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United States Senate

COMMITTEE ON THE JUDICIARY  
WASHINGTON, DC 20510-6275

June 18, 2013

**VIA ELECTRONIC TRANSMISSION**

Mr. Daniel I. Werfel  
Acting Commissioner  
Internal Revenue Service  
U.S. Department of the Treasury  
1111 Constitution Avenue, NW  
Washington, DC 20224

Dear Acting Commissioner Werfel:

The burdens of sequestration have strained budgetary resources across the Federal Government. The Balanced Budget and Emergency Deficit Control Act requires the President to cancel \$85 billion in budgetary resources for the remainder of fiscal year 2013.<sup>1</sup> On April 4, 2013, the Office of Management and Budget (OMB) released guidance for the ongoing implementation of sequestration. OMB “directs that discretionary monetary awards should not be issued while sequestration is in place, unless issuance of such awards is legally required.”<sup>2</sup> OMB further suggests that agencies obligated to issue such awards by bargaining agreement may engage in discussions with employees in recognition of this guidance.<sup>3</sup>

As I understand it, on March 25, 2013, the Internal Revenue Service (IRS) provided the National Treasury Employees Union (NTEU) a notice of intent to reclaim around \$75 million that had been set aside for discretionary monetary awards. However, my office has received an allegation that IRS failed to take further action to recoup these funds, opting instead to defer reclamation pending mid-term bargaining with the NTEU. It is further alleged that such deferment is not necessary under terms of the original bargaining unit agreement.

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<sup>1</sup> OMB Memorandum M-13-06.

<sup>2</sup> OMB Memorandum M-13-11.

<sup>3</sup> *Id.*

Allegedly, the IRS now intends to execute a new agreement tomorrow that will preserve approximately \$70 million for Fiscal Year 2013 monetary awards, contrary to guidance from OMB. While the IRS may claim that these bonuses are legally required under the original bargaining unit agreement, that claim would allegedly be inaccurate. In fact, the original agreement allows for the re-appropriation of such award funding in the event of budgetary shortfall.

So that I may better understand why the IRS apparently plans to pay bonuses it's not legally obligated to pay during sequestration, please respond to the following:

- 1) Does the IRS intend to execute an agreement to preserve approximately \$70 million for union bonuses during sequestration? If so, please explain why and how that is consistent with OMB guidance. In addition, please provide a copy of the new agreement.
- 2) Please provide all internal memoranda or directives, all opinions from the IRS Office of Chief Counsel, and all guidance from OMB or the U.S. Department of the Treasury related to discretionary monetary awards for bargaining unit employees.
- 3) Please provide all sections of the original bargaining unit agreement related to discretionary monetary award funding and any provisions on Agency authority to reallocate funding.
- 4) What is the total dollar amount budgeted for monetary awards under the bargaining unit agreement?
- 5) Was a 60-day notice of intent to reclaim award funding issued to the bargaining unit?
  - a. If not, why not?
  - b. If so, was the funding recovered upon the expiration of 60 days? If not, why not?
- 6) Have all other discretionary monetary awards been suspended by the IRS as required by OMB?

Thank you in advance for your cooperation and prompt attention to these matters. I would appreciate a response no later than July 1, 2013. Should you have any questions, please contact [REDACTED] my staff at (202) 224-5225.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley  
Ranking Member  
Committee on the Judiciary