000 comments, which sets a new American record for responses to draft regulations. But we are in the middle of that process. The comment period will close at the end of this month, so I would encourage anyone else who has a view on it to provide that. It will take some time to go through those comments. We will probably have a public hearing on it.

So the issue in the middle of that process of providing information about who talked to whom and what they had to say is complicated. Because what we don't want to do is interfere with the internal discussions

and review of those comments and the proposal of what the potentially final regulation would look like for more comment.

But we are anxious to work with the chairman in terms of making sure you have information. As I say, we would like to close the 501(c)(4) issue. The issue of how the regulations were defined and designed is to my mind somewhat of a separate issue and we need to discuss that with you. But I would stress we are at the front end of that process, and so we need to be careful that we don't, in effect, interfere with that process as it goes forward.

Chairman Boustany. Thank you.

And finally, years before Lois Lerner's admission that the IRS targeted conservative groups, the committee opened an investigation into allegations that conservative donors were being targeted. Our fears were confirmed when we discovered that the IRS inappropriately asked several groups for information about their donors. And even though the IRS says donor information was destroyed, the committee has found examples of donor information still in case files, and to date the IRS has been unable to tell the committee whether the IRS has taken action against any of these donors.

So, Commissioner, can you tell us with certainty whether any donors were audited or otherwise targeted based on the information the IRS improperly solicited from these groups?

Mr. Koskinen. My understanding is those donor lists are have been destroyed, that anyone audited is being audited for reasons other than their process there. One of my concerns in terms of the public confidence in the IRS is even with diminished resources and even though we have fewer audits now than we have had over the last 5 years on average, we still audit, some of them are just letter audits, send out 1.4 million audits a year.

So somebody on that audit list is likely to be an active Democrat. Somebody else is likely to be to be a visible Republican. Somebody is clearly going to belong to one of the organizations here just statistically. And I am concerned that people, everybody getting now a notice from IRS may think, well, it must be because of something I said, a meeting I went to.

And I can assure you we have looked into this. The audit selection procedures we have reviewed and are independent, there is a very detailed process by which audits are determined for selection. And as far as I am able to say, I can guarantee you no one has been selected for an audit because they showed up, at least since I have been around, because they showed up on any of those lists, because those lists are no longer available to anyone in the country, including in the IRS.

Chairman Boustany. I thank you. And the committee, of course, will continue to follow along with any problems or concerns expressed by our constituents on these items. But let me just close out by saying, if you would, these seven items that Chairman Camp has requested formally, we hope we can get these things taken care of as quickly as possible.

Mr. Koskinen. I agree. I was delighted, as I said, to get the list. We are working with the chairman's staff and we are trying to get those documents to you as quickly as we can, because, as I say, it is a very helpful list to get an idea of what does it take to get to closure.

Chairman Boustany. Right. And many of these are letters that we submitted months ago trying to get information. So we want to get all of this cleared out so you can move forward working with this committee to ensure trust in the IRS once again on the part of the American people.

Mr. Koskinen. I appreciate that, Mr. Chairman.

Chairman Boustany. Thank you.

Mr. Lewis.

Mr. Lewis. Thank you very much, Mr. Chairman, for yielding.

Mr. Commissioner, it is my understanding that the union that represents the rank-and-file IRS employees was started many, many years ago, maybe during the thirties.

Mr. Koskinen. That is my understanding. In fact, I dealt with all of the government unions 20 years ago when I was the deputy director for management, and the NTEU then was a very active representative of IRS employees.

Mr. Lewis. Is it your feeling or your knowledge that the union has played a major role in assisting the IRS in carrying out its mandate?

Mr. Koskinen. It is my understanding. I have had a long career of dealing with organizations in the private sector as well as the public sector that have unionized employees. The city of Washington, when I was responsible for day-to-day operations, was represented by a range of unions. And much as the chairman said, you can have relationships that are productive in those situations or you can have contentious relationships. And just as I look forward to an effective working relationship with this committee, my experience dealing with unions is that they have been very effective partners, if you make them partners.

I was a senior member of the Labor-Management Partnership Program that was set up in the mid-nineties here, we had a very active labor-management partnership program at the city of Washington, and I look forward to a very productive working relationship with the union. We won't always agree with everything in the negotiations, but they serve a very valuable role in terms of working with us to make sure that we are understanding what is going on, on the front lines and that we are listening and responding to those concerns.

Mr. Lewis. Mr. Commissioner, I want to go back to something I tried to raise in my opening statement. I know the IRS budget has been your biggest challenge. The lack of the necessary resources, the cuts, what impact is this having on your ability to carry out the mandate of the IRS?

Mr. Koskinen. It cuts across the board. The inspector general last fall noted that, as he looked over time, that compliance revenues were down, his determination was \$8 billion in response to the billion dollars of cuts. There are other numbers that say it is 4 or 5 billion dollars in difference.

It is clear that historically over the last 30 or 40 years, that the more funds the IRS has available for enforcement, the more funds it collects. The entire compliance activity of the agency, money we collect, is between four and five times the entire budget of the IRS. This year we have 3,100 fewer revenue agents and officers than we had 4 years ago, which means we are going to do fewer audits, we are going to have fewer compliance activities.

Somehow that has never resonated as much as what people now begin to understand, is that I view taxpayer services as the other side of compliance. We need to make it as easy as possible for taxpayers to pay so they have confidence in the system. As I noted, taxpayer services have suffered not because our employees aren't working hard, but because there are fewer of them. When 40 percent of the people cannot get anybody on the phone, and that is likely to be the circumstance this year, it is not helping taxpayers, it is not helping taxpayer compliance.

I met with revenue agents and officers in Philadelphia. I am traveling to the 25 largest IRS offices across the United States. They talked with me about the concern they have that we don't have enough people to be able to in fact send out the 100,000 additional letters and audit inquiries that we would normally have sent out this year if we had the resources.

So across the board, I have already been to six offices, I am off to Dallas and Jacksonville this week, the major concern I hear in employee town halls in which they are allowed to ask me any question they would like, is that in every department of the agency, including the legal operation, we are understaffed. And it means that people are working harder, trying to do their best, but it means ultimately that we are not performing as well.

And one of the reasons I have made a bigger issue of this is, as I said at my confirmation hearing, to some extent you get what you pay for. We get more than probably we have a right to deserve for the work of these employees under the stress they are under. But I think it is important to understand what we are not going to get because we are not paying for it.

Mr. Lewis. Well, I want to thank you for making a trip to Atlanta. I visit the people there from time to time and there are hundreds and thousands of hard-working IRS employees there. I want to thank you.

I yield back, Mr. Chairman.

Mr. Koskinen. My wife worries a little about this two-city-a-week trip. But my experience in the private sector and in the public sector has been the people who know best about what is going on in an organization are the frontline workers, and one of the things I hope to encourage in the IRS is more information flow from the front line up to the top.

As I have told workers, if there is a problem, it is my problem and we will work together to solve it. If it there is a mistake, it is my mistake and we will work together to solve it; and if there is a problem I don't know about, that is my fault, because that means I have not developed a culture where people are comfortable that if there is an issue they can raise it without, in fact, any concern.

So I have told people my way of running organizations is bad news is good news, that I can't help solve a problem if I don't know it exists. So I have encouraged people. I chaired the cross-government organization of inspectors general when I was at OMB for 3 years, and I have tried in the private sector to remind people internal auditors are your best friend. I have told government executives during my career that inspectors general are your best friends.

Internal auditors and inspector generals don't create the problems, they simply advise you about the problem before it gets bigger. And we are all human. If you make a mistake you kind of hope nobody notices. But my experience is problems don't get better with age, they get more complicated, they get more difficult.

So one of the things I hope to encourage in these trips, I will go to offices that cover about 55,000 to 60,000 employees, is to send the message that we are all in it together. I am prepared to stand behind them, but I need to know what they know. I need to have their suggestions for how to improve operations. I need to know where they think there are problems.

Mr. Lewis. Thank you.

Chairman Boustany. I thank the gentleman.

Commissioner, we are joined by the chairman of the full committee, Chairman Camp, and he is going to ask some questions.

Chairman Camp. Well, thank you, Mr. Chairman.

Commissioner, I happened to hear the exchange regarding the 501(c)(4) regulations, and what we are requesting is everything up until the regulation was issued. As you know, it was issued on Black Friday, the day after Thanksgiving, the proposed regulation. So what I would like, not to interfere with the regulatory process, but to get all communications up until the regulation was issued, and I think you should be able to comply with that without having any interference with the ongoing process. So I would hope you would comply with that and cooperate with the committee in that regard.

Mr. Koskinen. As you and I discussed, I am anxious to cooperate with the full committee as well as this subcommittee, because I do think we have substantial joint interests in improving the operations of the IRS.

Chairman Camp. Well, thank you. I heard the point, and I want to move on to something else now.

Commissioner, the Obama administration has tried to blame the IRS' targeting of conservative and Tea Party groups on low-level workers who were confused about how to process their applications. And on Sunday the President claimed the targeting was based on a 501(c)(4) law that people think is confusing, and that is a quote. And, frankly, that assertion I find a bit confusing because nowhere in our investigation have we found that to be the case.

I would like to display an email.

[Slide]

Chairman Camp. Are you aware that when a screener in Cincinnati first alerted his superiors to certain Tea Party cases in February of 2010, that he didn't do it because he was confused? He said in his email, and I am quoting and it is displayed on the screen, "Recent media attention to this type of organization indicates to me that it is a high profile case," end quote.

So did you know that it was media interest and not confusion about the law that started this?

Mr. Koskinen. I did not know that. I have not been participating in any part of the investigations. All of this happened obviously before I started. As you heard and as we discussed, my view is that we now have six investigations going on, two in the House, two in the Senate, the Justice Department and the inspector general. My goal is to get everybody the information they need to get these investigations closed and to determine what the facts are.

Chairman Camp. Okay. Then I would certainly urge you to go back and look at the facts, to read that email. Because in addition to flagging it because of media attention, the Cincinnati worker correctly quoted the IRS' procedures regarding the processing of these kind of cases. He was clearly not confused. He knew exactly what he was doing. And it was Washington, D.C. that told him to hold and sit on these cases.

So I understand that when new subjects pop up sometimes people aren't sure how to react to them, but, again, that isn't the case here, and the rules for 501(c)(4) organizations are well established.

Do you know how long the rules have been in place for these regulations?

Mr. Koskinen. The statute was passed some time ago. In 1959 the Eisenhower administration made the determination that the wording "exclusive" in the statute, which could be interpreted in a lot of different ways including no activity, should be interpreted that exclusively engaged in social welfare activities should mean primarily. And since 1959 that has been the standard, as I understand it.

Chairman Camp. So these have been in place for more than half a century. So the IRS and its employees have been dealing with these groups for a very long time. And I think it seems like a stretch to claim the agency was confused after this long, and I frankly give the employees of the IRS more credit than that.

Now, are you aware that IRS employees in Cincinnati were actually processing cases before Washington, D.C.'s involvement, they were actually processing them through to completion?

Mr. Koskinen. Mr. Chairman, we have, I gather, provided you over 500,000 pages of documents. I have not looked at any of those documents. My view is that for me to try to track through all of that and catch up with everybody is not a productive use of my time.

I look forward to your report. As I said, I think the facts will be what they are and we will respond to them. And so I will guarantee you I will read the report and we will respond to the facts. But it doesn't serve my ability to manage the agency to go back in time and try to look at any particular activity.

Chairman Camp. Frankly, I think this has a direct bearing on the management of the agency. It is a fact that Cincinnati was approving Tea Party cases before getting orders from Washington, D.C., to hold them, and they were processing them without delay and without intrusive questions.

Now, through our investigation we have identified examples of applications coming in subjected to review and approved from conservative and Tea Party groups that were approved within 3 months, and it was only after Cincinnati highlighted this high profile media attention that Washington, D.C., got involved, and it was only then that these groups were subjected to what I would call inexcusable delay and harassment. And it seems there is a pretty clear fact pattern that is developing here, and it wasn't confusion, it was Washington, D.C., that caused conservative groups to be targeted and harassed.

Now, the attempt to mischaracterize the targeting as being driven by confusion, or as the President said, "boneheaded decisions out of a local office," and that is a quote from the commander in chief, is bad enough. What is worse is the administration's attempt to mislead the American public about the reason for the proposed regulations.

And the proposed regulations, as I mentioned, were released on Black Friday in 2013. They were drafted in a manner, in my view, intended to shut down Tea Party groups, but they were marketed to the American people as a response to the targeting as a, quote, "solution" to clarify the rules as recommended by the Inspector General. And the truth is that our investigation has revealed that the regulations weren't drafted as a remedy to targeting. In fact, they were being worked on in 2011, during the time of the targeting, as another line of attack against these groups.

Now, Commissioner Koskinen, the committee has found IRS emails from 2012 in which the IRS and Treasury discussed working on 501 regulation, quote, "off plan." Do you know what off plan means?

Mr. Koskinen. I do not know what that would have meant in 2012.

Chairman Camp. Well, I am pretty sure that means hidden from the public. And would you agree that if Treasury and the IRS had fabricated the rationale for a rule change it would tend to raise questions about the integrity of the rulemaking process?

Mr. Koskinen. I look forward to working with the committee. I want you to get the documents you need. I look forward to discussing with you the report when it is finalized. And I look forward to reviewing with the Treasury Department all of the comments about the regulatory process.

At this point I did not participate in it, I do not know the background of how the regulations were drafted, but I can guarantee you that I will look independently and in a balanced way at what will be, to the extent I have any control over it, at what the appropriate draft regulations and final regulations should be.

As I said earlier, we have 21,000 comments, which is more comments than ever on any regulation, and I think all of these issues will be appropriately considered in the comment review process.

Chairman Camp. Have you seen the rationale, the published rationale for the 501(c)(4) proposed rule?

Mr. Koskinen. All I know is what I read in the press when they were put out. That was before my confirmation hearing.

Chairman Camp. I commend that to your reading.

Mr. Koskinen. Right. But it will be open. Everyone can make comments about the draft regulations as they are now. There will be a public hearing. There will be numerous occasions for people to bring any information that they would like or perspectives about those regulations forward before they are finalized. They are clearly not going to be finalized in the near-term future.

Chairman Camp. Do you know how many Tea Party and applications from conservative groups are still awaiting review at the IRS?

Mr. Koskinen. My understanding, and I asked that question, of the 132 that were in the priority backlog queue, 112 of those have been resolved, with about 85 of them approved, some dropped out, some are under further review of the 20 that are remaining. So give or take a little, over 85 percent of the applications in the queue have been resolved one way or the other.

Chairman Camp. And of those that are still waiting, how many have been longer than 1 year?

Mr. Koskinen. I can't answer that question, but I assume out of the 131, by definition they would all be there more than 1 year.

Chairman Camp. I understand obviously that you are new to this job, as you have mentioned, and the agency has had a lot of turnover at the top in the last 2 years, which, frankly, it needed. But it is clear to me that we need to get to the truth about what happened at the IRS and how conservative and Tea Party groups were targeted by the agency. And I want to be perfectly clear, this committee will fight any efforts to restrict the rights of groups to organize. And they need to speak out, they have the ability to educate the public, just as unions are allowed to do.

And so we will get to the bottom of this. And I certainly expect you to produce, and quickly, the outstanding documents this committee has requested. As you know, I gave you a letter on January 8th, or a memo, with a list of outstanding requests, and of those we have received some documents on one of the seven requests that I made. So there is still a lot of work to do.

So I appreciate and agree with the statement you made in your written testimony that public trust is the IRS' most important and valuable asset, and I believe the IRS has a long way to go in restoring its credibility. And I think you can take the first step by fully complying with this committee's request and stopping the rulemaking action on the 501(c)(4)s until the appropriate investigations are complete. And as soon as we get the documents that have been requested for a longstanding time, I can assure you that we will move forward on this investigation in a very timely manner.

So with that I yield back, Mr. Chairman. Thank you.

Chairman Boustany. I thank Chairman Camp.

I see we have also been joined by Ranking Member Levin, and I am pleased to recognize Mr. Levin for questions.

Mr. Levin. Thank you.

And welcome, Mr. Commissioner.

Mr. Koskinen. Thank you.

Mr. Levin. I think it is not surprising but unfortunate that this hearing with the new Commissioner has taken this approach. I remember when we had a hearing with the inspector general when the chairman talked about a culture of corruption, and there has never been any evidence of that or of political influence. The emails that were just put forth here came from a gentleman, and we pulled the story about him that goes back to June 18th, and I read it. The headline is "Conservative Republican at IRS Defends Treatment of Tea Party."

And I read, "John Shafer, who described himself as a conservative Republican, told congressional investigators he flagged the first application for tax-exempt status from a Tea Party-aligned group that he and lower level agents came across in February 2010 because it was a new high profile issue." This is from Mr. Shafer, who describes himself as a conservative Republican, and all of these efforts to tie this to the White House have been fallacious.

I now would like to read a communication from the deputy inspector general for investigations dated Friday, May 3, of 2013.

"Gentleman: As a result of our meeting with Russell a couple weeks ago we agreed to pull emails from identified staff members of the EO organization in Cincinnati to find out, number one, if an email existed that directed the staff to, in quotes, 'target Tea Party and other political organizations,' and, two, if there was a conspiracy or effort to hide emails about the alleged directive. Audit provided us with a list of employees in question, keyword search terms, and a timeframe for the emails. We pulled the available IRS emails, which resulted in 5,500 responsive emails."

It continues, "Review of these emails revealed that there was a lot of discussion between the employees on how to treat the Tea Party and other political organization applications. There was a Be on the Look Out, a BOLO list specifically naming these groups." By the way, it turned out groups besides Tea Party.

I continue, "However, the emails indicated the organizations needed to be pulled because the IRS employees were not sure how to process them, not because they wanted to stall or hinder the application. There was no indication that pulling these selected applications were politically motivated." I repeat, "There was no indication that pulling these selected applications were politically motivated."

I ask that this be inserted in the record.

Chairman Boustany. Without objection.

[The information follows: [Rep. Sander Levin](#)]

Mr. Levin. So, Mr. Chairman --

Chairman Boustany. Would the gentleman yield for a moment?

Mr. Levin. Yes.

Chairman Boustany. I want to emphasize that this committee's investigation is not complete, and the purpose of all of this inquiry with the Commissioner today is to get his assurances that he will provide the documents that we have requested to complete this investigation and then we will come up with conclusions.

I think it is in the interests of every member of this committee, regardless of their party affiliation, to get to the bottom of this based on the facts.

Mr. Levin. All right. So, look, just ask him, will you supply the information? Don't veer off in trying to revive a position that has not been supported one iota. One iota. And it is clear you are trying to keep this issue alive for political purposes.

This statement from the deputy says there was no political motivation and there never has been a scintilla of evidence. So now the Commissioner comes here, a new Commissioner, when we should try to get off on the right foot, on a constructive foot, and what happens? You confront him with emails -- he wasn't involved -- and emails that try to resurrect an issue that is not supported, Mr. Chairman.

If you want to have a constructive, cooperative, bipartisan effort, do so, but don't use this hearing as an effort to essentially pursue a political purpose.

So I ask you, and I will finish, to the director, are you willing to cooperate fully with this committee?

Mr. Koskinen. I am, and I look forward, as I said earlier, to that cooperation.

Mr. Levin. Thank you.

Chairman Boustany. I thank the gentleman.

I welcome the Commissioner's commitment. And I want to just simply emphasize that there are a number of outstanding requests that have not been met. And so we welcome the commitment on the part of the Commissioner to expedite this process and to meet the demands of the committee so that we can complete this investigation.

I mean, we clearly have documentation that a number of the frontline workers were doing their work appropriately and that the confusion set in only after there was some intervention by Washington. So we just want to get to the bottom of this --

Mr. Levin. I don't think the evidence shows that.

Chairman Boustany. -- and to get information will be necessary to do so.

I now yield to Ms. Black.

Mrs. Black. Thank you, Mr. Chairman.

And, Commissioner, welcome to our committee. We appreciate your being here. We understand that there are some questions that you can't answer. I am going to try to ask you some questions that maybe

you can help clear up about some things that we did see that occurred that are not only a concern of this committee, but also the American people.

I want to follow up on two things that you answered questions for Chairman Boustany. One you said there were six ongoing investigations, was I correct in what I heard, that there are six investigations?

Mr. Koskinen. It is my understanding that there is an investigation going on by the Senate Finance Committee, the Senate Permanent Subcommittee on Investigations, this committee, the House Oversight Committee, the Justice Department, and the FBI and the Inspector General. I think that adds up to six.

Mrs. Black. And at this point in time, none of these investigations have offered a report, have completed a report, is that correct, that you are aware --

Mr. Koskinen. That is correct.

Mrs. Black. Okay. I am not aware of any of those either, and thank you for chronicling those investigations.

The other thing that I thought I heard you say, but I wanted to clarify that as well, is that you said they are evaluating 501(c)s. Is that all 501(c)s is that just the 501(c)(4) that is being looked at right now for potential changes in regulation?

Mr. Koskinen. When the draft regulations were proposed, before my hearing, the request for comments included several things. What should be the definition of political activity? To what organizations should that definition apply, not just whether it should be just the (c)(4)s or beyond that? And what percentage of activity, political activity, would disqualify you from tax exemption? So one of the questions on which people are providing comments is, whatever the definition of political activity, to what 501(c) organization should that definition apply.

Mrs. Black. So 501(c)(5)s would also be included in that? Are they looking at the (c)(5)s as well?

Mr. Koskinen. People are commenting. I have not looked at any of the comments, but I assume some of the 21,000 comments are coming from people familiar with the activities of 501(c)(3)s, (5)s, (6)s, (7)s, and they are responding to whether or not there should be a common definition, whether there should be a definition for those particular subjects, what the percentage should be. That is what the comment requests were for.

Mrs. Black. So potentially we may see some changes in the regulations for (c)(5)s and their political activity as well?

Mr. Koskinen. My understanding is that the request for comments will be considered and then the determination will be made as to what if any regulation should be issued and to which 501(c)(3)s it should apply.

Mrs. Black. So let me go back. Last year our committee uncovered the existence of the IRS surveillance program, called the Review of Operations, that was used to keep tabs on organizations that are approved, they have already been approved for their tax-exempt status. And the committee is in possession of emails -- and I am not going to ask you to weigh an opinion on those emails that you have not seen -- but in which high ranking IRS officials said, and I quote, "We suspect we will have to approve the majority of the (c)(4) applications," close quote, but they would also, in quote, "refer these organizations to the Review of Operations for follow-up in a later year."

This was a period in the summer of 2012 where the IRS had a lot of applications that they were approving, certain applications for the 501(c) status in response to congressional pressure and also the commencement of TIGTA's investigation. So to be clear, the IRS employee was saying that they would approve the applications but subject them to later future surveillance.

Not surprisingly, our investigation also discovered, of groups that were referred to this surveillance, 83 percent were right-leaning. And after the committee discovered the practice, the IRS quickly suspended it, saying that, and I quote, "Referrals were being returned to EO Determinations for further review to ensure they were appropriate."

So moving forward and looking at the current status, where is the status of this surveillance program now?

Mr. Koskinen. My understanding is there is not a, quote, "surveillance program" in existence. As I think all of you understand, determinations are made at the front end for all 501(c)(3) applicants. Last year we had 80,000 applicants for 501(c) status of one kind or another, the bulk of them for (c)(3) status.

Everyone who is determined and passes through that hurdle and gets a certification to be a 501(c)(3), (4), (5), (6), or (7), then goes out and does their work, and it is an obligation of the IRS over the course of time to review those activities to determine that they are in fact doing what they said they were going to do when they were given 501(c) status.

Most of those oversight reviews are for 501(c)(3)s because they are the most voluminous. The number of 501(c)(4) applications overall is probably 4 or 5 percent of the applications we get every year. So 95 percent of the work that goes on has nothing to do with (c)(4)s. And the (c)(4) applications are spread around a lot of activities. There are garden clubs, there are a lot of other social welfare activities in that pool. All of them are subject to review.

Mrs. Black. If I could reclaim my time, because I have got a red light.

Mr. Koskinen. I am sorry. Go ahead.

Mrs. Black. I just want to be assured that none of those applications that were in that ROO are in that category and they have all been released and that has all been taken care of.

Mr. Koskinen. That has all been taken care of. But I would stress that every organization that has a 501(c) determination over time will be reviewed, because that is an obligation of the IRS, to make sure that people are in fact performing in their 501 exempt status as they said they were going to. Whether they are a charitable organization or a political organization or a social welfare organization, 5 years out it is important for the public to be confident that they are still doing what they said they were going to do in the application process.

Mrs. Black. Thank you so much.

Chairman Boustany. Ms. Sanchez.

Ms. Sanchez. Thank you.

And I want to thank you, Commissioner Koskinen, for being with us today.

Can I just ask, when were you confirmed for your position as Commissioner at the IRS?

Mr. Koskinen. I was confirmed on the last day of this last session, on December 20th.

Ms. Sanchez. And do you feel like you are in a position to speculate as to people's motivations or pieces of evidence or activity that might have occurred at the IRS prior to your being there?

Mr. Koskinen. I am not qualified now and I don't think I will ever be qualified to speculate about what happened in the past.

Ms. Sanchez. Okay. Because I am getting the sense that, I may be wrong, but I thought this hearing was to talk prospectively about issues that were concerned with things like identify theft and improper payments. And it seems like we are just beating a dead horse over and over again. There are ongoing investigations, which I appreciate and understand the importance of, but I would really like to talk prospectively about some of the other issues that were noticed in the hearing for today and I will use my time to do that.

I join with my colleagues in expressing deep concern for things like identity theft and improper payments made by the IRS, but I do want to commend you for coming and being forthright and for addressing those issues head on and continuing to keep us informed about how Congress can improve that situation.

That being said, I want to talk specifically about the EITC. I don't agree with comments that demean the outstanding goals that have been achieved through the Earned Income Tax Credit. I think that we can probably all agree that fraudulent payments have to be combated, but for me that doesn't mean that you throw the baby out with the bath water.

EITC is one of the most powerful antipoverty programs that we have in this country, and I think we need to strengthen it, not demonize it and get rid of it. I think that hard-working Americans who are struggling to make ends meet can benefit from that, because nobody gets rich from the EITC. Folks that claim the EITC generally are just trying to make ends meet.

So I can't help but think that what the committee should be addressing today is the underutilization of this credit by the people who need it most, hard-working Americans, many of whom are trying to support a family, and I think somewhere between 3.5 and 7 million eligible families never even claim that credit.

EITC has been one of the most powerful welfare-to-work incentives, and we should be promoting it, quite frankly, not cutting the budget of the IRS and not getting rid of programs that help tax filers understand how to file their tax returns and how to claim the credit.

I would be much more in favor of a constructive discussion by this committee instead of a partisan witch hunt at issues at the IRS. EITC enjoyed years of bipartisan support, and I have to say that I am frustrated and let down by some of the recent conversations that have taken a most unconstructive turn towards the EITC.

Ms. Sanchez. So, you know, I would love to hear your ideas for ways in which we could possibly strengthen the EITC. I understand that we need to combat the fraud that exists in that program, but it is kind of hard, I think, for an agency to do its best work when it is being underfunded. Any comments on EITC, Commissioner?

Mr. Koskinen. Well, I have been around a while, and so I was actually working in the Senate. I was Senator Ribicoff's administrative assistant during the Nixon administration when the EITC program was passed with the support of that administration, and somebody reminded me recently that President Reagan referred to it as his favorite poverty program for just the reasons you noted; that it supported working poor, it encouraged people to work, it provided them added incentives.

So we have a balancing act. We have a responsibility because we are running the program in addition to collecting taxes to make sure that it is properly utilized. So we kicked off tax-filing season on last

Friday -- I was in Baltimore -- with an EITC awareness day, because we do estimate about 20 percent of eligible people for the program do not apply.

At the same time I am concerned, as I think this committee and others are, to make sure that we are providing the appropriate amount of money to the right people, not more and not less. So we need to get everyone eligible to participate, but we need to make sure that that payment stream is effective and appropriate; and so we are working on both counts.

I noted it in my challenges we are facing, and it is an area that I think we need to devote as much resource as we can. Part of it is resources on the front end in terms of providing advice to taxpayers as to whether they qualify or not and qualification changes. About a third of people, their qualification changes every year. They either make more money or less money. Their family situation changes; they may get divorced, children move. So that it is a complicated program for someone trying to make an honest determination or prepare to deal with.

So we are trying to work on both sides. We want everybody eligible to benefit from the program. We want to make sure that improper payments are cut to the extent we can to make sure that the funds are utilized effectively.

Ms. Sanchez. Thank you, Commissioner. I see that my time is expired, and instead of going overtime, I would just like to alert you to the fact that I do have another issue that is on my radar screen about the orphan drug tax credit; and I will submit that in writing for you to be answered after your testimony. Thank you, and I yield back.

Chairman Boustany. Thank the gentlelady, and I can assure her that we want to root out the fraudulent payments in the EITC program, but certainly recognize the value of the program. And it is a program that we will be able to partner with the Commissioner to hopefully simplify it to make it work better.

With that, I yield to Ms. Jenkins.

Ms. Jenkins. Thank you, Mr. Chairman, for joining us. The President's health care law resulted in the largest expansion of the IRS's role in history, burdening the agency with enforcement of 47 new provisions, totalling about a trillion in new taxes. One of the IRS's new duties under the law will be verifying income information to determine how much an individual will receive in the premium tax credit subsidies?

Mr. Koskinen. Yes.

Ms. Jenkins. And back last fall the Treasury Inspector General for Tax Administration released a report detailing improvements needed in order to ensure the IRS could adequately strengthen the premium tax project that is a part of the law. As you well know, these premiums are taxpayer subsidies that are available to enrollees in the form of refundable tax credits. The CBO's annual budget and economic outlook, which was released just yesterday, estimates that 80 percent of folks enrolling over the healthcare exchange will qualify for and use one of these premium tax credits. The CBO estimates that the Treasury will be giving out nearly \$900 billion over the next 10 years in healthcare premium tax credits.

Now, then, even the most honest of taxpayers can expect to face difficulties with the IRS over the subsidy. Any number of normal life events, as you just talked about with the EITC, such as marriage or a job promotion, could inadvertently lead to an individual being paid too large a premium tax credit, and it will be up to the IRS to recover that money. However, it doesn't even begin to touch on the difficulty the IRS will face when confronting folks who might commit outright tax fraud.

As I just noted, these are refundable tax credits, which are particularly attractive to those who are wishing to commit fraud. We are talking about millions of individual tax returns and a pot of nearly \$900 billion.

So that brings me to my primary concern. Beginning on page 14 of the report, the inspector general raises significant concerns over the IRS's lack of fraud-mitigation strategy to guide the system's development as it relates to the premium tax credits. It notes that there is no overarching fraud-mitigation strategy, and concludes by saying this, and I quote: The IRS's existing fraud-detection system may not be capable of identifying ACA refund fraud or schemes prior to the issuance of tax refund returns, end quote.

Now, I see that the IRS agreed with inspector general's recommendations to develop fraud-mitigation systems, so can you just give our committee an update of what exactly the IRS is doing in its effort, and how successful we can expect that to be?

Mr. Koskinen. I am happy to. I mean, we can have a long hearing on where we are in that subject, but in the short answer let me say, first of all, the IRS role on the front end of the program in its rollout went very well. So with all of the other difficulties, it is important to note that we were able to serve the income-verification role in the fall and continue to do that effectively.

We are concerned that people's life experiences will change. They are making -- determinations that are made about what the premium tax credit in advance should be based on an estimate by the individual of what they will earn in 2014. And as we all know when we do withholding determinations for W2 purposes or otherwise, you make an estimate, but it never is quite exactly right. So there will be reconciliations of those tax credits at the back end, and that is a major challenge for us.

But in terms of the fraud potential, it is important to understand, as this committee does more than most, that the advance premium tax credits don't go to the individual, they go to the insurance companies. So the opportunity for fraud at the front end in terms of claiming the credit with third parties claiming it are limited compared to what the normal identity theft and refund fraud claims are. So the money is going to an insurance company, so unless you have a relative in the insurance company you would like to help out by getting them more money, there is no incentive at the front end to have an increased payment.

At the back end, when you come in and you actually reconcile what you actually thought you had earned in 2014 with what you did earn and then complete a calculation as to what your premium tax credit ought to be, to the extent that either you didn't get a credit, or you got too small a credit and you are owed a refund, that will be based on an insurance policy that you actually own. You cannot fabricate that. We will actually on a regular basis be getting from -- and we are now -- getting from insurers the enrollees who are on their policies. Who is engaged in them, so that your chances at the back end, even if you get a refund, you can't get that free and clear. You will have to have had a policy that you paid a premium on.

So notwithstanding all that, we do need to make sure that people are reporting their income correctly. Because that way you could increase or decrease -- you may have a policy if you underreport your income and, therefore, say you have right to a bigger premium -- that would be a refund fraud if you are doing it willingly, and we are developing screens for that.

I would note with the inspector general report, that was a report requested by our IT people who are working in partnership with the inspector general to have the inspector general come in at a regular basis and review the status of the progress. That is why it is a productive working relationship. We are confident that, based to some extent on our success at the front-end rollout, to some extent on the success we have had on other IT initiatives we have had in the last 3 or 4 years, that we are going to be successfully able to execute our responsibilities at the back end. But it comes at a cost, and that cost is under the resources. It is an additional burden that we are bearing. We expect that it is going to cost 3- to

\$400 million, and it is going to come out of other IRS activities because no funding has been provided in our budget.

Chairman Boustany. Thank you.

Mr. Davis.

Mr. Davis. Thank you very much, Mr. Chairman.

Thank you, Commissioner, for being here.

You know, I was thinking I don't envy your challenge of trying to clear up some misconceptions, allegations, things that may have occurred and did occur prior to the time that you have become the Commissioner. But I am also wondering -- and I agree that you can't necessarily get blood out of a turnip. And like my colleague from California, I don't necessarily want to rehash all of the old leanings and difficulties that have existed, but I do want to explore how do we go forward.

I noticed that you put a great deal of emphasis on training, that is training staff, so that they fully understand the best approaches to meeting the service needs of the agency; and yet I note that the training budget has been severely slashed so that the resources simply are not there. I guess my first question is how do you motivate staff and stimulate the agency, put in the management of procedures that is going to allow us to get more with less? And it seems to me that that is one of your real challenges based upon all of the needs that we know exist.

Mr. Koskinen. Well, it is an important question. It goes to the heart of your management approach to an organization. As I said earlier, I spent my career taking over or managing organizations under stress of one kind or another. Part of my role is not to look back or second-guess what happened in the past; to simply play the hand your dealt.

As I noted earlier, one of the first things that always seems to get cut is training, and my view as a manager is it is the last thing that ought to get cut. Certainly in the case of the IRS, 75 percent of our budget is people, so we need to be efficient with those people, we need to train them appropriately so they can deal with the public appropriately, and we need to provide them the resources so that we can increase their effectiveness.

So one of the things we are doing, in fact, trying to help taxpayer service deal with the budget constraints. In fact, move forward into the 21st century is changing the utilization of our Web site. If you look at the Web site today from where it was a year ago, it is like it is a different agency. We are trying to make it more user friendly. The last couple years we have had an app called "Where's my Refund." Last year it got 250 million hits. Now, obviously some people are checking every day to see where their refund is, but they would be making calls otherwise. So that is 250 million calls that you didn't have to entertain theoretically.

We also this year for the first time have "Get A Transcript." You can get online, once you authenticate who you are, back information. That was a significant volume of calls as well.

So we are trying as best we can to utilize technology to provide a better, more user-friendly interface with the taxpayer, which will allow us to be more efficient and better use of the resources. We will occupy over a million square feet less of office space by the end of this year than we had before. We have cut outside contractors by \$200 million. We no longer send everybody an IRS tax booklet, because most people never used it, and that saves us 50 to \$60 million in printing and postage.

So we are being as efficient as we can, but ultimately it goes back to your point. We have to invest in our workforce. In fact that is why I stress front-line workers so much. They are the people who do the work. They can give you the most information about what needs to be done, and we need to do whatever we can to support them. So we will spend more money on training this year than we did last I am going to find it someplace. It won't be as much as we used to spend, but I think it is a critical investment for the agency to make.

Mr. Davis. Let me ask you quickly, what are you hearing from your tours? When you talk to the front-line staffers, what are they telling you?

Mr. Koskinen. I get a couple of issues. The overriding one is the understaffing. It doesn't matter whether they are in call centers, they are revenue agents, they are enforcers, they work in legal, they all, not complaining, but just describe the limitations on our ability to do the work because we don't have enough people.

The other issue I discovered, and it is not there, it happens in the private sector as well. Is front-line employees never get asked what they think, and if they get asked, oftentimes they have a feeling nobody listens to the answer. So one of the things I hope to encourage in the IRS culture is more information flow, as I said earlier, from the bottom up, as well as from the top down. Also across the silos that inevitably exist in an organization, because I think it is important for employees to understand we value their insights, we value their work, and we are only going to be as good as the information they provide us.

Mr. Davis. Thank you very much, and I yield back.

Chairman Boustany. Thank you, gentlemen.

Mr. Marchant.

Mr. Marchant. Thank you, Mr. Chairman.

Welcome, Commissioner.

As a Congressman, our front-line people back home are our constituents, and they do not hesitate to share with us the shortcomings and their concerns. And right now they have lost confidence in the impartiality of the IRS, and I don't know of any time in my career where they have been more vocal about that, and they are angry about it. So some of the questions I will ask are questions that they are asking me.

Can you say unequivocally at this time that there is no targeting going on in the IRS of any of these groups?

Mr. Koskinen. I can tell you that -- and I ask that question myself somewhat regularly -- that as far as I know, there is no targeting. And one of the things I hope to hear from front-line employees is if anybody out there thinks that they are being asked to do something they shouldn't be doing, they will let me know directly personally. They know how to reach me.

So at this point, every place I go I stress that the IRS needs to be apolitical. It needs to be viewed as an agency with integrity, and people should have trust in it. But ultimately the proof will be in the pudding. We actually need to deliver on that position. We need to assure people that when they hear from the IRS, it is not because of something they said or a group they belong to. They hear from us because we have an inquiry about information they provided, and it is the same inquiry everybody else in that situation would get.

And over time people can listen to me and think if they believe me. Nobody's challenged my integrity in the past. But ultimately the words won't do it. It is, in fact, we need to deliver with performance.

Mr. Marchant. In this committee historically Members on both sides of the aisle have asked that very specific question and were not told the complete truth, so I appreciate your answer.

If you discover this kind of activity, will there be immediate and swift action taken to bring that to this committee and relieve and fire employees for that kind of behavior.

Mr. Koskinen. I have committed both in the Senate and to this committee as well that if there is a problem, you will be the first to hear about it, not the last. I think, as I said, one of my reasons for traveling to 25 cities over the next few weeks -- I have been to 6, as I said, and I have got 19 to go -- is because I want to stress that message to employees. I want them to understand we don't shoot messengers. What I need to know is if somebody has a concern, if something is going on that shouldn't be going on, we need to know about it. We need to know about it and fix the problem quickly, and we need to be transparent about it.

Again, as I said, I don't look back in life. I have got enough problems looking forward to solve these problems. But clearly I understand that if you don't have confidence that you are getting a straight answer from us, our working relationship won't be productive.

Mr. Marchant. Several of the groups that were targeted are in my district, and many of those groups, in order to try to achieve their status, filled out these questionnaires that went out, and many of them gave names of their donors. Now, in previous testimony today you have said that there is no correlation between any of those donors being audited now and the fact that those donors' names were disclosed; is that correct?

Mr. Koskinen. That is correct. Those lists no longer exist.

Mr. Marchant. The lists no longer exist, and you said that if they are, it is a statistical -- it is just something that is statistical. But it is less than 100 names that were disclosed, and you've said that there's 1.4 million audits going out this year. So it is difficult to believe that 100 possible donors' names are out there, over 1.4 million audits are going on, and if any of those people are being audited, it is difficult to believe that there isn't any correlation there.

Would you disclose to the counsel of our committee if any of those names of any of the people on those donor lists are being, in fact, audited?

Mr. Koskinen. I will be happy -- I don't actually have authority, and it is appropriate that I don't, to intervene or actually investigate any individual audit that is going on, and you should be reassured by that.

But let me just stress, our audit rate is 1,400,000 audits. For people making more than \$1 million a year, your chance of getting an audit letter are 10 percent. So I don't know who those donors are and what their income base is, but I will guarantee you that if there are 1.4 million audits going on out there, and some of these people will be upper middle class or higher income earners, somebody in that group is likely to get an audit, because it is not 1 out of 100 for rich people, it is 1 out of 10 for people making, you know, over \$1 million. It is about 3 percent for everybody between 200,000 and \$1 million.

So I expect -- you know, I am in that sort of somewhere in the middle; at some point I will get an audit letter. It won't be because I am the IRS Commissioner. And, in fact, I won't get one because I am the IRS Commissioner. There is a set of procedures that determine what the allocation and the determination for audits are. So my concern is that people are legitimately going to be in that million four,

and if they happen to be very liberal, very conservative, I don't want them thinking, I got this letter from the IRS because of who I am in terms of what organization I belong to, who I voted for in the last Presidential election, what church I go to or whether I go to church or not.

And that is my commitment to the American public, but I will say that I can't commit that no one in a conservative organization that was improperly selected for further review is not going to get an audit. I can't give anybody that blanket assurance, and, in fact it would be inappropriate. The fact that whatever your difficulties with the IRS in the past were doesn't mean you are never going to get a legitimate audit.

Mr. Marchant. Thank you, sir.

Chairman Boustany. Mr. Crowley.

Mr. Crowley. Thank you, Mr. Chairman.

Firstly I would appreciate it if you could enter into the record a Reuters article entitled "Conservative Republicans and IRS Defends Treatment of the Tea Party," from June 18, 2013.

Chairman Boustany. Can you get copies of that to the committee members?

Mr. Crowley. We will make sure that --

Chairman Boustany. Without objection.

Mr. Crowley. Thank you.

[The information follows: [Rep. Joseph Crowley](#)]

Mr. Crowley. Commissioner, welcome. I suspect there has been a bit more drama here than you anticipated. Maybe not.

Mr. Koskinen. I have been around a while, so it is drama I am used to.

Mr. Crowley. I am glad to hear you are a big boy. I appreciate that, and we are going to talk about that in a moment.

But with the chairman of the full committee coming down this morning and dramatically delivering to the committee what would appear to be new emails, but, in fact, are old emails that have been gone through over and over again, an attempt to find a smoking gun that would link what has taken place, or supposedly taken place, at the IRS to the President.

I have tremendous respect for the subcommittee chairman Dr. Boustany, and I appreciate the hearing being called this morning. But let me just -- in his statement before the committee just a moment ago that this is an open investigation leading to, in effect, that there has been no conclusions made as of yet; but I have to read from the chairman's opening statement, and I quote: Last weekend the President claimed there was not, quote, "even a smidgeon of corruption," end quote, at the IRS; and he blamed the targeting on, quote, "boneheaded decisions," unquote, by a local office. And again further quoting the chairman: "Now this committee has actually investigated the matter and found otherwise."

Those two statements don't necessarily jibe, and I would suspect that really it is, again, an attempt to find a smoking gun.

By the numbers: 500,000, the number of pages of documents provided by the IRS to the congressional committees without any indication of political motivation; 60, the number of interviews conducted by congressional committees with current and former IRS employees; 14, the number of congressional hearings where IRS personnel have answered questions related to the investigation; 5,500, the number of IRS employee emails that the inspector general's chief investigator reviewed and concluded that no indication of political motivation before the TIGTA audit was published. The IG failed to even mention this investigation led review of emails until it was revealed in July of 2013, 2 months after the audit was published.

There was no indication -- quote, "There was no indication that pulling these selective applications was politically motivated," end quote, the head of the investigations wrote in an email to the senior staff at the TIGTA on May 3, 2 weeks before the audit was published. Quote, "The email traffic indicated there were unclear processing directions, and the group wanted to make sure they had guidance on processing the applications, so they pulled them. This is a very important nuance," end quote.

The Treasury inspector general never mentioned that the term "progressive" was used to single out applications and was among the terms in the 298 applications reviewed in its order. A July 2010 PowerPoint presentation instructed screeners to use the word "progressive" and "emerge" alongside "Tea Party" to select applications for further scrutiny.

It was a much broader investigation; and, again, you would only -- by the questioning of the other side, it would only indicate that the Tea Party or conservative groups were targeted, when, in fact, political persuasions of all sorts were targeted as well. And I have decried, and continue, that it is an outrage that the IRS does it, as you have indicated, Commissioner, as well, if any group is targeted because of their political persuasion or their religion or ethnicity, whatever it may be.

Now, I mentioned before drama and the need to find a smoking gun. I mentioned there is no new material that has been brought to your attention this morning. As a boy I played cowboys and Indians, and I suspect you probably did as well. That was back in the 1960s. You probably had better equipment back when you were growing up.

Mr. Koskinen. I was playing at an earlier stage.

Mr. Crowley. I didn't want to say that. But sometimes I had to stop in the middle and, whoever was playing the Indian, say, slow down; stay there. I got to fix my gun. I got to fix the cap gun, because if you got it just right, you could pull the trigger of the cap gun, and it would hit the cap just perfectly. You get a great sound, and you get an awful lot of smoke.

I suspect they found a smoking gun. It is a cap gun, and if you press it a lot, you get an awful lot of smoke. And that is what they have been doing over and over again.

Commissioner, good luck to you. You will be dealing with it for some time. We will continue to hear, I think, the same rhetoric from the other side, but remember, they have a gun, it is a smoking gun, but it is a cap gun.

I yield back the balance of my time.

Mr. Koskinen. Thank you, sir.

Chairman Boustany. I thank the gentleman for his fine speech, and I would just want to acknowledge the fact that we are still waiting on information; and, in fact, there is a central person in all of this is somebody we have not had access to in this investigation, and we are still awaiting very important email communications. So with that I will --

Mr. Crowley. Sir, would you just yield for a moment just for clarification on your statement?

Chairman Boustany. Mr. Reed has been waiting patiently.

Mr. Crowley. Mr. Chairman, just for clarification on your statement? In your opening statement, though, you did make reference to the fact, and I quote, Now this committee has actually investigated the matter and found otherwise. That is a conclusion.

Chairman Boustany. Otherwise is that we have not completed the investigation.

Mr. Crowley. Interesting term of art. I appreciate it. Yield back.

Chairman Boustany. Mr. Reed.

Mr. Reed. Well, Commissioner, thank you.

And to my colleague from New York, who I think still does play cowboys and Indians, because I know him very well --

Mr. Crowley. Would you yield?

Mr. Reed. I am not yielding to you.

Mr. Crowley. You don't play fair cowboys and Indians. I know that.

Mr. Reed. He is my good friend from New York.

Mr. Crowley. He uses real arrows.

Mr. Reed. Mr. Commissioner, I appreciate you being here, and I appreciate, being the youngest of 12, coming from a single-mother household, I was always taught look forward, look future, the sun is going to come out. And you have a very important task ahead of you, sir.

The IRS right now has a reputation, I tell you from my constituents, that is just very troublesome to me. You need to have that objective, fair reputation in this agency in particular, and you just don't have it right now.

And so I am going to give you an opportunity, and I take my oversight responsibilities here on this committee very seriously, and I want to see if you are going to show an independence, or if you are just going to rubber-stamp the White House and the President. I will give you an example of what I am talking about.

When the President makes the statement in the (c)(4) targeting situation, the Tea Party targeting situation, that there is not a smidgen, I believe the quote was, not even a smidgen of corruption in that situation, after you just testified to us and confirmed to the American public that there are six open investigations that have not been completed yet, is that a responsible statement from our Commander in Chief to draw a conclusion on national TV talking to millions of Americans that you can trust me; there is not a smidgen of corruption in the (c)(4) Tea Party targeting situation? Yet you know, and I know, and you just testified here today that the investigations are nowhere complete. So is that a responsible statement, or is that something that may be a little irresponsible?

Mr. Koskinen. I don't want to get into a big argument here, but as you just heard, there have been a lot of statements made in the face of an open investigation that would appear to be drawing conclusions prior to the conclusion of that investigation. So I don't think that there is a single focus on people at this point drawing conclusions. My position is, as I have said, I am looking forward to this committee's investigation being concluded and the other five and determining where the facts actually are, and I look forward to that.

Mr. Reed. See, what I just heard there, being a relatively new Member here, is that you didn't want to answer the question; that you are afraid to stand to the White House and say, you know, what, Mr. President, it may not have been the most appropriate comment to make to the American people in a public setting.

Mr. Koskinen. Let me just make it clear. I did not respond to Chairman Camp or the chairman of the subcommittee when they drew conclusions in the face of an open investigation. It is not my role to challenge what anybody is saying in terms of what is going on and what happened in the past.

I have said I am looking forward to the investigations being concluded. We will see what the facts are, and we will respond appropriately. I am not engaging with anybody in a debate about the perceptions they may have. I don't think that necessarily would establish that I don't have independence or that I am not going to behave independently. If we are going to solve this problem, I think it is going to help if we actually work to see if we can't get the IRS back in a position where it is not being bandied about one way or the other politically.

Mr. Reed. So if I hear your answer correctly, then you would be of the opinion that there is no way to come to a conclusion at this point in time where you are testifying before us that there is no smidgen of corruption in the Tea Party targeting because the investigations have not been complete.

Mr. Koskinen. My position has been that everybody is entitled to their perspective on the evidence as it is unfolding --

Mr. Reed. And I appreciate that, so I am asking what is your determination?

Mr. Koskinen. I do not have an opinion -- I am not expressing an opinion on Chairman Camp's view, on Chairman Boustany's view or anybody else's view. I am telling you I am here to run this organization. I am going to run it --

Mr. Reed. How about the President's view?

Mr. Koskinen. -- in a straightforward way, and whatever comments anybody is making are their business, and it is up to them, and I am not going to go around second-guessing comments by anyone.

Mr. Reed. Okay. So do you believe that the investigations are not complete, so therefore there is no way to come to a conclusion as your role as Commissioner of the IRS whether or not there is evidence of corruption in that agency at this point?

Mr. Koskinen. I am not coming to any conclusions. What anybody else wants to do is up to them.

Mr. Reed. Okay. And I appreciate that. That shows an open mind to get to the facts, to get to the end of the investigation and get to the conclusion.

I wanted to talk to you from an operational point of view, because you do have some needs there that you clearly have referenced in the understaffing issue and the funding issue.

How have you judged that there is an understaffing issue in the agency from your point of view? I mean, you have heard from the front-line employees. I get that. We have heard the same type of comments. But have you done any studies, or do you intend to do any studies or metrics? What metrics are you going to deploy to demonstrate that there is an understaffing issue with the IRS, and how are you going to measure the fulfillment of meeting those understaffing and underfunding situations?

Mr. Koskinen. The IRS is a remarkable agency in the sense that it measures a lot of things, and it cares a lot about those measures. One of the measures is how many telephone calls go unanswered. We measure that. In the old days we were as high and close to 85, 88 percent. Last year it was 61 percent. I find that a measure not of people not working hard, it is a measure of we don't have enough people answering the phone. Now, as I said --

Mr. Reed. How do you come to that conclusion?

Mr. Koskinen. How do I come to that conclusion is that they measure whether the calls are answered or not, and 40 percent --

Mr. Reed. But then how do you not know that that is not because the people aren't doing their job?

Mr. Koskinen. Might be, but I suspect --

Mr. Reed. Might be. That is what I am asking.

Mr. Koskinen. No, no. I will tell you. I have been out now, I have been to six offices. I am going to be to the rest of them. I have been to call centers. I have watched people working, and I will guarantee you that there is no way that 40 percent of the calls not getting through has anything to do with the activity and the dedication of the employees working there. I can guarantee you that we would answer more calls if we had more people. I can guarantee you we don't have the people because we don't have the funding.

Mr. Reed. Time is expired. Yield back.

Chairman Boustany. Time is expired. And this is a question we are going to have to continue to work with you on to justify, as we talked about in our meeting prior to this hearing, justification for how the money is being spent to really right-size this budget. So this committee will work with you, but we are going to need information from you and to make those decisions.

Mr. Koskinen. And as I said, it is not as if I said we need unlimited funds. I think the question is well founded. We need to tell you what you are getting for what you buy and what you are not getting because you are not buying it. And as we go through the budget, we are about to start the 2015 budget discussion. My view is I need to be able to tell you if we got \$100 million for this, this is what you would get; if we got 300 million over there, this is what you could get. And I can demonstrate in the past what you bought. You bought a Where's My Refund Web site that took 250 million hits last year. That didn't come for free; it came because we spent money appropriately.

But I think it is exactly right. I spent 3 years at OMB on the other side of the equation worrying about how money was spent. It is taxpayer funds. The taxpayers deserve to feel that we are careful stewards of that funding, and that we are spending money, we are measuring what we get for it, we are making sure that we are efficient. We are trying to take this agency into the 21st century with technology so we don't run a Model T with a lot of people doing the work.

But I can tell you, you can look at it, you can look at the enforcement numbers, we are 3,100 fewer revenue agents and officers. I have met with them. They will tell you how many millions of dollars are

uncollected that are sitting right there. We actually have done the reviews. We just don't have enough people either to send the letters or answer the calls that come back.

But I think it is an important question and -- I think, Mr. Chairman, you are exactly right. I wouldn't ask you to give us the money just for fun or just for some general purpose. If we get the funds, and we will talk about it in the 2015 budget, I will do the best I can to identify exactly where the funds would go, what you would buy for it; and then I will come back a year later and be held accountable, did you get what you paid for.

Chairman Boustany. And we look forward to that, Commissioner. Thank you.

Mr. Paulsen.

Mr. Paulsen. Thank you, Mr. Commissioner, for being here to testify today.

You know, it goes without saying that you are taking the reins of a very troubled agency at a very troubled time, and I sincerely hope that you are going to have success, a lot more success than some of your predecessors have had, in ensuring that the IRS is going to be administering the law in an appropriate manner, because as you have clarified, I think in your opening statement, hardworking taxpayers deserve this at the very, very least.

And I want to touch on several topics real quick if I can in my limited time.

Commissioner, the IRS's proposed rules for 501(c)(4) groups, they are bizarre for a number of reasons. Not only are they premature, released in the middle of an ongoing congressional investigation, but they also do up-end long-established, as Chairman Camp had mentioned earlier, rules that are governing 501(c)(4)s. And just looking at the regulations, I understand that under the proposed rules for 501(c)(3) charitable organizations, they would still be able to conduct nonpartisan voter registration; is that correct?

Mr. Koskinen. That is my understanding.

Mr. Paulsen. Okay. But if a (c)(4) organization conducts nonpartisan voter registration, it would jeopardize its exempt status and count against that entity's social welfare activity; is that correct?

Mr. Koskinen. That is a proposal out there for discussion and comment.

Mr. Paulsen. All right. And then under the proposed rules, a (c)(3) charitable organization would still be able to conduct nonpartisan candidate forums near an election, correct?

Mr. Koskinen. That is my understanding.

Mr. Paulsen. All right. But, again, if a (c)(4) organization held a nonpartisan candidate forum near an election, it would then jeopardize its status and count against the entity's social welfare activity, correct?

Mr. Koskinen. That is the proposal out for comment and discussion.

Mr. Paulsen. And, Commissioner, I am just trying to understand if this makes any sense, because it sounds like it is time to go back to the drawing board. In terms of looking at the rule, I understand that the public will have an opportunity to comment, but shouldn't we expect the Treasury or the IRS is going to be able to publish a draft rule that makes more sense? And the only way this rule is going to make more sense is if the intent is to drive -- the only way this rule makes more sense is if the intent is really to drive 501(c)(4)s out of the public square, because that certainly looks like the direction it is pushing.

Mr. Koskinen. Well, then know that we have, as I said, the new American record for comments in terms of 21,000. And there is still more time, and I look forward to seeing what those comments are and participating. I don't have total control over this, obviously -- participating in the discussion to respond appropriately to those comments which are covering these issues and others. Because I do think that it won't do us any good if we end up with a final regulation that doesn't solve the problems that people are commenting on and think exist both with the process generally and with the particular proposal.

So I am looking forward to learning more from those comments, and they will, I think, address the issues you raise.

Mr. Paulsen. Commissioner, just like, I think, many Members up here and who are Members of Congress, we have heard from our constituents, and I have certainly heard from many Minnesotans who now light bulbs went off. They learned about what is going on in the media and the press last spring about various individuals being targeted based on their political beliefs, their personal beliefs, and now they are thinking, you know, I am a little anxious; I am a little suspicious. I have heard from folks saying, my accountants are telling me we have never seen this level of audit activity before, and light bulbs are going off. They are saying, hey, I have been active with some 501(c)(4)s. I have given politically to some organizations. Am I being targeted for that purposes?

Can you just let me know and let the committee know in general -- and you have touched on this -- but what procedures, if any, does the IRS now have in place to ensure that individuals are not being targeted by the IRS in any way as a result of their personal or political beliefs?

Mr. Koskinen. That issue has been reviewed. I have actually talked with our chief risk officers and others. The IRS has a historically long history of very detailed procedures and reviews of audit-selection criteria, and I can guarantee you that no one is targeted for those audits in that criteria for any affiliation they have. The audits are targeted according to data and the analytics that come through in terms of where we are likely to find either underreporting or overreporting where there are likely to be issues.

And I think it is important to assure the American public that that is a situation, and I can give you my unvarying commitment that the IRS, as it goes forward doing audits, will be doing them in a fair, evenhanded way. And as I discussed earlier, my concern is that everyone going forward, to the extent there is visibility about the basis for it, is going to assume that if they get a letter from the IRS, they are going to immediately think, what did I do wrong? Which organization should I not belong to? Who did I give a contribution to? What is my church affiliation? And I just want to, as I said, and I just want to assure people that there is no selection criteria that would be viewed as unfair, and the proof will be in the pudding. It is all done independently, and people are going to be treated and have been treated fairly in terms of audits.

Mr. Paulsen. Commissioner, can I just ask, would you and your staff be willing to work with myself and members of my staff on some of those concerns that have been raised from some individuals that I have heard from in terms of IRS reviews?

Mr. Koskinen. Right. And as I said earlier, I have talked to the employees. It has always been my view that internal auditors and IGs are very important sources of information. Front-line employees are. As I said in any Senate confirmation hearing, congressional inquiries are a great and important source of information. An individual inquiry from a constituent is probably anecdotal; but if we get a series of them from different constituents from different Congressmen, then that is an important source of information that we need to listen to and investigate.

So to the extent that anybody is getting concerns, I am delighted to work with you, and I will commit that our organization will work with you to make sure we haven't inadvertently gotten somebody in a situation they don't deserve to be in.

And I would like the public to feel confident that when they raise that issue with you, you can raise it with us, and we will jointly assure that if there happens to be a problem, A, everybody will know about it quickly and we will fix it. Basically I am confident that we are not going to find those problems, but I need to hear from your constituents.

One of my commitments to my staff is when we hear from somebody in the Congress, I want to respond promptly. I do not want to have you feel you have to write a letter, and it takes months to get an answer from me. If you write me a letter, I am going to write you an answer quickly. If there is a problem, I am delighted to work with you to try to get to the bottom of it.

Mr. Paulsen. Thank you, Mr. Chairman.

Chairman Boustany. Thank you.

And some of the questions that Mr. Marchant and Mr. Reed and Mr. Paulsen, as well as Chairman Camp, raised relate back to the seven items that Chairman Camp gave to you. Hopefully we can get those things cleared up.

Mr. Koskinen. Yes.

Chairman Boustany. Mr. Kelly.

Mr. Koskinen. And as I said, I am delighted to have that list, because it does help us focus on what it is that you feel you need more documents from, where you think you haven't gotten all the documents you need so that we can actually be responsive.

Mr. Kelly. Thank you, Mr. Chairman.

Mr. Commissioner, thanks for being here. I would echo the comments of everybody else. You have got a very tough job, but your background suggests that you have done this before. So when you were turning around different companies -- you said you were called in to help out with troubled companies. When you look at the IRS, your number one goal right now, it has to be restoring its image with the public; does it not?

Mr. Koskinen. It is. As I said, I don't say it as words. Public trust in the agency is critical. It is our most valuable asset. It is important that we collect 91 percent of the revenues of the government. We touch virtually every American, so we have got to have people confident.

Mr. Kelly. We also agree that you and I both work for the same people.

Mr. Koskinen. I have always said these are taxpayer funds we are spending. They need to be confident we are stewards of them.

Mr. Kelly. And I think Mr. Paulsen alluded to whenever he is back home -- and Mr. Marchant talked about the same thing -- when I am back home in western Pennsylvania, I talk to people all the time. We try to gather information. As you just said, you know, come to us. Let us know what is going on. Make us aware of what is happening. You know, I have so many people come to me and talk to me, and this is not anecdotal, This is a fact. You know what they say? You can use my story, but you can't use my name. Now, the reason they say that is because the history doesn't have the same projection as the words. And, you know, I have been around for a little bit of time. Usually when people tell little stories or jokes, they say there is the three biggest lies. Two of them can be something other, but the last one is always I am from the government, and I am here to help you.

I would just suggest -- and I don't know how you are going to do this; you are a turn-around guy, so I would like to hear it -- how are you going to turn that around? I hear what you are saying, but I heard Mr. Werfel come here, and he gave us a document. He said this is our path to getting this fixed, and then he didn't stay on the path very long, he went someplace else. You are on board now, and this is a turn-around issue.

I mean, I am really concerned about this because I got to tell you, the American people -- I don't know what the approval rating is of the IRS, but they are scared to death of the IRS because of the past performance, so we have these talks. It is great that we go back and forth and we say, how are you going to fix it, but the reality of it is they just don't trust the IRS because of the way they have been handled in the past. These people aren't treated very well, and I would just say what you said earlier. Did I understand you to say that if you make over a million dollars, you have got a 1 in 10 chance of getting audited?

Mr. Koskinen. That is the number, yes.

Mr. Kelly. That is the number. Why, who in the hell would want to make a million dollars then? You don't want to make that kind of money because the IRS is going to audit you. That is one reason -- you talk about incentives not to do something, that would be it. Now, I am not saying that every audit is a bad audit, but I am just saying every audit strikes fear in the heart of every single American.

So your job now, you are coming in, you are going to turn it around. And I looked at the figures. The Secretary of the Treasury makes \$199,700 a year. You make slightly less than that, but I also know that --

Mr. Koskinen. I am not eligible for a performance award here.

Mr. Kelly. But wait a minute, wait a minute. Title V of the U.S. Code, the IRS has in recent years paid 72 of its employees annual salaries higher than that of the Secretary of the Treasury. This includes 33 employees who earn more than \$225,000. Is this part of your turn-around getting a better focus on how we pay these folks?

Mr. Koskinen. Actually we have special authority. It was provided by the Congress actually --

Mr. Kelly. So is the answer yes, you are going to look into that?

Mr. Koskinen. I have already looked into it. And, in fact, I will tell you part of it comes under what is called critical pay authority, and I am very concerned that that authority now expires, because what we have used that for -- primarily there are 22 employees under critical pay -- or 29, I guess, and more than half of them are IT employees.

Mr. Kelly. So it is part of what it is that you are going to do. And I know you haven't been there that long, but I also know because of your background, there are certain things you see relevant to this agency that you have seen in other companies. And as you were called in to help companies that were in troubling times, your number one objective right now -- and I have got to tell you this idea -- and I know we talked about people drawing conclusions, but you were drawing a conclusion that says, I am not going to make a statement based on people making a statement on facts that aren't yet put out there. Whether it be Chairman Camp, whether it be the President of the United States or whoever it is, the truth of the matter is we don't know yet what the answer is in the investigation of the IRS, do we?

Mr. Koskinen. No. That is right. We are all waiting to see what you find.

Mr. Kelly. But the answer is yes, that we don't know, do we?

Mr. Koskinen. No. That is correct.

Mr. Kelly. Okay. So we don't know. So nobody can make a declarative statement saying -- it is not funny for me. When I go home --

Mr. Koskinen. I have heard declarative statements from several people already --

Mr. Kelly. And I understand that. But you didn't tell them exactly what they are asking. My point would be, listen, nobody can stand in front of you and tell you that this is clear; that there is absolutely not one smidgen of evidence that proves it is not there. The investigation isn't done. It isn't done. Those type of answers add to the gap between what people trust and what they have faith in anymore because the answer is never a direct answer. It is an end run.

When I come out of church after mass on Sunday, when I am in a Walmart, when I am in a Kmart, when I am down at my little coffee shop, you know what they keep saying? How do we know we can trust you? How do we know we can trust the government anymore? That is a heck of a position to be in in this country and in this time, because overwhelming data that we have look at, sir, is that they can't trust us, and we have given them every reason not to.

So when we have hearings like this, I think the open exchange is great. I think the ability to talk to each other is great. Straight answers are the things that people are looking for. I would just say to you, and I got to tell you, when people tell me back home, you can use my story, but you can't use my name, that is the most chilling effect of what has gone on; and the fact that it goes unanswered for week after week, month after month, and we keep hearing there is actually nothing else, move on folks, nothing to see here, that is when they know, you know what, it is another cover-up.

So I got to tell you, you got a tough job in front of you, but no tougher than mine. I got to take care of 705,687 people in western Pennsylvania and the rest of this country who expect us to do the right thing for them because that is the model that we have always stood for. That is what America means.

So I thank you for being here. Any way we can help you, I would like to weigh in. And we will get back and forth on some questions we have, because the investigation is far from over, and there is other things I think we need to look at. But you need to turn the agency around. We need to turn the government around so we can instill that faith and trust the American people need to have in us.

Thank you, Mr. Chairman.

Chairman Boustany. Thank you.

Mr. Koskinen. I look forward to working with you on that.

Chairman Boustany. Now we are very honored to have the chairman of the Social Security Subcommittee, our esteemed colleague Mr. Johnson, here with us.

Mr. Johnson. Thank you, Mr. Chairman, and I thank you for holding this important hearing and allowing me as a full member of the committee to attend.

Mr. Commissioner, on behalf of my constituents, some of whom, like the Allen Area Patriots in Texas, appear to have been targeted by the IRS, I just want to send a clear message that the IRS has no business targeting Americans for their beliefs.

What is worse is that while this scandal is still under investigation, even though you claim it isn't, the Obama administration has proposed new regulations that effectively target these very same organizations.

Let me be clear. You have the responsibility as the head of the IRS to ensure the IRS is not being used as a political weapon, period. And you have said that.

Now, Mr. Commissioner, I want to talk to you about the so-called Death Master File. Are you aware of it?

Mr. Koskinen. I am aware of the Death Master File.

Mr. Johnson. Over the years, this file has been used by identity thieves to commit tax fraud as well as victimize families of lost loved ones. The bipartisan Budget Act took an important step towards stopping this by ending the immediate public availability of the Death Master File, a change your agency has advocated for many years. Unfortunately, the Department of Commerce, which handles this file, is ignoring the law, still allowing access until it establishes a certification program for legitimate users.

Now, Mr. Commissioner, I am going to ask you some questions, and I hope you can respond simply yes or no. It will save you talking.

With the tax filing season under way, doesn't Commerce's decision mean that the Death Master File can still be used by identity thieves? Yes or no.

Mr. Koskinen. I was not aware that Commerce had kept it open, but if it is open, then it can be used.

Mr. Johnson. So tax fraud is still possible because the file is still publicly available. Yes or no?

Mr. Koskinen. As long as those files are available, it is a target of opportunity.

Mr. Johnson. Mr. Commissioner, I now want to ask you about the individual mandate tax. This is the first year in which Americans who do not have an Obamacare health insurance policy will be penalized with the individual mandate tax. Now, just to confirm, the IRS can enforce this mandate tax by deducting it from Americans' tax refunds. Yes or no?

Mr. Koskinen. Yes.

Mr. Johnson. Isn't it also true that the government can sue Americans who don't pay the individual mandate tax? Yes or no?

Mr. Koskinen. I think that is correct.

Mr. Johnson. Okay. You know, I think that it is true the, you know, Obamacare brief filed by the administration's lawyers before the Supreme Court says, in addition to going after refunds, the Attorney General has general authority to file several suits for unpaid tax liabilities.

Mr. Koskinen. Correct. There are some things we can't do. We can't put levies. We can't put liens on for --

Mr. Johnson. Okay. If someone fails to pay the mandate tax, how much would that person have to owe before getting sued by the government?

Mr. Koskinen. I don't know if a decision has been made about that.

Mr. Johnson. Well, I think the American people deserve an answer. Could you follow up in writing?

Mr. Koskinen. I will follow up with you.

Mr. Johnson. And lastly, let me just say that it is unacceptable that the IRS isn't doing a better job of stopping improper payments. For instance, the inspector general has raised serious concerns about the IRS management of individual taxpayer identification numbers. Bottom line, these ITINs are costing taxpayers billions because they can be used to fraudulently get tax refunds.

In the coming days I will introduce legislation to reform the ITIN program. Joint Tax tells me that that would save about \$7-1/2 billion. I hope we can get together on this.

Mr. Koskinen. I look forward to working with you on it.

Mr. Johnson. Thank you, sir. I yield back. Thank you.

Chairman Boustany. Commissioner, I want to thank you for being here today answering questions, providing your testimony to the subcommittee. Please be advised Members may have written questions they will submit, and those questions and your answers will be part of the formal hearing record.

Chairman Boustany. Clearly there are a plethora of issues, some that are still outstanding and issues going forward during your tenure, that we are going to work with you on. It is my hope that we can have a cooperative working arrangement, and we can see to it that we restore the trust of the IRS in the eyes of the American people and solve some of these many difficult outstanding problems as we go forward.

So with that, the subcommittee stands adjourned.

[Whereupon, at 11:37 a.m., the subcommittee was adjourned.]

Member Submissions For The Record

[Rep. Sander Levin and Rep. Joseph Crowley](#)

Member Questions For The Record