



Advocates for Government Accountability

A 501(c)(3) Nonprofit Corporation

1875 Eye Street, Ste. 800 · Washington, DC 20006

May 20, 2016

VIA CERTIFIED MAIL

Ms. Rhonda O'Reilly
IRS FOIA Request
HQ FOIA
Stop 211
P.O. Box 621506
Atlanta, GA 30362-3006

Re: Freedom of Information Act Request

Dear Ms. O'Reilly:

I write on behalf of Cause of Action Institute, a nonprofit strategic oversight group committed to ensuring that government decision-making is open, honest, and fair.¹ In carrying out its mission, Cause of Action Institute uses various investigative and legal tools to educate the public about the importance of government transparency and accountability.

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), Cause of Action Institute hereby requests access to all records pertaining to the processing of its FOIA request dated January 23, 2014, which was assigned case numbers F14034-0011 and F15209-0097.² The scope of this request includes, but is not limited to, all records associated with those tracking numbers saved to the IRS E-DIMS/AFOIA database, as well as any correspondence received or undertaken by IRS disclosure officer(s), *viz.*, e-mail communications, instant/text messages, Microsoft Office Communications Server messages, Sensitive Case Report records, and formal letter correspondence.

¹ See CAUSE OF ACTION INSTITUTE, *About*, www.causeofaction.org/about/ (last accessed Apr. 26, 2016).

² Letter from Cause of Action Inst. to Bertrand Tzeng, Internal Revenue Serv. (Jan. 23, 2014) (attached as Exhibit 1); Letter from Denise Higley, Internal Revenue Serv., to Cause of Action Inst. (Feb. 25, 2014) (initial acknowledgment assigning tracking number F14034-0011) (attached as Exhibit 2). The IRS administratively closed the January 23, 2014 FOIA request on April 9, 2015. After Cause of Action Institute challenged the closure as improper, the IRS re-assigned the request a new tracking number. Letter from Rhonda O'Reilly, Internal Revenue Serv., to Cause of Action Inst. (July 31, 2015) (assigning tracking number F15209-0097) (attached as Exhibit 3). This request seeks access to all processing notes and related records associated with either tracking number.

Request To Be Classified as a Representative of the News Media

For fee status purposes, Cause of Action Institute qualifies as a “representative of the news media.”³ As the D.C. Circuit recently held, the “representative of the news media” test is properly focused on the *requestor*, not the specific FOIA *request* at issue.⁴ Cause of Action Institute satisfies this test because it gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience.⁵

Although it is not required by the statute, Cause of Action Institute gathers the news it regularly publishes from a variety of sources, including FOIA requests, whistleblowers/insiders, and scholarly works. It does not merely make raw information available to the public, but rather distributes distinct work products, including articles, blog posts, investigative reports, newsletters, and congressional testimony and statements for the record.⁶ These distinct works are distributed to the public through various media, including the Institute’s website, Twitter, and Facebook. Cause of Action Institute also provides news updates to subscribers via e-mail.

The statutory definition of a “representative of the news media” unequivocally contemplates that organizations such as Cause of Action Institute, which electronically disseminate information and publications via “alternative media[,] shall be considered to be news-media entities.”⁷ In light of the foregoing, numerous federal agencies have appropriately recognized the Institute’s news media status in connection with its FOIA requests.⁸

³ 5 U.S.C. § 552(a)(4)(A)(ii)(II); 26 C.F.R. § 601.702(f)(3)(ii)(B).

⁴ See *Cause of Action v. Fed. Trade Comm’n*, 799 F.3d 1108, 1121 (D.C. Cir. 2015).

⁵ Cause of Action Institute notes that the IRS definition of “representative of the news media,” 26 C.F.R. § 601.702(f)(3)(ii)(B), is in conflict with the statutory definition and controlling case law. The agency has improperly retained the outdated “organized and operated” standard that Congress abrogated when it provided a statutory definition in the OPEN Government Act of 2007. See *Cause of Action*, 799 F.3d at 1125 (“Congress . . . omitted the ‘organized and operated’ language when it enacted the statutory definition in 2007. . . . [Therefore,] there is no basis for adding an ‘organized and operated’ requirement to the statutory definition.”). Yet, under either definition, Cause of Action Institute qualifies as news media requester.

⁶ See, e.g., *Cause of Action Testifies Before Congress on Questionable White House Detail Program*, CAUSE OF ACTION (May 19, 2015), available at <http://goo.gl/Byditl>; *CAUSE OF ACTION, 2015 GRADING THE GOVERNMENT REPORT CARD* (Mar. 16, 2015), available at <http://goo.gl/MqObwV>; *Cause of Action Launches Online Resource: ExecutiveBranchEarmarks.com*, CAUSE OF ACTION (Sept. 8, 2014), available at <http://goo.gl/935qAi>; *CAUSE OF ACTION, GRADING THE GOVERNMENT: HOW THE WHITE HOUSE TARGETS DOCUMENT REQUESTERS* (Mar. 18, 2014), available at <http://goo.gl/BiaEaH>; *CAUSE OF ACTION, GREENTECH AUTOMOTIVE: A VENTURE CAPITALIZED BY CRONYISM* (Sept. 23, 2013), available at <http://goo.gl/N0xSvs>; *CAUSE OF ACTION, POLITICAL PROFITEERING: HOW FOREST CITY ENTERPRISES MAKES PRIVATE PROFITS AT THE EXPENSE OF AMERICAN TAXPAYERS PART I* (Aug. 2, 2013), available at <http://goo.gl/GpP1wR>.

⁷ 5 U.S.C. § 552(a)(4)(A)(ii)(II).

⁸ See, e.g., FOIA Request CFPB-2016-222-F, Consumer Fin. Prot. Bureau (Apr. 20, 2016); FOIA Request CFPB-2016-207-F, Consumer Fin. Prot. Bureau (Apr. 14, 2016); FOIA Request 796939, Dep’t of Labor (Mar. 7, 2016); FOIA Request 2015-HQFO-00691, Dep’t of Homeland Sec. (Sept. 22, 2015); FOIA Request F-2015-12930, Dept. of State (Sept. 2, 2015); FOIA Request 14-401-F, Dep’t of Educ. (Aug. 13, 2015); FOIA Request HQ-2015-01689-F, Dep’t of Energy (Aug. 7, 2015); FOIA Request 2015-OSEC-04996-F, Dep’t of Agric. (Aug. 6, 2015); FOIA Request OS-2015-00419, Dep’t of Interior (Aug. 3, 2015); FOIA Request 780831, Dep’t

Record Preservation Requirement

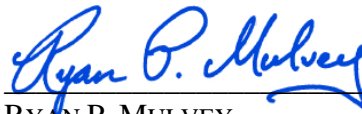
Cause of Action Institute requests that the disclosure officer responsible for the processing of this request issue an immediate hold on all records responsive, or potentially responsive, to this request, so as to prevent their disposal until such time as a final determination has been issued on the request and any administrative remedies for appeal have been exhausted. It is unlawful for an agency to destroy or dispose of any record subject to a FOIA request.⁹

Record Production and Contact Information

In an effort to facilitate document review, please provide the responsive documents in electronic form in lieu of a paper production. If a certain portion of responsive records can be produced more readily, Cause of Action Institute requests that those records be produced first and the remaining records be produced on a rolling basis as circumstances permit.

If you have any questions about this request, please contact me by telephone at (202) 499-4232 or by e-mail at ryan.mulvey@causeofaction.org. Thank you for your assistance.

Sincerely,



RYAN P. MULVEY
COUNSEL

of Labor (Jul 23, 2015); FOIA Request 15-05002, Sec. & Exch. Comm'n (July 23, 2015); FOIA Request 145-FOI-13785, Dep't of Justice (Jun. 16, 2015); FOIA Request 15-00326-F, Dep't of Educ. (Apr. 08, 2015); FOIA Request 2015-26, Fed. Energy Regulatory Comm'n (Feb. 13, 2015); FOIA Request HQ-2015-00248, Dep't of Energy (Nat'l Headquarters) (Dec. 15, 2014); FOIA Request F-2015-106, Fed. Commc'n Comm'n (Dec. 12, 2014); FOIA Request HQ-2015-00245-F, Dep't of Energy (Dec. 4, 2014); FOIA Request F-2014-21360, Dep't of State, (Dec. 3, 2014); FOIA Request LR-2015-0115, Nat'l Labor Relations Bd. (Dec. 1, 2014); FOIA Request 201500009F, Exp.-Imp. Bank (Nov. 21, 2014); FOIA Request 2015-OSEC-00771-F, Dep't of Agric. (OCIO) (Nov. 21, 2014); FOIA Request OS-2015-00068, Dep't of Interior (Office of Sec'y) (Nov. 20, 2014); FOIA Request CFPB-2015-049-F, Consumer Fin. Prot. Bureau (Nov. 19, 2014); FOIA Request GO-14-307, Dep't of Energy (Nat'l Renewable Energy Lab.) (Aug. 28, 2014); FOIA Request HQ-2014-01580-F, Dep't of Energy (Nat'l Headquarters) (Aug. 14, 2014); FOIA Request LR-20140441, Nat'l Labor Relations Bd. (June 4, 2014); FOIA Request 14-01095, Sec. & Exch. Comm'n (May 7, 2014); FOIA Request 2014-4QFO-00236, Dep't of Homeland Sec. (Jan. 8, 2014); FOIA Request DOC-OS-2014-000304, Dep't of Commerce (Dec. 30, 2013); FOIA Request 14F-036, Health Res. & Serv. Admin. (Dec. 6, 2013); FOIA Request 2013-073, Dep't of Homeland Sec. (Apr. 5, 2013); FOIA Request 2012-RMA-02563F, Dep't of Agric. (May 3, 2012); FOIA Request 2012-00270, Dep't of Interior (Feb. 17, 2012); FOIA Request 12-00455-F, Dep't of Educ. (Jan. 20, 2012).

⁹ See 26 C.F.R. § 601.702(e)(14); 36 C.F.R. § 1230.3(b) ("Unlawful or accidental destruction (also called unauthorized destruction) means . . . disposal of a record subject to a FOIA request, litigation hold, or any other hold requirement to retain the records."); *Chambers v. Dep't of the Interior*, 568 F.3d 998, 1004-05 (D.C. Cir. 2009) ("[A]n agency is not shielded from liability if it intentionally transfers or destroys a document after it has been requested under the FOIA or the Privacy Act."); *Judicial Watch, Inc. v. Dep't of Commerce*, 34 F. Supp. 2d 28, 41-44 (D.D.C. 1998).

EXHIBIT

1



January 23, 2014

VIA CERTIFIED MAIL

Bertrand Tzeng
IRS FOIA Request
HQ FOIA
Stop 211
2980 Brandywine Road
Chamblee, GA 30341

INTERNAL REVENUE SERVICE
DISCLOSURE SCANNING OPERATION

JAN 28 2014

DSO - ATLANTA, GA

Dear Mr. Tzeng:

Re: Freedom of Information Act Request

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, Cause of Action hereby requests records reflecting all communications between Douglas Shulman, Steven Miller, Daniel Werfel, or any Internal Revenue Service (IRS) employee within the Tax Exempt & Government Entities Division, and Andrew C. Strelka, Danielle C. Gray, or Boris Bershteyn.

The time period of this request is January 2010 to the present.

Cause of Action Is Entitled to a Public Interest Fee Waiver.

Cause of Action requests a waiver of any and all applicable fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). The FOIA provides that requested records shall be furnished without or at reduced charge if “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”¹ As discussed below, Cause of Action satisfies the statutory standard for a public interest fee waiver.

A. *Disclosure of the requested records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government.*

As an initial matter, we note that “obtaining information to act as a ‘watchdog’ of the government is a well-recognized public interest in the FOIA.”² Cause of Action is a non-profit, nonpartisan government accountability organization that uses investigative, legal, and

¹ 5 U.S.C. § 552(a)(4)(A)(iii).

² *Balt. Sun v. U.S. Marshals Serv.*, 131 F. Supp. 2d 725, 729 (D. Md. 2001); *see also* *Ctr. to Prevent Handgun Violence v. U.S. Dep’t of the Treasury*, 981 F. Supp. 20, 24 (D.D.C. 1997) (“This self-appointed watchdog role is recognized in our system.”).

communications tools to educate the public about how government transparency and accountability protect economic opportunity for American taxpayers. It is in pursuit of these educational goals that Cause of Action seeks disclosure of the requested records.

In this instance, Cause of Action meets the four-factor test used by the IRS to determine whether disclosure of the requested information is in the public interest.³ First, the requested records would disclose how the IRS interacted with the White House on matters pertaining to the targeting of applicants for 501(c)(4) tax-exempt status. Second, the requested information is “likely to contribute”⁴ to the understanding of the IRS’s operations because the information is not already in the public domain and consists largely of substantive material, as opposed to routine administrative information. Third, disclosure will contribute to “public understanding,” as opposed to the understanding of the requester or a narrow segment of interested persons.⁵ Cause of Action has both the intent and ability to make the results of this request available to the public in various medium forms. Cause of Action’s staff has a wealth of experience and expertise in government oversight, investigative reporting, and federal public interest litigation. These professionals will analyze the information responsive to this request, use their editorial skills to turn raw materials into a distinct work, and share the resulting analysis with the public, whether through Cause of Action’s regularly published online newsletter, memoranda, reports, or press releases. For example, Cause of Action has recently published reports on its website which reached a broad segment of the public via Twitter and e-mail.⁶ Fourth, and finally, disclosure is likely to contribute “significantly” to the public understanding of the IRS’s activities, as these records are not readily available from other sources and public understanding of the IRS’s operations will be substantially greater as a result of disclosure.⁷

B. Disclosure of the requested information is not primarily in the commercial interest of Cause of Action.

Cause of Action does not seek this information to benefit commercially. Cause of Action is a nonprofit organization, as defined under Section 501(c)(3) of the Internal Revenue Code, committed to advancing public awareness of the activities of government agencies and to ensuring the lawful and appropriate use of government funds by those agencies. Cause of Action will not make a profit from the disclosure of this information. Rather, this information will be used to further the knowledge and interests of the general public regarding how the IRS may have interacted with the White House in relation to the scrutiny of applicants for 501(c)(4) tax-exempt status. In the event the disclosure of this information does create a profit motive, however, that is not dispositive for the commercial interest test; media requesters like Cause of Action can have a profit motive, so long as the dissemination of the information requested is in

³ See, e.g., 26 C.F.R. § 601.702(f)(2)(A)-(D) (outlining first four factors of the IRS’s fee waiver regulation).

⁴ *Id.* § 601.702(f)(2)(B).

⁵ *Id.* § 601.702(f)(2)(C).

⁶ See CAUSE OF ACTION, POLITICAL PROFITEERING: HOW FOREST CITY ENTERPRISES MAKES PRIVATE PROFITS AT THE EXPENSE OF AMERICAN TAXPAYERS PART III (Dec. 9, 2013), available at <http://causeofaction.org/report-unfair-enrichment-forest-city-enterprises-acts-law/>; see also CAUSE OF ACTION, GREENTECH AUTOMOTIVE: A VENTURE CAPITALIZED BY CRONYISM (Sept. 23, 2013), available at <http://causeofaction.org/2013/09/23/greentech-automotive-a-venture-capitalized-by-cronyism-2/>.

⁷ 26 C.F.R. § 601.702(f)(2)(D).

their professional capacity and would further the public interest.⁸ For the foregoing reasons, this request is not primarily in the commercial interest of Cause of Action.⁹

Request for news media status

For fee purposes, Cause of Action qualifies as a “representative of the news media” under 5 U.S.C. § 552(a)(4)(A)(ii)(II). Cause of Action is organized and operated, among other things, to publish and broadcast news, *i.e.*, information that is about current events or that would be of current interest to the public. Cause of Action uses the information that it gleans from a wide variety of sources, including whistleblowers/insiders, government agencies, universities, scholarly works, FOIA requests and other investigative efforts, to publish original content on its website, such as reports, newsletters, memoranda, press releases, and other news-like materials. Since the beginning of 2013, for example, Cause of Action has published eight reports that incorporated information obtained from diverse sources.¹⁰ During that same period, Cause of Action produced seven blog posts specifically related to its FOIA activity which editorialized on responsive documents or the failure of agencies to reply satisfactorily,¹¹ as well as numerous

⁸ See *Campbell v. U.S. Dep’t of Justice*, 164 F.3d 20, 38 (D.C. Cir. 1998).

⁹ See 26 C.F.R. § 601.702(f)(2)(D)-(E).

¹⁰ See, e.g., CAUSE OF ACTION, POLITICAL PROFITEERING: HOW FOREST CITY ENTERPRISES MAKES PRIVATE PROFITS AT THE EXPENSE OF AMERICAN TAXPAYERS PART III (Dec. 9, 2013), <http://causeofaction.org/assets/uploads/2013/12/131209-Forest-City-Report-III.pdf>; CAUSE OF ACTION, POLITICAL PROFITEERING: HOW FOREST CITY ENTERPRISES MAKES PRIVATE PROFITS AT THE EXPENSE OF AMERICAN TAXPAYERS PART II (Nov. 7, 2013), <http://causeofaction.org/political-profiteering-forest-city-enterprises-makes-private-profits-expense-americas-taxpayers-part-ii/>; CAUSE OF ACTION, GREENTECH AUTOMOTIVE: A VENTURE CAPITALIZED BY CRONYISM (Sept. 23, 2013), <http://causeofaction.org/2013/09/23/greentech-automotive-a-venture-capitalized-by-cronyism-2/>; CAUSE OF ACTION, POLITICAL PROFITEERING: HOW FOREST CITY ENTERPRISES MAKES PRIVATE PROFITS AT THE EXPENSE OF AMERICA’S TAXPAYERS PART I (Aug. 2, 2013), <http://causeofaction.org/2013/08/02/political-profiteering-how-forest-city-enterprises-makes-private-profits-at-the-expense-of-americas-taxpayers/>; CAUSE OF ACTION, INVESTIGATION OF DHS DEPUTY IG CHARLES EDWARDS (July 9, 2013), <http://causeofaction.org/2013/07/09/foia-request-and-complaint-regarding-dhs-oig-charles-edwards/>; CAUSE OF ACTION, THE COLLAPSE OF MF GLOBAL: SUMMARY & ANALYSIS (June 25, 2013), <http://causeofaction.org/2013/06/25/the-collapse-of-mf-global-summary-analysis/>; CAUSE OF ACTION, CONPROFIT: HOW THE IRS’S FAILED OVERSIGHT ALLOWS NONPROFIT MONEY LAUNDERING (June 17, 2013), <http://causeofaction.org/2013/06/17/conprofit-how-the-irss-failed-oversight-allows-nonprofit-money-laundering/>; CAUSE OF ACTION, ETHICAL VIOLATIONS AND INAPPROPRIATE INFLUENCE AT BUREAU OF INDIAN AFFAIRS (June 11, 2013), <http://causeofaction.org/2013/06/11/ethical-violations-and-inappropriate-influence-at-bureau-of-indian-affairs/>; CAUSE OF ACTION, REPORT ON CPPW: PUTTING POLITICS TO WORK (Apr. 1, 2013), <http://causeofaction.org/2013/04/16/Cause-of-Action-report-on-cppw-putting-politics-to-work-2/>.

¹¹ See, e.g., *FOIA Follies: HUD Flags Sensitive Freedom of Information Act Requests for Extra Scrutiny; Political Appointees Involved*, CAUSE OF ACTION (July 31, 2013), <http://causeofaction.org/2013/07/31/hud-flags-sensitive-freedom-of-information-act-requests-for-extra-scrutiny-political-appointees-involved/>; *FOIA Requesters Misled by Military to Waive Appeal Rights*, CAUSE OF ACTION (July 18, 2013), <http://causeofaction.org/2013/07/18/foia-requesters-misled-by-military-to-waive-appeal-rights/>; *Secret Pentagon Policy May Delay Responses to Freedom of Information Act Requests*, CAUSE OF ACTION (July 9, 2013), <http://causeofaction.org/2013/07/09/secret-pentagon-policy-may-delay-responses-to-freedom-of-information-act-requests/>; *White House and Treasury Department Politicize FOIA*, CAUSE OF ACTION (June 24, 2013), <http://causeofaction.org/2013/06/24/white-house-and-treasury-department-politicize-foia/>; *CFPB Advises Employees to FOIA-proof their Work Calendars*, CAUSE OF ACTION (June 18, 2013), <http://causeofaction.org/2013/06/18/cfpb-advises-employees-to-foia-proof-their-work-calendars/>; *FOIA Freak-Out: IRS Wrongly Denies FOIA Request, Comes Unglued Over Media Response*, CAUSE OF ACTION (May 13, 2013), <http://causeofaction.org/2013/05/13/foia-freak-out-irs-wrongly-denies-foia-request-comes-unglued->

other posts on a wide-range of subjects.¹² All of these activities required the extensive research and writing skills of Cause of Action's analysts, lawyers, and communications experts.

Cause of Action routinely and systematically disseminates information acquired from its investigative efforts to the public through various media. For example, Cause of Action distributes articles, blog posts, published reports, and newsletters about current events of interest to the general public through its website, which has been viewed well over 100,000 times in the past year alone, including by visitors from other media organizations (e.g., *Fox News*, *Associated Press*, *New York Times*, *Bloomberg*, *Congressional Quarterly*, and *NBC*).¹³ Cause of Action also disseminates news to the public via television and radio interviews, as well as Twitter and Facebook, and it provides news updates to subscribers via e-mail. As a result of these activities, federal agencies have continually recognized Cause of Action's news media status in connection with its FOIA requests.¹⁴

over-media-response/; *FOIA Freak-Out: DOJ Scrambles to Avoid Fallout Over Swag Purchases*, CAUSE OF ACTION (Apr. 25, 2013), <http://causeofaction.org/2013/04/25/foia-freak-out-doj-scrambles-to-avoid-fallout-over-swag-purchases/>.

¹² See, e.g., *What to Do about Data Security? A Discussion of the FTC's LabMD & Wyndham Cases*, CAUSE OF ACTION (Sept. 4, 2013), <http://causeofaction.org/2013/09/04/what-to-do-about-data-security-a-discussion-of-the-ftcs-labmd-wyndham-cases/>; *Ethical Violations and Retaliation: How to Get Promoted at the Bureau of Indian Affairs*, CAUSE OF ACTION (June 11, 2013), <http://causeofaction.org/2013/06/11/ethical-violations-and-retaliation-how-to-get-promoted-at-the-bureau-of-indian-affairs/>; *How HHS Secretary Sebelius Broke Federal Law and Avoided Punishment*, CAUSE OF ACTION (June 4, 2013), <http://causeofaction.org/2013/06/04/how-hhs-secretary-sebelius-broke-federal-law-and-avoided-punishment/>; *GAO on CPPW: Nothing to See Here*, CAUSE OF ACTION (June 3, 2013), <http://causeofaction.org/2013/06/03/gao-on-cppw-nothing-to-see-here/>; *Jon Corzine: The Rogue Trader that is Too Big to Jail*, CAUSE OF ACTION (May 30, 2013), <http://causeofaction.org/2013/05/30/jon-corzine-the-rogue-trader-that-is-too-big-to-jail/>; *Cronies Putting Politics to Work*, CAUSE OF ACTION (Apr. 16, 2013), <http://causeofaction.org/2013/04/16/cronies-putting-politics-to-work/>; *Leading the Way in Scientific Misconduct*, CAUSE OF ACTION (Apr. 5, 2013), <http://causeofaction.org/2013/04/05/leading-the-way-in-scientific-misconduct/>; *Senator Unveils "Victims of Government,"* CAUSE OF ACTION (Apr. 3, 2013), <http://causeofaction.org/2013/04/03/senator-unveils-victims-of-government/>; *Most Transparent Administration in History?*, CAUSE OF ACTION (Feb. 19, 2013), <http://causeofaction.org/2013/02/19/most-transparent-administration-in-history/>; *After The State of the Union: One Look at Energy and Jobs*, CAUSE OF ACTION (Feb. 13, 2013), <http://causeofaction.org/2013/02/13/after-the-state-of-the-union-one-look-at-energy-and-jobs/>; *What's a CEO to Do?*, CAUSE OF ACTION (Jan. 29, 2013), <http://causeofaction.org/2013/01/29/whats-a-ceo-to-do/>; *Dispelling the Myths about the Drakes Bay Oyster Company Conflict*, CAUSE OF ACTION (Jan. 23, 2013), <http://causeofaction.org/2013/01/23/5-myths-about-dbo/>; *The Future may not hold the "Sunshine" we Government Accountability Advocates Long to See*, CAUSE OF ACTION (Jan. 21, 2013), <http://causeofaction.org/2013/01/21/the-future-may-not-hold-the-sunshine-we-government-accountability-advocates-long-to-see/>; *White House Opens New Year with Open Data Mandate*, CAUSE OF ACTION (Jan. 11, 2013), <http://causeofaction.org/2013/01/11/white-house-opens-new-year-with-open-data-mandate/>; *When Cronyism Takes the Place of Merit at the DOE, Everyone Loses*, CAUSE OF ACTION (Jan. 10, 2013), <http://causeofaction.org/2013/01/10/when-cronyism-takes-the-place-of-merit-everyone-loses/>; *A New Year's Resolution for the Federal Government*, CAUSE OF ACTION (Jan. 4, 2013), <http://causeofaction.org/2013/01/04/a-new-years-resolution-for-the-federal-government/>.

¹³ *Google Analytics* for <http://www.causeofaction.org> (Jan. 1, 2013 – Dec. 2, 2013) (on file with Cause of Action).

¹⁴ See, e.g., FOIA Request DOC-OS-2014-000304, Dep't of Commerce (Dec. 30, 2013); FOIA Request 14F-036, Health Res. & Serv. Admin. (Dec. 6, 2013); FOIA Request 2014-010F, Consumer Fin. Prot. Bureau (Oct. 7, 2013); FOIA Request CFPB-2014-002-F, Consumer Fin. Prot. Bureau (Oct. 2, 2013); FOIA Request 2013-145F, Consumer Fin. Prot. Bureau (May 29, 2013); FOIA Request 2013-01234-F, Dep't of Energy (July 1, 2013); FOIA Request 2013-073, Dep't of Homeland Sec. (Apr. 5, 2013); FOIA Request 2012-RMA-02563F, Dep't of Agric. (May 3,

Mr. Bertrand Tzeng
January 23, 2014
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Record production and contact information

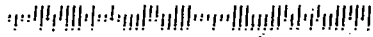
In an effort to facilitate record production, please provide the responsive records in electronic format (*e.g.*, e-mail, .PDF). If a certain set of responsive records can be produced more readily, we respectfully request that these records be produced first and that the remaining records be produced on a rolling basis as circumstances permit.

If you have any questions about this request, please contact me by email at Robyn.Burrows@causeofaction.org, or by telephone at (202) 499-4232.

Thank you for your attention to this matter.

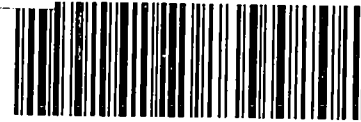


ROBYN BURROWS
COUNSEL



CERTIFIED MAIL

Cause of Action
1919 PENN AVE NW, STE 650
WASHINGTON, DC 20006



9414 8118 9956 0773 9783 07

PS Form 3800 6/02

\$5.270
US POSTAGE
FIRST-CLASS
FROM 20006
JAN 23 2014
stamps.com



9525000544213



Mr Bertrand Tzeng
IRS FOIA Request
HQ FOIA
Stop 211
2980 Brandywine Rd.
Chamblee GA 30341-5524

EXHIBIT

2



PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224**

February 25, 2014

Robyn Burrows
Cause of Action
1919 Pennsylvania Ave, NW
Suite 650
Washington, DC 20006

Dear Robyn Burrows:

I am responding to your Freedom of Information Act (FOIA) request dated January 23, 2014 that we received on January 28, 2014.

I am unable to send the information you requested by February 26, 2014, which is the 20 business-day period allowed by law. I apologize for any inconvenience this delay may cause.

STATUTORY EXTENSION OF TIME FOR RESPONSE

The FOIA allows an additional ten-day statutory extension in certain circumstances. To complete your request I need additional time to search for, collect, and review responsive records from other locations. We have extended the statutory response date to March 12, 2014, after which you can file suit. An administrative appeal is limited to a denial of records, so it does not apply in this situation.

REQUEST FOR ADDITIONAL EXTENSION OF TIME

Unfortunately, we will still be unable to locate and consider release of the requested records by March 12, 2014. We have extended the response date to May 30, 2014 when we believe we can provide a final response.

You do not need to reply to this letter if you agree to this extension. You may wish to consider limiting the scope of your request so that we can process it more quickly. If you want to limit your request, please contact the individual named below. If we subsequently deny your request, you still have the right to file an administrative appeal.

You may file suit if you do not agree to an extension beyond the statutory period. Your suit may be filed in the U.S. District Court:

- Where you reside or have your principal place of business

- Where the records are located, or
- In the District of Columbia

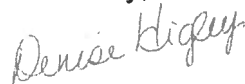
You may file suit after March 12, 2014. Your complaint will be treated according to the Federal Rules of Civil Procedure applicable to actions against an agency of the United States. These procedures require that the IRS be notified of the pending suit through service of process, which should be directed to:

Commissioner of Internal Revenue
Attention: CC:PA: Br 6/7
1111 Constitution Avenue, NW
Washington, D.C. 20224

The FOIA provides access to existing records. Extending the time period for responding to your request will not delay or postpone any administrative, examination, investigation or collection action.

If you have any questions please call me at (801) 620-7638 or write to: Internal Revenue Service, HQ Disclosure, 2980 Brandywine Road, Stop 211, Chamblee, GA 30341. Please refer to case number F14034-0011.

Sincerely,



Denise Higley
Tax Law Specialist
Badge No. 1000142331
Headquarters (HQ) Disclosure FOIA Group

EXHIBIT

3



PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

July 31, 2015

Ryan P. Mulvey
Cause of Action
1919 Pennsylvania Ave., NW
Suite 650
Washington, DC 20006

Dear Mr. Mulvey:

This is our final response to your Freedom of Information Act (FOIA) request dated July 22, 2015, which we received on July 28, 2015.

You asked for all communication between Douglas Shulman, Steven Miller, Daniel Werfel, or any IRS employees within the Tax Exempt & Government Entities Division, and Andrew C. Strelka, Danielle C. Gray, or Boris Bershteyn from January, 2010 to the date of the request.

In our previous response dated April 9, 2015, we explained we were unable to process your request because it did not reasonably describe the records you are seeking. We asked that the request be revised to be more specific as to subject matter, time period and/or limiting the request only to specific employees within the Tax Exempt & Government Entities Division.

The current request dated July 22, 2015, has not been revised and therefore we are still unable to process the request.

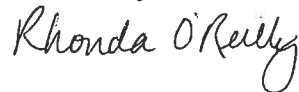
The FOIA specifies two requirements for a request. It must (1) "reasonably describe" the records sought and (2) be made in accordance with published rules. 5 U.S.C § 552(a)(3)(A). IRS regulations at Treas. Reg. § 601.702(c)(5)(i), require that the request describe the documents in sufficient detail to enable us to locate the records, "without placing an unreasonable burden upon the IRS." A request for "all communications between . . . any IRS employees within the Tax Exempt & Government Entities Division and Andrew C Strelka, Danielle C. Gray, or Boris Bershteyn" over a four year period would be unreasonably burdensome for the IRS to process, given the number of IRS employees involved and the commensurate amount of data to be searched. A request of the type you have submitted seeking "any and all" records amongst those of numerous IRS employees without reference to subject matter and over such an expansive time period is not valid. See Dale v. IRS, 238 F. Supp. 2d 99, 104-05 (D.D.C. 2002) (concluding that request seeking "any and all documents . . . that refer or relate in any way" to requester failed to reasonably describe records sought

and "amounted to an all-encompassing fishing expedition of files at [agency's] offices across the country, at taxpayer expense").

We encourage you again to consider revising your request making it more specific as to subject matter, time period and/or limiting the request only to specific employees within the Tax Exempt & Government Entities (TEGE) Division. Without a specific subject matter or specifying employees within the TEGE Division, we are unable to initiate a search and process your request.

If you have any questions please call Acting Manager Rhonda O'Reilly at 860-756-4673 or write to: Internal Revenue Service, HQ Disclosure, Stop 211, PO Box 621506, Atlanta, GA 30362-3006. Please refer to case number F15209-0097.

Sincerely,

A handwritten signature in cursive script that reads "Rhonda O'Reilly".

Rhonda O'Reilly
Acting Disclosure Manager
Headquarters (HQ) FOIA