

Congress of the United States
Washington, DC 20515

February 5, 2014

The Honorable Beth F. Cobert
Deputy Director for Management
Office of Management and Budget &
Executive Chair
Council of the Inspectors General on Integrity & Efficiency

The Honorable Phyllis K. Fong
Inspector General
U.S. Department of Agriculture &
Chair
Council of the Inspectors General on Integrity & Efficiency

The Honorable Joseph S. Campbell
Deputy Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation
U.S. Department of Justice &
Chair of the Integrity Committee
Council of the Inspectors General on Integrity & Efficiency

Dear Deputy Director Cobert, Inspector General Fong, and Deputy Assistant Director Campbell:

We are writing to raise serious concerns over the troubling activities of the Treasury Inspector General for Tax Administration (TIGTA), including noncompliance with respect to conducting a performance audit in accordance with generally accepted government auditing standards (GAGAS) issued by the Comptroller General of the United States and head of the U.S. Government Accountability Office (GAO). As you are all aware, GAGAS standards are intended to provide a framework for conducting high quality audits with competence, integrity, objectivity, and independence.

TIGTA's May 14, 2013 final audit report, *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review* (Reference Number: 2013-10-053) described the specific standards for a performance audit in its GAGAS compliance statement:

“We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.”¹

¹ U.S. Treasury Inspector General for Tax Administration, *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review*, Reference Number: 2013-10-053 (Washington, D.C.: May 14, 2013)(online at: <http://www.treasury.gov/tigta/auditreports/2013reports/201310053fr.pdf>) p. 4.

In reviewing the actions of TIGTA, we regretfully conclude that TIGTA failed to follow GAGAS, particularly with respect to conducting an effective assessment of audit risk and taking steps to reducing audit risk. We believe this resulted in TIGTA publishing findings and conclusions that were improper and incomplete.²

“The audit report should be fair and not misleading, and should place the audit results in perspective. This means presenting the audit results impartially and guarding against the tendency to exaggerate or overemphasize deficient performance. In describing shortcomings in performance, auditors should present the explanation of responsible officials including the consideration of any unusual difficulties or circumstances they faced and violated common sense standards of integrity and fairness.”

Per the guidance provided by the U.S. Small Business Administration Inspector General (IG) Peggy Gustafson at the January 15, 2014, hearing held by the Committee on Oversight and Government Reform, we are submitting this letter to the Council of the Inspectors General on Integrity & Efficiency (CIGIE) and requesting that CIGIE’s Integrity Committee initiate a thorough review of the conduct of Inspector General J. Russell George based on the facts, evidence, and analysis contained in this letter.

TIGTA produced a fundamentally flawed performance audit of the activities of the Internal Revenue Service’s (IRS) Tax Exempt and Government Entities Division that harmed the public interest to such a severe extent that trust and confidence in TIGTA’s independence, ethics, competence, and quality control have been called into question and its effectiveness is threatened.

In reviewing the evidence that has emerged since the issuance of TIGTA’s final audit report, *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review* (Reference Number: 2013-10-053), we reluctantly conclude that contrary to IG George’s assertion³ in the final audit report, under IG George’s leadership, TIGTA failed to conduct its performance audit in accordance with GAGAS. In accordance with this finding, we strongly urge the Integrity Committee, as part of its review, to examine which factors accounted for TIGTA’s failure to mitigate the possibility of audit risk.⁴

We are concerned that if CIGIE’s Integrity Committee fails to investigate this serious matter, questions will persist as to IG George’s professional judgment, competence, and ability to exercise quality control over TIGTA’s final work products. Further, IG George’s subsequent statements and testimony in response to congressional inquiries over the objectivity and

² For a full description of audit risk concepts and principles see: U.S. Government Accountability Office, *Government Auditing Standards 2011 Revision* GAO-12-331G (Washington, D.C.: December 2011)(online at: <http://gao.gov/assets/590/587281.pdf>) pp. 125-129.

³ U.S. Treasury Inspector General for Tax Administration, *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review*, Reference Number: 2013-10-053 (Washington, D.C.: May 14, 2013)(online at: <http://www.treasury.gov/tigta/auditreports/2013reports/201310053fr.pdf>).

⁴ Factors may include “...evidence that is not sufficient and/or appropriate, an inadequate audit process, or intentional omissions or misleading information due to misrepresentation or fraud” see: U.S. Government Accountability Office, *Government Auditing Standards 2011 Revision*, GAO-12-331G (Washington, D.C.: December 2011) p. 125.

independence of TIGTA's work have been incomplete and, at times, outright misleading -- calling into question the credibility of TIGTA's May 14 final audit report and casting serious doubts over IG George's integrity in directing this specific audit and responding to questions concerning its methodology and findings.

This letter presents evidence addressing not only the most significant issues that have resulted in the conclusion that TIGTA failed to follow GAGAS in conducting the May 14 performance audit, but also information indicating that following the publication of TIGTA's performance audit, IG George exhibited poor professional judgment by providing vague, defensive, and cryptic responses to legitimate oversight questions surrounding the surprising revelations that TIGTA inadvertently or willfully, ignored evidence of the IRS utilizing inappropriate criteria to identify and select tax-exempt applications of liberal or progressive groups.

Poor Professional Judgment – TIGTA's Partisan Audit Acceptance and Initiation Process

On June 28, 2012, Representative Darrell Issa, Chairman of the Committee on Oversight and Government Reform, and Representative Jim Jordan, Chairman of the Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending, sent TIGTA a letter stating:

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

To the credit of Chairman Issa and Chairman Jordan, the Democratic Ranking Members were cc'd on the June 28, 2012, written request.⁵ Thus, we were dismayed that TIGTA chose to unilaterally delete the Democratic Ranking Members who were cc'd on the original request letter from the subsequent correspondence chain. Further, we were astonished that an experienced IG such as IG George, who claims to be independent and non-partisan, would unilaterally choose to **only respond to Republican Members** of the Committee, as he did in TIGTA's July 11, 2012, identical response letters sent only to Chairman Issa and Chairman Jordan.⁶

In addition, we have learned that when IG George's July 11 letter (which he only sent to Republican Members of the Committee) references TIGTA's Office of Audit meeting with “Committee staff,” this actually only refers to *Republican* Committee staff:

⁵ Letter from Chairman Darrell E. Issa, House Committee on Oversight and Government Reform, and Chairman Jim Jordan, Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending, to Inspector General J. Russell George, Treasury Inspector General for Tax Administration (June 28, 2012)(<http://oversight.house.gov/wp-content/uploads/2013/05/2012-06-28-DEI-Jordan-to-George-TIGTA-tax-exempt-status-questionnaire.pdf>).

⁶ Identical Letters from Inspector General J. Russell George to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform, and Chairman Jim Jordan, Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending (July 11, 2012)(online at: <http://oversight.house.gov/wp-content/uploads/2013/05/2012-07-11-George-TIGTA-to-DEI-tax-exempt-status-questionnaire-re-6-28.pdf>).

“As stated in your letter, after our meeting with the Committee staff, our Office of Audit recently began work on this issue. We would be happy to provide a status update to the Subcommittee staff and provide a copy of our interim and final reports on the matter when they are issued.”⁷

It is peculiar that neither IG George nor his staff raised concerns over even the appearance of partisan impropriety that one might reasonably expect to result from holding pre-audit meetings with only Republican committee staff, particularly in light of IG George’s troubling decision to not provide Full Committee Ranking Member Elijah Cummings and Subcommittee Ranking Member Dennis Kucinich with copies of his July 11 response to Chairman Issa and Chairman Jordan, despite both members having been cc’d on the original letter.⁸

At a July 19, 2013, hearing held by the Committee on Oversight and Government Reform, Congressman Danny Davis provided IG George an opportunity to clear the record and explain TIGTA’s seemingly partisan decision to consult only with Republican staff:

“Did anyone ever raise any concerns that there may not have been any Democratic staffers present?”

IG George’s response, “No one raised concerns to me about that. I don’t know if – I wasn’t there,”⁹ is surprisingly passive, and features a striking omission that not a single member of TIGTA’s Office of Audit demonstrated sound professional judgment in raising concerns with IG George over TIGTA holding Republican-only staff level meetings on a politically-volatile subject matter.

In addition, by signing the July 11 letter, IG George appears to have officially sanctioned audit processes and procedures that both in appearance, and in reality, indicate TIGTA’s Office of Audit was conducting an audit on behalf of, and in consultation with, Republican Members – to the exclusion of Democratic Members and staff.

⁷ *Id.*

⁸ Letter from Chairman Darrell E. Issa, House Committee on Oversight and Government Reform, and Chairman Jim Jordan, Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending, to Inspector General J. Russell George, Treasury Inspector General for Tax Administration (June 28, 2012)(online at: <http://oversight.house.gov/wp-content/uploads/2013/05/2012-06-28-DEI-Jordan-to-George-TIGTA-tax-exempt-status-questionnaire.pdf>).

⁹ House Committee on Oversight and Government Reform, *Hearing on The IRS’s Systematic Delay and Scrutiny of Tea Party Applications* (July 18, 2013) (<http://www.gpo.gov/fdsys/pkg/CHRG-113hhr82435/pdf/CHRG-113hhr82435.pdf>).

Confidence and Credibility – TIGTA’s Incomplete, Inaccurate, and Misleading Responses to Audit Questions and Concerns Raised by Members of Congress

On June 26, 2013, Representative Sander Levin, Ranking Member of the Committee on Ways and Means, sent IG George a letter cataloging troubling statements attributed to your Communications Director, Karen Kraushaar, which were widely reported by news outlets. This is the relevant excerpt from Ranking Member Levin’s letter to IG George:

“At first your office issued the following statement: ‘TIGTA’s audit focused on the criteria the IRS used to select cases for expanded review for potential political campaign intervention. The “Be On the Look Out” listings discussed in our report were the ones used to refer cases for this type of scrutiny...’

Then these statements were made to and reported by the following news outlets:

CNN: Dana Bash: “An Inspector General spokesman responded that he focused on conservatives because that’s what the Republican led committee asked him to do.”

NPR: “So why did the IG release a 50-page audit with no mention of progressives being targeted too? A spokeswoman for the inspector general says that’s outside of the scope of the audit, which was originally requested by Issa. The spokeswoman says the IG was asked to look at the targeting and treatment of tea party groups and that’s exactly what the audit did and not much more. Another reason progressives weren’t mentioned, the IG spokeswoman tells NPR, investigators were not aware of any BOLOs listing progressive organizations when conducting the review.”

POLITICO: ““Our audit report answered the questions it was asked to address. Other questions that are now being raised are the subject of additional review,’ a TIGTA spokeswoman said.”

HUFFINGTON POST: “As for why the report failed to mention that progressive groups, along with tea party groups, had been placed on IRS so-called Be On The Lookout lists for special scrutiny, Karen Kraushaar, the Communications Director at the Treasury Inspector General’s office, said investigators had been constrained by their mission statement. House Oversight Committee Chairman Darrell Issa (R-Calif.) had specifically requested that investigators ‘narrowly focus on tea party organizations.’”

These new disclosures are not consistent with the description of your audit work in the FY 2013 Audit Plan that failed to disclose that you were only looking for Tea Party organizations and not all potential political activities:

“Consistency in Identifying and Reviewing Applications for Tax-Exempt Status Involving Political Advocacy Issues (FY 2012 – Work in Progress – Audit Number: 201210022) Audit Objective: Assess the consistency of the EO

function's identification and review of applications for tax-exempt status involving potential political advocacy issues."

They are also not consistent with stated objective on the first page of the May 14, 2013 audit report which was "to determine whether allegations were founded that the IRS 1) targeted specific groups applying for tax-exempt status, 2) delayed processing of targeted groups' applications, and 3) requested unnecessary information from targeted groups." There is no mention of your audit being limited to only one political side—Tea Party and conservative organizations.¹⁰

When confronted with the stark contradictions and troubling revelations contained in the statements of TIGTA's Communications Director – an individual, who based on TIGTA's own online description of TIGTA Offices, is one of only three officials within the "Inspector General" component of TIGTA's Headquarters – IG George failed to even attempt to provide Ranking Member Levin with a serious, detailed explanation. Rather, IG George's cryptic response to the Ranking Member raised new questions without providing a single concrete answer:

"In your June 26, 2013, letter, you raised concerns about statements attributed to TIGTA sources by members of the media. Many of the press reports are not accurate. Please rely on our statements in this letter, my testimony, and our published materials for an accurate portrayal of our position."¹¹

IG George's utilization of the imprecise term "Many" raises questions about precisely which reports *were* accurate. Further, IG George failed to address the glaring contradiction between the public statements made (not by "TIGTA sources") by his own Communications Director, and the official description of TIGTA's work contained in its performance audit publications, including the May 14, final audit report.

IG George's refusal to explain this unusual sequence of events is particularly notable given the sheer magnitude of the discrepancies between IG George's official description of TIGTA's work and your Communications Director's description, combined with IG George's evasive answers on this topic, call into question IG George's ethics, independence, professional judgment, and competence to conduct the audit in a fair and objective manner.

At the July 18, 2013, hearing held by the Committee on Oversight and Government Reform, IG George was provided an opportunity to clarify and explain his Communications Director's troubling statements. However, the IG remained steadfast in refusing to provide any additional details:

¹⁰ Letter from Ranking Member Sander M. Levin, Committee on Ways and Means, to Inspector General J. Russell George, Treasury Inspector General for Tax Administration (June 26, 2013)(online at: <http://democrats.waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/Letter%20to%20TIGTA%206-26.pdf>).

¹¹ Letter from Inspector General J. Russell George, Treasury Inspector General for Tax Administration, to Ranking Member Sander M. Levin, Committee on Ways and Means (June 26, 2013)(online at: <http://online.wsj.com/public/resources/documents/TIGTAFinalResponseToRepLevin06262013.pdf>).

Mr. Connolly: Mr. George, there have been reports with respect to the scope of your audit or review, including by the spokesperson in your office, that you met with the Chairman of this committee and essentially he helped limit the scope of the review.

Mr. George: That's incorrect, sir.

Mr. Connolly: That is incorrect?

Mr. George: The report, I did see, but that did not occur.

Mr. Connolly: So Karen Kraushaar, your spokesperson, who quoted – who said – and I quote, that Darrell Issa had specifically requested that investigators, quote, “narrowly focus on tea party organizations,” unquote, so they did just that, according to Kraushaar. That is an inaccurate statement?

Mr. George: That is correct.

Mr. Connolly: On what basis would she make such a statement on your behalf to the press?

Mr. George: Well, it was not without my authorization, and she misspoke, sir.

Mr. Connolly: She misspoke. Did you in fact have meetings with the chairman of this committee about the nature of this audit?

Mr. George: I had one meeting with the chairman, and if anything, I was berated because he thought I failed to provide information to him that he thought he was entitled to. I'm sorry, what? (Off mic.)

Oh, and this was actually, sir – and it was just pointed out to me that this was after the audit was issued, **so there was no meeting prior at all.**

The transcript clearly demonstrates that approximately one month after providing a cryptic, evasive answer to Ranking Member Levin, IG George continued his troubling practice of dissembling and refusing to provide straightforward answers while testifying under oath before Congress. IG George's response to a simple query over how his communications director could have released such an inflammatory, and according to IG George, inaccurate statement, provided no insight and was wholly insufficient:

“Well, it was not without my authorization, and she misspoke, sir.”

To date, IG George has refused to provide information explaining why he would authorize such an inaccurate statement to be made on his office's behalf, or why his communications director would provide information that directly calls into question the very independence and ethics of his performance audit.

In addition, based on his later testimony at that same hearing, it appears that IG George's own assertions that no meeting took place between himself and the chairman prior to the audit being issued was technically true, but only if IG George accepts zero responsibility for the actions of his own staff, who met only with Republican Committee staff who work for Chairman Issa.

Quality Control – Deficiencies and Glaring Omissions in the Performance Audit

The May 14, 2013, final audit report is notable for several glaring omissions that created a misleading perception of TIGTA's final audit findings. For example, the July 12, 2013, disclosure by the minority office of the Committee on Oversight and Government Reform of documents from the IRS and TIGTA that demonstrate there was no political motivation and that applications across the political spectrum were screened using key words, was highly troubling. As Ranking Member Levin described the disclosures in a July 12, 2013, statement:

“This new information underscores the fact that the Treasury Inspector General's audit was fundamentally flawed and created widespread misperceptions that Republicans seized on in an effort to attack the White House. It is now all the more important that Inspector General George return to Congress to explain his glaring omissions and reasons for releasing a highly misleading report. Contrary to what the Inspector General asserted in his audit and during subsequent testimony, TIGTA investigations conducted a review of whether the screening of tax-exemption applications was politically motivated and concluded – after having scrutinized 5,500 emails – that it was not. The fact that this information was not included in the final audit, nor disclosed in subsequent testimony, further highlights that the audit was fundamentally flawed.

What's more, it is now clear that screeners were instructed, in a 2010 PowerPoint presentation using images of a donkey and an elephant, to look for the term 'progressive' alongside 'tea party' in reviewing tax-exemption applications. This directly contradicts the Inspector General's statement on June 26, 2013 that 'I did not find any evidence that the criteria you identified labeled 'Progressives' were used by the IRS to select potential political cases during the 2010 to 2012 timeframe I audited.'”¹²

At the July 18 hearing, IG George was provided an opportunity to set the record straight on why TIGTA's final audit report failed to mention, even in a footnote, the fact that TIGTA's Head of Investigations met with him personally “a couple of weeks” before May 3, 2013, and it was agreed that the Office of Investigations would:

“...pull e-mails from identified staff members of the EO organization in Cincinnati to find out 1). If an e-mail existed that directed the staff to “target” Tea Party and other political organizations and 2). If there was a conspiracy or effort to hide e-mails about the alleged directive.”

And further that according to the Deputy Inspector General for Investigations:

¹² Release from Ranking Member Sander M. Levin, Committee on Ways and Means, *Levin: New IRS Information Underscores that IG Report Fundamentally Flawed* (July 12, 2013) (online at <http://democrats.waysandmeans.house.gov/press-release/levin-new-irs-information-underscores-ig-report-fundamentally-flawed>).

“Audit provided us with a list of employees in question, key word search terms and a timeframe for the e-mails. We pulled the available IRS e-mails, which resulted in 5,500 responsive e-mails.

Review of these e-mails revealed that there was a lot of discussion between the employees on how to process the Tea Party and other political organization applications. There was a Be On the Lookout (BOLO) list specifically naming these groups; however, the e-mails indicated the organizations needed to be pulled because the 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 was politically motivated. The e-mail 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.”¹³

IG George’s failure to disclose this investigative action by TIGTA’s Office of Investigations, which was initiated after a meeting with IG George, is inexcusable. Further, IG George’s failure to include even a footnote in TIGTA’s May 14 final audit report noting the Deputy Inspector General for Investigations’ conclusion – reached by reviewing 5,500 e-mails, **not** by directly asking employees questions – that “the e-mails 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,**” and “**There was no indication that pulling these selected applications was politically motivated,**” and “The e-mail 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,**”¹⁴ raises serious questions with respect to his professional judgment and objectivity.

At the July 18 hearing, IG George was provided an opportunity to clarify this glaring omission from the final audit report, and yet the IG declined to provide a sufficient explanation. This left more questions, including that of why IG George was so quick to dismiss his Head of Investigations’ conclusion as merely “his opinion”:

Mr. Tierney: Mr. George, in your testimony, you made a statement that raised some concern the with me, and I quote, your statement was, “the letter from Ranking Member Cummings to the chairman dated July 12, 2013, states that I failed to disclose to Congress that we found no evidence of political motivation.” I think, you know, when I read the letter from Mr. Cummings to Mr. Issa, that's not what it says. Let me, in fact, read to you what it says. It says, Mr. George did not disclose to the committee either in his report or during his testimony that he met personally with his top investigator and tasked him to conduct the review of 5,500 emails of IRS employees and that this official concluded after this review that there was, “no indication of pulling these selected

¹³ Email from Deputy Inspector General for Investigations, Treasury Inspector General for Tax Administration, to the Principle Deputy IG, Head of Audits, TIGTA Chief Counsel, Tax Exempt Audit Head, and two individuals whose names have been redacted (May 3, 2013)(online at <http://democrats.waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/HeadOfInvestigationsEmail.pdf>).

¹⁴ *Id.*

applications was politically motivated," a fact that this official reported was, "very important."

That's quite a distinction from what you were saying in your testimony, Mr. Cummings, had said, and so I wanted to make sure that we were all on the same page here.

But the fact of the matter is, Mr. George, you never told this committee, you never disclosed about your meetings with your top investigator, did you?

Mr. George: Yeah. Well, sir, for two reasons: one – and, again, you weren't in the room when I explained this earlier – I was told by my staff that there was a smoking gun email in which an IRS employee either, and this is not verbatim, but acknowledged that he or she was charged with targeting Tea Party people – and, again, I know there's a nuance here that my colleague can address in a moment – and that there were, again, roughly 5,000 emails that the auditors had not had a chance to review, but that my investigators—

Mr. Tierney: I guess the point is, if I can be so – to interrupt you, but you never told us that you charged your investigator with looking at the 5,500 emails.

Mr. George: Well, sir, but because it's very important, this was an audit. It was no more than an audit, sir.

Mr. Tierney: All right. So he reported to you that the emails showed no indication of any political motivation, and you didn't think it was important to share that information with this committee?

Mr. George: Well, sir, because I don't know whether there was an email that was destroyed. This was done very quickly. There may have been an email that was destroyed.

Mr. Tierney: Well, it certainly wasn't amongst the 5,500 that he reviewed.

Mr. George: Yeah.

Mr. Tierney: --that he thought that it was very important that he found nothing in there that was politically motivated.

Mr. George: Well----

Mr. Tierney: And then you just thought you weren't going to share that with the committee?

Mr. George: Well, that was one--*that was his opinion*. And--and, then, so if--under oath, when people are subject to a lot more, you know, potential penalties regarding their behavior and responses to questions and additional information available, who knows whether or not this email will surface. I don't know, sir.

Mr. Tierney: Well, no. I'm not asking about one that may service in the future. I'm asking about the 5,500 that you charged your investigator to look through, and he reported--let me tell you what he reported back. The emails indicated the organizations needed to be pulled because the IRS employees were not sure how to process them.

Mr. George: Right.

Mr. Tierney: Not because they wanted to stall or hinder the application. There was no indication that pulling these selected applications was politically motivated.

Mr. George: Yeah.

Mr. Tierney: The email traffic indicated that there was 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. So your investigators went through 5,500. That's what I found. I think it's an important nuance. *You then had it in an earlier draft report, and you scrubbed it.*

Mr. George: I'm going to ask----

Mr. Tierney: What's that all about?

Mr. George: Well, there's a reason for that.

Mr. Kutz: Because the investigator said that our report support--that their work supported the fact that we said ineffective management. Our report also said there was no political motivation. He's testified to that today.

Mr. Tierney: Right. But you didn't give us the--I mean, I--you don't think it's important that you look through 5,500 emails and had a report from an investigator that said the words I just quoted? You don't think it would be important for us know to that, when everybody's running around here trying to make allegations and, you know, hyperventilating about it being something more than it is? You don't think that was important?

Mr. Kutz: Well, we thought it was important because it confirmed our report. And he told us that it confirmed our report.

Mr. Tierney: So why didn't you put it in there?

Mr. Kutz: We----

Mr. Tierney: I think it's important because it confirms your report as well. I think it gives us the kind of substance that may have stopped some of this, you know, allegations that are running around here rampant and people, you know, going off, you know, and taking these positions that don't make any sense when the facts are out there. These are facts that support your report that are pretty important. Mr. George. Sir, this is an ongoing matter. If, at the conclusion of this, if you were to make the same allegations, mea culpa. I would join you in admonishing me. This is an ongoing review, and we're working with

the FBI. We're working with the Department of Justice. We're doing subsequent work looking at various other treatment of taxpayers. That's fair. But it would have been helpful to have that----

Mr. George: Hindsight's 20/20, sir.

Mr. Tierney: --at the appropriate time, because it opened the door to a lot of people going off in directions that are just----

Mr. George: But not at my----

Mr. Tierney: --helter-skelter.

Mr. George: Sir, I didn't suggest they do that.

Mr. Tierney: No, no. You did not suggest it, but *I'm suggesting that if you had left it in your report instead of scrubbing it out, if you had wanted to tell us that you did have an investigator involved even though it was audit, that he looked through 5,500 emails, that he found out that, you know, there was no indication that pulling these selected applications was politically motivated, all of those things, I think, would have been important at the right time on that.*¹⁵

When one combines IG George's efforts to hide clearly relevant information about TIGTA's performance audit and ongoing review processes and procedures from the public with his introduction of an unprompted and irrelevant reference to disgraced President Richard Nixon at a June 3 House Appropriations Subcommittee hearing¹⁶ and his peculiar phrasing in response to

¹⁵ House Committee on Oversight and Government Reform, *Hearing on The IRS's Systematic Delay and Scrutiny of Tea Party Applications* (July 18, 2013)(online at: <http://www.gpo.gov/fdsys/pkg/CHRG-113hrg82435/pdf/CHRG-113hrg82435.pdf>).

¹⁶ *The New Front in the IRS Scandal: The Inspector General's Office*, The Atlantic (June 25, 2013)(online at: <http://www.theatlantic.com/politics/archive/2013/06/the-new-front-in-the-irs-scandal-the-inspector-generals-office/277189/>). In the article, Ms. Garance Franke-Ruta noted: "When the Treasury Department inspector general for tax administration appeared before a House Appropriations subcommittee hearing on June 3, he did not shy away from introducing a highly politicized framework for understanding the Internal Revenue Service's actions in targeting conservative groups seeking tax-exempt status. "This is unprecedented, Congressman During the Nixon Administration, there were attempts to use the Internal Revenue Service in manners that might be comparable in terms of misusing it," J. Russell George, the George W. Bush appointee who leads the IG's office, told the committee in the closely watched hearing. "I'm not saying that ... the actions that were taken are comparable, but I'm just saying, you know, that the misuse of the -- causing a distrust of the system occurred sometime ago. But this is unprecedented," he continued. It seemed a needlessly inflammatory statement. The impartial investigator within the Treasury Department had just, unprompted, introduced the historic specter of presidential involvement in directing abusive tax treatment of White House enemies, despite a total lack of evidence that such a thing had occurred under President Obama, according to his own findings thus far. It was the first mention of Nixon at the hearing, albeit delivered with a deliberative caveat. He wasn't saying, he was just saying, you know?"

basic questions, such as the following interaction at the July 18 hearing, serious questions arise over IG George's objective, non-partisan status. They hint at a desire, perhaps even unconscious, to expand the strike zone with respect to TIGTA's efforts to find IRS malfeasance against conservative groups, while shrinking it when it comes to TIGTA's efforts to identify IRS misconduct against liberal or progressive organizations. Consider this following exchange at the July 18 hearing:

Mr. Davis: Thank you. Reclaiming my time. Mr. George, there's been a great deal of discussion about whether you found any White House involvement or political motivation in your investigation, in your report. And I believe the statements on page 9 of your written testimony make clear that you found nothing of the kind, no witnesses, nothing. Is that correct?

Mr. George: That is correct as of the time of that audit, sir.

Mr. Davis: Are you suggesting that at some other time you found something else?

Mr. George: I'm—I'm suggesting, sir, that this is an ongoing review, and I'm not going to make any conclusions beyond what we have already done with a concluded—an audit report that has been concluded, but this is an ongoing matter, and I'm not going to prejudge the findings.

Mr. Davis: So as of this moment, nothing has been found that would suggest any kind of political motivation or involvement coming from the White House?

Mr. George: That is correct, sir. Nothing as of now.¹⁷

In addition, at the same July 18 hearing, IG George's testimony created the appearance that he may be prioritizing the speed of an audit over completeness and accuracy. For example:

Ms. Maloney: And Mr. George, you've been in politics a long time. You know the Democrats and Republicans out there. You know that there's liberals and conservatives. How -- it's hard for me to believe in my -- I am -- it's beyond belief that you would conduct an audit that only looked at tea party. That makes no sense whatsoever.

I know that I wrote a letter of recommendation in support of you, even though you were Republican, because we worked together and I respected your work. Yet I cannot believe that you called for an audit that only looked at tea party when you know that there's a whole array of political activity. That's called targeting. That's called going after people.

Some Republicans in their public statements, and I have a list of them, have tried to smear the president and said he did this and he did that. I would say that your audit tried to smear, I don't know who, someone, or tried to blame someone by excluding a whole swath of the political establishment. I think an 8th grade class that was asked to do an

¹⁷ House Committee on Oversight and Government Reform, *Hearing on The IRS's Systematic Delay and Scrutiny of Tea Party Applications* (July 18, 2013)(online at: <http://www.gpo.gov/fdsys/pkg/CHRG-113hhr82435/pdf/CHRG-113hhr82435.pdf>).

audit of what was happening politically for people asking for status would look at both sides. That's common sense.

How in the world did you get to the point that you only looked at tea party when liberals and progressives and Occupy Wall Street and conservatives are just as active, if not more active, and would certainly be under consideration? That is just common, plain sense. And I think that some of your statements have not been -- it defies logic, it defies belief that you would so limit your statements and write to Mr. Levin and write to Mr. Connolly that of course no one was looking at any other area."

It's common sense if they have certain regulations that they thought was the law--I think the law should be changed, I don't think there should be any exemption or tax deduction for political activity. But you know that there's political activity on both sides, right? Why wouldn't you look at both sides? That would be the fair thing to do. That would be the commonsense thing to do. That would be an appropriate audit. It's like saying look for wrongdoing in the bank but only look at overdraft fees. Everybody knows there are a lot, a whole swath of areas that you could look at.

So to limit it defies logic, defies--I am mystified that a distinguished professional would put forth an audit that looks at only a very thin sliver when the training documents, when the letters, when plain common sense dictates that there is a whole array of political activity in our great country.

Mr. Issa: I thank the gentelady. And I know there wasn't a question there, but, Mr. George, I think you've got an answer.

Mr. George: Yes, thank you, sir. I appreciate this.

Ms. Maloney, first of all, we received allegations from Members of Congress and from media reports about a particular activity that was occurring, all right? And it wasn't just Tea Parties, it was patriots, it was 9/12. So we were charged, you know, both through a request from Congress, as well as through our audit process, and this was in our audit plan, to look at how tax-exempt organizations were treated.

Now, never once did I ever indicate that we would limit our review to just how these particular groups were treated.

Ms. Maloney: *But you did.*

Mr. George: *Well, ma'am, it takes a year. This audit took a year. And, yes, if you wanted us to wait another year before completing, you know, a fuller audit, we can, but that doesn't serve the American people, it doesn't serve the IRS well.* Once we find the IRS is engaged in inappropriate behavior -- and there are many examples of this -- we alert them so that they can stem that behavior so that American taxpayers aren't unduly harmed and that the IRS can take corrective action.¹⁸

¹⁸ *Id.*

In the aftermath of IG George's highly misleading and fundamentally flawed final audit report, it appears that the IG should have taken the time to ensure TIGTA's audit findings were complete, accurate, and valid, to best serve the American people and the IRS. Unfortunately, the undeniable fact is that under IG George's leadership, TIGTA did not. And as a result of IG George's poor judgment, a false narrative has shifted the landscape, which hinders real IRS reform and harms taxpayers who deserve an effective and efficient IRS.

IG George's assertion that TIGTA values prompt notification of inappropriate behavior by the IRS also does not square with his deliberate and perhaps misleading, disclosures to Congress about BOLOs that contained references to Progressive groups.

Lack of Transparency and Selective Disclosure – TIGTA's Failure to Notify Congress in a Timely Fashion of New Developments and Emerging Information

IG George has still not explained precisely how and when TIGTA learned that IRS used BOLO lists containing the "Progressives" identifier, and that the group of 202 "other" cases included liberal organizations. As IG George testified at the July 18 hearing, he was aware that "there were BOLOs about liberal or progressive groups" prior to the May 22 hearing:

Mr. Cartwright: Let's go at it this way, Mr. George. As of today, are you aware that there were BOLOs out about progressive or liberal groups?

Mr. George: There were BOLOs----

Mr. Cartwright: And when did you first find out?

Mr. Kutz: On which ones?

Mr. Cartwright: I'm asking Mr. George. When did you first find out there were BOLOs about liberal or progressive groups?

Mr. George: It was the night before I was testifying before the Senate Finance Committee, at around 6:30 p.m.

Mr. Cartwright: And was that before your testimony here on May 22nd?

Mr. George: That was before, yes.

Mr. Cartwright: So you were here on May 22nd testifying about BOLOs about Tea Party groups, and when Mr. Issa questioned you specifically about other groups, you said there were no others.

Mr. George: Well----

Mr. Cartwright: But you didn't say a word about BOLOs that you knew were about progressive or liberal organizations, even though you just admitted today----

Mr. George: Yeah.

Mr. Cartwright: --that you were aware of that as of your May 22nd----

Mr. George: Sir----

Mr. Cartwright: --testimony. Am I correct on that, Mr. George?

Mr. George:--I need to clarify something. One, it was on--the BOLO group name was on ``Occupy." And I can use that word because it's generic. We had no information whatsoever how, if at all, that information was used or misused.

Mr. Cartwright: It doesn't matter. You knew there were BOLOs about ``Occupy"----

Mr. George: But we----

Mr. Cartwright: --and you didn't say a word about it in your last testimony here in this committee, May 22nd.

Mr. George: Yeah.

Mr. Cartwright: You knew people's heads would explode if you talk about Tea Party BOLOs, and you didn't mention any other ones.

Mr. George: Sir----

Mr. Cartwright: What do you think we are doing here?

Mr. George: Sir, if you look at *page 6, footnote 16 of my audit report, it acknowledges the existence of other BOLOs and the fact that we did not--the charge of that audit was not on how they were utilized.*

Mr. Cartwright: You knew there were BOLOs about liberal groups----

Mr. Jordan: The gentleman's time has expired.¹⁹

Yet, when Chairman Issa asked IG George a straightforward question on May 22, he responded while under oath as follows:

Mr. Issa: Thank you. I think that makes it clear. Oh, one more thing. There were 479 or so of these Tea Party groups that were targeted in total. Were there any BOLOs issued for progressive groups, liberal groups?

Because I'm assuming that your investigation--we can't see them--but your investigation showed liberal groups that flew right through during the same time and got their 501(c) (4)s. They were not stopped; isn't that correct?

¹⁹ *Id.*

Mr. George: Sir, this is a very important question. Please, I beg your indulgence.

Mr. Issa: Of course.

Mr. George: *The only "be on the lookout," that is, BOLO, used to refer cases for political review were the ones that I described within our report.*

There were other BOLOs used for other purposes. For example, there were lookouts for indicators of known fraud schemes so that they could be referred to the group that handles those issues. For nationwide organizations, there were notes to refer State and local chapters to the same reviewers.

As we continue our review of this matter, we have recently identified some other BOLOs that raised concerns about political factors. I can't get into more detail at this time as to the information that is there because it's still incomplete--that I've uncovered, rather, because it's still incomplete. And there are 6103 issues--

Mr. Issa: Of course.

Mr. George: --involved here, too. I hope that provides context --

Mr. Issa: So, clearly, it's fair to say, though, that there was a BOLO for Tea Party but not a BOLO for MoveOn or Progressive?

Mr. George: I'm not in a position to give you a definitive response on that question at this time, Mr. Issa--Mr. Chairman.

Mr. Issa: So are you saying today that there were other 501(c) (4)s, not specific, so much as one other 501(c) (4) not previously identified during your IG audit that were, in fact, targeted and held in a similar way?

Mr. George: I cannot give you a definitive answer, sir, at this time. But I certainly will when--

Mr. Issa: I only ask if there's at least one. Are you aware of at least one that was targeted using a BOLO that was a 501(c) (4) in which they were targeted politically but did not fall into this current report we have before us?

I'm not asking for privileged information. I'm asking--

Mr. George: No, no, no.

Mr. Issa: --for one.

Mr. George: *Under the report, the review--the purposes of the audit that I conducted, which was to determine whether they were looked for in the context of political campaign intervention, there were no others.*

Mr. Issa: Thank you.²⁰

IG George's response above to Chairman Issa appears to fit a pattern of eagerness to make definitive statements with respect to the treatment of conservative or Tea Party organizations at congressional hearing paired with IG George's reluctance to disclose the use of inappropriate criteria identifying liberal or progressive organizations.

For instance, this interaction towards the end of the July 18 hearing is typical of the troubling pattern that has emerged at TIGTA under IG George's leadership:

Mr. Issa: ...I have just a closing question for you, Mr. George. With what you and your organization know today, do you know that there was special scrutiny on organizations lumped together as the term tea party, but obviously 9/12 and the other search terms, do you know there was special scrutiny of those organizations and that it was, in your opinion, inappropriate in -- at least in the time of delay?

Mr. George: *Yes.*

Mr. Issa: And as of what you know today, from what you've been able to ascertain, I know it's ongoing, do you know of similar treatment of specific scrutiny because of their key name and delay for groups other than those? In other words, do you know of progressive groups that as of today were scrutinized for being progressive advocacy groups and delayed?

Mr. Kurtz: *We don't know that. The 202 names -- as I mentioned, I don't know who was what.*

Mr. Issa: Okay. So as this committee continues to look, we will close today knowing that Tea Party groups, patriot groups, 9/12 groups are held to have been -- held up to special scrutiny here in Washington, delay, including perhaps through the office of Lois Lerner and certainly individuals in the Office of the Counsel caused an unreasonable delay to Tea Party groups, and **to this day we know of no specific equivalent among groups, specifically left-wing groups, progressives, and so on.**

That is what we have learned today. We certainly charge you, as our representative with eyes and ears where we cannot look, to continue looking, to use all your resources, and to leverage other resources at the IRS to find this and other areas within the IRS.

[No further response from Mr. George or Mr. Kurtz]²¹

²⁰ House Committee on Oversight and Government Reform, *Hearing on The IRS: Targeting Americans for their Political Beliefs* (May 22, 2013)(online at: <http://www.gpo.gov/fdsys/pkg/CHRG-113hhrg81742/pdf/CHRG-113hhrg81742.pdf>).

²¹ House Committee on Oversight and Government Reform, *Hearing on The IRS's Systematic Delay and Scrutiny of Tea Party Applications* (July 18, 2013)(online at: <http://www.gpo.gov/fdsys/pkg/CHRG-113hhrg82435/pdf/CHRG-113hhrg82435.pdf>).

Mr. Kutz's response above is consistent with IG George's own responses at the May 22 hearing when he was asked whether out of the 202 groups TIGTA listed as "other" – could any of those groups have been progressive groups:

Mr. Connolly: But 202 are listed as "other" – *were those all conservative groups, or could some of them have been progressive groups?*

Mr. George: We were unable to make that determination sir, because in many instances the names were neutral, in that you couldn't necessarily attribute it to one particular affiliation or another.²²

Yet, based on information provided by the Committee on Ways and Means, TIGTA's work papers contained a BOLO that featured the term "Progressive." It still appears that TIGTA was, or should have been, aware that IRS was also processing cases using the "Progressives" identifier.

However, IG George's answer to the question posed at the May 22 OGR Committee hearing, "But 202 are listed as other – were those all conservative groups, or could some of them have been progressive groups?" failed to mention, or even hint at, these facts.²³

Further, in IG George's July 3, 2013, response to a letter sent to TIGTA addressing this very issue – though he confirmed under oath on May 22 that TIGTA "looked at" but could not make a determination as to whether certain names were progressive groups "because in many instances the names were neutral" – IG George also asserted that "it would be inappropriate for a **nonpartisan** Inspector General, with responsibility for tax administration and law enforcement, to apply political labels to organizations based solely on the name of the organization and subjective assumptions about what those names mean."²⁴

Presuming this is true, it is odd that IG George's response under oath on May 22 did not simply state that he declined to even attempt to determine political affiliation based solely on an organization's name **because "it would be inappropriate" for a nonpartisan IG to do so**, but rather, indicated that IG George attempted to determine political affiliation – which by his own definition would be the action of a **partisan** IG – and simply was unsuccessful in the attempt:

"We were **unable to make that determination sir, because in many instances the names were neutral**, in that you couldn't necessarily attribute it to one particular affiliation or another."²⁵

²² House Committee on Oversight and Government Reform, *Hearing on The IRS: Targeting Americans for their Political Beliefs* (May 22, 2013)(online at: <http://www.gpo.gov/fdsys/pkg/CHRG-113hrg81742/pdf/CHRG-113hrg81742.pdf>).

²³ *Id.*

²⁴ Letter from Inspector General J. Russell George to Chairman Gerald E. Connolly, Subcommittee on Government Operations (July 3, 2013).

²⁵ House Committee on Oversight and Government Reform, *Hearing on The IRS: Targeting Americans for their Political Beliefs* (May 22, 2013)(online at: <http://www.gpo.gov/fdsys/pkg/CHRG-113hrg81742/pdf/CHRG-113hrg81742.pdf>).

Based on IG George's July 18 testimony under oath, it appears that his position is the term "Progressive" could be equally likely to apply to a Democrat or Republican in the year 2013; due to uncertainty caused by former President Theodore Roosevelt running under the Progressive Party banner in the Presidential Election of 1912:

Mr. Connolly: All right. And so other statements, either attributed to you or others in your operation, that, for example, looking at those 202 -- if you remember, you and I had a conversation about the pie chart. 202 of 298 organizations were not identified. And do you remember your answer under oath to me when I asked you, could that 202 include progressive organizations?

Mr. George: And I recall the discussion. I don't recall verbatim what I said.

Mr. Connolly: Let me read to you what you said: quote, "I was unable to make that determination, sir, because in many instances the names were neutral in that you couldn't necessarily attribute it to one particular affiliation or another."

And yet, that's not exactly what you said to me in July in your letter to me on this very same subject. You said it would be inappropriate for a nonpartisan inspector general with responsibility for tax administration and law enforcement to apply political labels to an organization based solely on the name of the organization and subjective assumptions about what those names mean.

Mr. George: I don't ---

Mr. Connolly: That seems to be at variance with what you said to me in May.

Mr. George: I beg your -- I beg to differ, sir. I don't see an inconsistency in that at all.

I believe that, one, the statement that I made about the inappropriateness of a nonpartisan inspector general to determine "progress" -- *I have no idea what that stands for, sir. Teddy Roosevelt ran for president under the Progressive Party banner.* Would you consider him a Democrat or a Republican?²⁶

This assertion is difficult to accept, especially when IG George appears to understand perfectly well that terms such as 9/12 and Tea Party refer to conservative organizations.

Allegations of "Unprecedented" Criticism

At the July 18, 2013, OGR hearing, IG George indicated multiple times that Members of Congress questioning his performance audit methods and conclusions was unprecedented and perhaps damaging in some way. For example, IG George stated:

²⁶ House Committee on Oversight and Government Reform, *Hearing on The IRS's Systematic Delay and Scrutiny of Tea Party Applications* (July 18, 2013)(online at: <http://www.gpo.gov/fdsys/pkg/CHRG-113hhrg82435/pdf/CHRG-113hhrg82435.pdf>).

“And I have to admit, I am a little concerned that this type of forum could have a chilling effect on the operations of inspectors general. I mean, again, I have been around for, you know, a while, and so I've seen this before, but not to this extent. And believe me, we shall be issuing some reports shortly that's going to show a lot more of not the best behavior on the part of the Internal Revenue Service, just as we recently did with their \$50, you know, million dollars' worth of conferences and a few other things that we have recently reported about.

And so those reports will be coming out. They have no nexus to this at all. But I took an oath to uphold the law. I intend to do so as long as I'm in this position. And we have to rely on--believe me, when I was sitting in that back row as the staff director under Steve Horn, we relied tremendously on both GAO as well as IGs to help us do our jobs, and we could not with a staff of five people have done it on our own.

So, believe me, I know the role of the IG. You know, Mr. Horn, we never treated an IG office like this. I mean, if it were an allegation of personal wrongdoing on my behalf or on my organization's behalf, that's one thing, but to just try to suggest that an audit could have been done differently, you know, this is--you know, this is unprecedented, sir, too. This is unprecedented.”²⁷

Yet, recent history contradicts such dramatic claims of “unprecedented” treatment of an IG auditing-type office.

For instance, in recent years another prominent government auditing agency, the GAO, received withering criticism over an August 2010 investigative report examining for-profit schools, with Chairman Issa going so far as to open up an investigation of the Forensic Audit and Special Investigations unit (FSI) of GAO over a report that he asserted was “tarnishing the GAO's credibility.”²⁸

As you may be aware, far beyond mere criticism of audit methodology, Chairman Issa actually pushed for actionable reform, lauding the organizational changes that removed a managing director Chairman Issa believed was responsible for a flawed audit. In a March 4, 2011, letter to the Comptroller General of the United States, he states:

“Congress and the American people trust the GAO to provide impartial and objective information about Federal programs that enable Congress to make informed decisions and take necessary action. This important change in leadership and organization increases my confidence these initial steps will address issues that this Committee's ongoing investigation has identified”²⁹

²⁷ *Id.*

²⁸ Republican Press Release, House Committee on Oversight and Government Reform, *Chairman Issa Lauds Leadership Change in Troubled GAO Unit* (Washington, D.C.: March 4, 2011)(online at: <http://oversight.house.gov/release/chairman-issa-lauds-leadership-change-in-troubled-gao-unit/>).

²⁹ Letter from Chairman Darrell E. Issa, Committee on Oversight and Government Reform, to the Comptroller General of the United States (March 4, 2011).

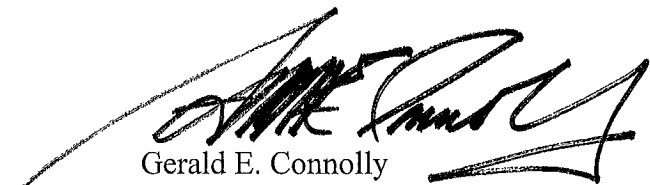
In fact, making baseless charges that legitimate congressional inquiries could have a “chilling effect on the operations of inspectors general”³⁰ – with no evidence to back up this statement – **could itself be viewed as an attempt to intimidate or shut off criticism from Members of Congress by IG George.**

Conclusion

As described in the Government Auditing Standards issued by the Comptroller General of the United States and head of the GAO, GAGAS is intended to provide a framework for conducting high quality audits with competence, integrity, objectivity, and independence. Unfortunately, TIGTA’s current lack of credibility stems from its failure to follow GAGAS.

Based on the information available today, we have reluctantly concluded that restoring trust and confidence in TIGTA will require CIGIE’s Integrity Committee to investigate actions by IG George that have called into question his independence, ethics, competence, and quality control.

Sincerely,



Gerald E. Connolly
Ranking Member
Subcommittee on Government Operations



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

CC:

The Honorable John L. Mica
Chairman
Subcommittee on Government Operations

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

The Honorable Jacob J. Lew
Secretary of the Treasury
U.S. Department of the Treasury

The Honorable John A. Koskinen
Commissioner
Internal Revenue Service
U.S. Department of the Treasury

The Honorable J. Russell George
Treasury Inspector General for Tax Administration
U.S. Department of the Treasury

³⁰ House Committee on Oversight and Government Reform, *Hearing on The IRS’s Systematic Delay and Scrutiny of Tea Party Applications* (July 18, 2013)(online at: <http://www.gpo.gov/fdsys/pkg/CHRG-113hrg82435/pdf/CHRG-113hrg82435.pdf>).