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The Watcher

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Cartoon:
The Purpose of
Government is...

A Letter from Gary Bass

Dear OMB Watcher,

Even as 2005 draws to a close, we here at OMB Watch are gearing up for 2006, developing a game plan for the upcoming year, knowing that our work of advocating for improved government accountability and citizen participation will remain vitally important in the coming year.

OMB Watch exists to increase government transparency and accountability; to ensure sound, equitable regulatory and budgetary processes and policies; and to protect and promote active citizen participation in our democracy. As the issue-specific "year in review" articles to follow show, 2005 presented daunting challenges on all of these fronts.

In 2006, assaults will undoubtedly continue on regulatory protections, on government openness, on the advocacy rights for nonprofits, and on sound tax and spending policies. At the same time, we will confront these attacks head-on; because, though these issues often fall under the radar, we know that they are vitally important to our democracy.

In addition to defending policies for and protections of the common good, OMB Watch is eager to move forward proactively. In a survey we conducted shortly after Hurricane Katrina, many of you said it is time to launch an investment agenda, to put our national priorities back on track. We plan on increasing our efforts toward such an initiative, identifying shared values and helping organize concerned groups and individuals around them.

Many of you share OMB Watch's vision for a more just and democratic society, one in which an open, responsive government protects people's health, safety, and well-being, safeguards the environment, honors the public's right to information, values an engaged and effective citizenry, and adequately invests in the common good. Together, we can make this vision a reality.

I hope you will help us continue to move forward. Take a moment to make a [tax-deductible contribution today](#).

Sincerely,

A handwritten signature in black ink, appearing to read "Gary", with a stylized, looping flourish at the end.

Gary Bass
Executive Director
OMB Watch

Regulatory Year in Review: 2005

A round-up of the key developments in regulatory policy we have covered in 2005.

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In Congress

A new year, a new Congress, and the same old threat: 2005 began with [many signs of interest](#) from congressional leaders and the White House in generating anti-regulatory legislation to push in the 109th Congress. The [clues pointed to](#) a revival of the anti-regulatory proposals from the Contract With America as well as new, dangerous threats -- all released in a slew of separate,

disconnected bills, some of which would propose regulatory "reforms" one or two steps short of the ultimate anti-regulatory goal, in order to make opposition more difficult.

Many bills have [now](#) been [introduced](#), although only a few legislative developments successfully advanced in 2005:

- An immigration reform bill gave the Secretary of Homeland Security the unprecedented power [to waive any and all law](#) when securing the nation's borders. It was forced through the Senate when the House appended it to a supplemental spending bill for the Iraq war. The Department of Homeland Security has [already used](#) this dangerous new exemption from the rule of law, with little or no press coverage or congressional oversight.
- The public interest community was caught flat-footed by the last-minute discovery of a provision in the Senate budget resolution to [modify the parliamentary rules related to the Unfunded Mandates Reform Act](#). While many public interest advocates and senators focused on the details of one fiscal year's budget framework, the Senate voted to erect a new long-term barrier to new protective legislation, which has since been used to block a proposed increase in the federal minimum wage.
- A House committee reported out a [bill](#) that would essentially codify the White House's [highly political performance measurement process](#), but that bill has reportedly been held up from moving to a floor vote by House appropriators, who have [objected](#) to the White House's uses of performance measurement to justify slashing the popular Community Development Block Grant.

What's in store for 2006 remains unclear. On the one hand, it is an election year, and many members of Congress will feel pressured to avoid controversial legislation aside from those that are ideologically potent (such as gay marriage bans) and thus resonate with an electoral base. On the other hand, many anti-regulatory initiatives are so technical that they guarantee minimal coverage from an easily distracted press corps, and support for them resonates with the corporate special interests whose campaign donations can make or break an election bid.

A few anti-regulatory efforts stand out, according to the latest intelligence from the Hill, as having the most apparent chances of moving forward in 2006:

- [federalism bills](#), such as bills attacking consent decrees and proposals to amend the Unfunded Mandates Reform Act;
- proposals for [government sunsets](#) and [fast-track, take-it-or-leave-it reorganization authority](#);
- proposals to impose paralysis by analysis [through amendments to the Regulatory Flexibility Act](#); and
- the upcoming reauthorization of the Paperwork Reduction Act, which is likely to be [used as a vehicle for anti-regulatory process changes](#).

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In the White House

Unsurprising for an administration [historically hostile to regulation](#), the White House seized opportunities this year to put forward several anti-regulatory initiatives aimed at dismantling needed protections. White House interventions included the following:

- The White House kicked off 2005 by [advancing an anti-regulatory hit list](#), featuring proposals for reversing public protections, mostly proposed by industry lobbyists. The plan, detailed in the Office of Management and Budget's (OMB) yearly report to Congress, instructed agencies to review and complete action plans on a regulatory hit list of 189 safeguards to be weakened or eliminated. In March of 2005, the White House expressly [endorsed 76 of the hit list items](#) as high priorities for the administration, though the White House [refused to inform the public](#) about its justifications for deciding which regulatory protections were added to its hit list. Even more perplexing, the administration [added one rule to the hit list after touting it as a "regulatory reform accomplishment"](#) just three months earlier.
- The White House [budget proposals](#) introduced in February included items aimed at giving the White House unprecedented authority to drastically overhaul the federal government. [Several pieces of legislation emerged](#) mirroring the budget request, but they have not yet gained momentum.
- In a callous and cynical move, the Bush administration attempted to [use Hurricane Katrina as an excuse to relax environmental, health, safety and worker rights laws and regulations](#), including waiving the Davis-Bacon law that provides fair minimum wages to workers. Though most government agencies worked diligently to alleviate the untold burdens on Hurricane Katrina's victims and to expedite recovery in a safe and effective manner, several agencies took the opportunity to waive needed protections, thus possibly putting recovery workers and others at greater risk. In a small victory for workers and their families, the administration was forced to backpedal on the Davis-Bacon waiver only a few weeks later.
- OMB also took the unprecedented step of [asserting authority over agency guidance documents](#) this year. The White House released a draft bulletin on the day before Thanksgiving that establishes new guidelines for non-rulemaking agency guidance documents. By requiring new procedural burdens and approval from political appointees for many guidance documents, the bulletin may restrain agencies' ability to issue needed guidance to regulated communities.

After adding these new anti-regulatory distortions to his [already lengthy record](#) of policy interventions that put the American people at risk, John Graham announced his resignation as administrator of the White House Office of Management and Budget's Office of Information and Regulatory Affairs effective February 1.

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Other Major Developments

In an all too [familiar pattern](#), 2005 brought a swath of examples of the many unmet security and safety needs still left in the United States, underscoring the continued necessity of responsive regulation. Unfortunately, we were also reminded of the politicization of science and paralysis by analysis that often lead to weakened protections or festering gaps in needed safeguards. Hurricane Katrina, in particular, [highlighted the need for strong public protections](#). At the same

time, key public health, safety and environmental protections have continued to languish on agency agendas, despite being long-identified as agency priorities. Below are just some of the most egregious unmet needs and weakened protections that came to light this year.

- *Forests Up for Grabs:* Christmas came early for the timber and paper industries in 2004, when, three days before Christmas, the U.S. Forest Service handed them a [final rule](#) that will drastically overhaul the U.S. Forest Service's land management system much to the benefit of both industries. The agency served another blow to the nation's forests in May by publishing [a final rule that would allow governors to petition for changes to state forest management plans](#), effectively undoing the Clinton-era forest regulations known as the "roadless rule."
- *Weak Regulations on Mercury Emissions:* In March, EPA introduced a rule to control mercury emissions from power plants using the dubious [cap-and-trade](#) method. The rule faced severe opposition from state and local governments, environmental groups and [some members of Congress](#), prompting EPA to seek comments on reopening the rule for reconsideration in October.
- *A Blind Eye to Drug Safety:* Last spring, the revelation that COX-2 inhibitors such as Vioxx and Celebrex can lead to heart failure brought to light the cozy relationship between industry and the FDA. A House hearing [revealed how FDA stood idly by](#) while drugmakers aggressively pushed a drug known to have potential harms, leading to the premature death of untold numbers. Unfortunately, efforts to free the Food and Drug Administration from the pharmaceutical industry's excessive influence [seesawed between success and failure](#), as the House voted to ban drug company scientists from FDA advisory committees, while an agency whistleblower revealed that a new drug safety board has been tilted in favor of the drug companies.
- *Teflon--The Wrap that Won't Stick:* In an astounding case of politics over science, DuPont, the maker of Teflon, [suppressed information for 20 years on the adverse effects of the product](#), allowing exposure to dangerous chemicals used in the production of Teflon to go unregulated.
- *Weak Protection on Roof Crush Resistance:* Based in part on flawed cost-benefit analysis, a proposed rule, issued on Aug. 23, to reduce injuries sustained when vehicles roll over and their roofs are crushed inward [fails to require the level of safety available in current technology](#) and threatens to eliminate the rights of roof crush victims to sue manufacturers.

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White House Report Spins Bush Reg Failures

In a debate with high stakes for a public that is largely unaware of it, the White House released a report on Dec. 7 spinning its anti-regulatory record as a success.

Contrary to [expectations](#), the [annual report on the costs and benefits of regulation](#) for 2005 did not announce new burdens on the regulatory process. Instead, the Bush administration used the report to spin its regulatory record as a success for the public, [claiming in an accompanying press](#)

[release](#) that the report demonstrated a record of generating more benefits for the American people at lower cost than previous administrations.

To make the claim, the White House compiles data from agency cost-benefit analyses. These analyses [blithely ignore fundamental ethical and moral questions](#) and [are inherently political tools that may even advise against what Americans consider our most immutable protections](#).

Even if the data were not so politically subjective, they still fail to convey the substantive merits of this administration's [pattern of failure to protect the public](#). The report is laudatory spin for the record of John Graham, outgoing administrator of the White House Office of Management and Budget's Office of Information and Regulatory Affairs, but it does not begin to convey Graham's [troubling record of weakening public protections and putting the American people at unnecessary risk](#). Here is a quick scan of his record:

- [OMB Role in Fuel Economy Change Exposed](#)
- [Administration Asks Manufacturers for Regulatory Hit List](#)
- [GAO Finds OMB Regulatory Review Not Well Documented](#)
- [Graham Advises Agencies on Valuing Lives of Seniors](#)
- [OMB Waters Down Standards on Factory-Farm Runoff](#)
- [OMB Expands Influence Over Scientific Decisions](#)
- [Industry, OMB Press EPA to Offer Exemptions to Clean Air Standards](#)
- [Administration Devalues the Elderly](#)
- [OMB Blocks Nationwide Health Warning on Asbestos](#)
- [OMB Builds Record of Rollbacks](#)
- [OMB Weakens Hazardous Waste Rule](#)
- [OMB Guts Marine Diesel Rule](#)
- [EPA Issues Weak Rule on Snowmobile Emissions After Earful from Graham](#)
- [OMB Guts EPA Standards to Limit Construction Runoff](#)
- [White House Subverting Health, Safety & Environmental Protection](#)
- [OMB Weakens EPA Proposal to Limit Fish Kills from Power Plants](#)
- [OMB Hijacks Clean Air Standards](#)
- [NHTSA Issues Weakened Tire Pressure Monitoring Rule](#)
- [In Rejecting NHTSA Rule, Graham Shows True Colors](#)

Although the final report did not correct the many recurring errors that OMB Watch and other public interest groups have [pointed out](#) over the years, it did make some significant improvements from the earlier draft, which include the following:

- The final report eliminated the draft's use of the term "off-budget costs" to refer to the costs borne by industry to comply with regulations. The term, which comes from fiscal policy discourse, has been adopted by industry-funded anti-regulatory think tanks as a rhetorical prelude to proposals for regulatory budgeting. OMB Watch's comments on the draft report urged that the phrase be eliminated from the final report, and we are gratified that OIRA adopted that suggestion.
- The final report made the underlying data of the report more transparent by adding detailed bibliographic information for researchers seeking to look up the agency analyses that serve as the basis for the report. OMB Watch's comments on the draft report called for such information as an aid to those who are commenting on the annual draft release.

We are pleased to see that OIRA adopted that recommendation, and we hope OIRA follows through on the related suggestion to make available an electronic docket with links or downloadable copies of analyses and other secondary sources cited in each year's report.

Although this year's report did not announce any new anti-regulatory process changes, OIRA released a separate bulletin [announcing a proposed new policy to politicize and burden the production of agency guidance documents](#) just two weeks prior to the release of this report.

2005's Information Bunny Hop

Over the years many have compared politics and policy formation through our democratic process to a dance between competing viewpoints. Unfortunately for public access to government information, the dance in 2005 closely resembled an old-fashioned bunny hop, involving two steps back for every one step forward.

One hop forward.

- **[DHS Drops Non-Disclosure Agreements:](#)** In January, the Department of Homeland Security (DHS), under pressure from congressional offices, federal employee unions and the media, stopped requiring nondisclosure agreements and voided all previously signed agreement for "Sensitive But Unclassified" (SBU) information. DHS officials had been requiring that all agency employees sign a strict non-disclosure agreement for unclassified information that was deemed "sensitive" and had even begun asking congressional aides to sign these agreements. Instead, the new directive stresses education and awareness to foster the appropriate level of protection for SBU information.

One hop back.

- **[Nuclear Secrets:](#)** In February, the Nuclear Regulatory Commission (NRC) proposed expanding the amount of information that can be withheld from the public as Safeguards Information (SGI). The new regulations broaden the already expansive SGI regulations, allowing the NRC to withhold any information about emergency planning procedures, safety analyses, or defense capabilities.

A hop back forward.

- **[Sunshine Week Goes National:](#)** In March, newspapers, TV, and radio helped raise public awareness of pervasive government secrecy and promoted open government as part of the first-ever national Sunshine Week. Over 1,000 stories ran in newspapers across this country, including a week-long series of editorials and op-eds on how citizens use open records laws to make their communities safer. A also poll found that seven in 10 Americans were concerned about excessive government secrecy.

One hop back.

- **Court Dismisses Energy Taskforce Case:** A federal appeals court judge dismissed a lawsuit seeking to uncover secret documents from Vice President Dick Cheney's energy task force on May 10. The judge ruled the task force was not subject to the disclosure requirements of the Federal Advisory Committee Act (FACA). The plaintiffs, Sierra Club and Judicial Watch, maintained that energy industry executives participated in the task force that led to the development of the administration's energy policies. Under FACA, any advisory body consisting of individuals outside the government must follow specific guidelines: the committee must issue a charter for approval, include diverse and representative members, and hold open meetings that the public is notified about in advance. The ruling ended the long legal battle to disclose the energy task force records.

One hop forward.

- **FOIA Focus in Congress:** In 2005 Congress focused a great deal of attention on improving implementation of the country's most fundamental public access law--the Freedom of Information Act (FOIA). Sens. John Cornyn (R-TX) and Patrick Leahy (D-VT) introduced several pieces of bipartisan legislation to speed up the FOIA process, clarify that FOIA exemptions in new laws must be explicit, and establish provisions such as an interagency panel to improve FOIA implementation across government. Both the **Senate in March** and the **House in May** held their first hearings on FOIA in years.

Two hops back.

- **White House Rewrites Global Warming:** In June a whistleblower revealed that a former oil industry lobbyist, Philip Cooney of White House's Council on Environmental Quality (CEQ), changed language in government climate change reports to undermine scientific findings on climate change and present it as less problematic. The incident highlights the White House's increasing interference with agency reports and analysis throughout 2005. Shortly after the issue came to light, Cooney resigned from CEQ and took a job with Exxon.
- **First Known Piece of CII:** In June, a request from a New Jersey resident to access to a township's electronic map of land parcels brought to light the first public example of "Critical Infrastructure Information" (CII). The Brick Township Municipal Utilities Authority denied the resident's request for information from the land parcels database, which is used for property taxes, because the data had been accepted by DHS under the CII program. While the municipal utility refused to grant the resident free access to the database, they publicly offered paper copies of the maps for \$5 a piece, leading some to speculate that the CII program is being misused to ensure revenue for government collected information.

One hop in place.

- **Data Quality Act Hearing:** The Government Reform Subcommittee on Regulatory Affairs held the first congressional hearing on the Data Quality Act (DQA) on July 20. The hearing reviewed implementation of the DQA at three federal agencies and heard from interested stakeholders, including industry associations that have filed data quality challenges and public interest groups seeking the policy's repeal. Agencies appeared supportive of the DQA, but did acknowledge that DQA efforts have diverted agency

resources and that requests have grown difficult to respond to in a timely manner. At the conclusion of the hearing, Chairman Candice Miller (R-MI) appeared supportive of broadening the DQA to include judicial review, a provision that industry has long wanted.

A hop back.

- **The NEPA Lockout:** In 2005, House Resources Committee Chairman Richard Pombo (R-CA) established a congressional task force to review and make recommendations on how to "improve" the National Environmental Policy Act (NEPA). As the task force held hearings around the country, however, environmentalists and ordinary citizens found it difficult to participate. The task force held four "public" hearings during the summer, soliciting input primarily from industry interests that view NEPA's environmental and health requirements as burdensome. Many in the public interest and environmental communities contend that, after nearly 200 NEPA supporters swamped the first task force hearing in Spokane, Washington, Pombo intentionally withheld details on hearing locations and times until the last minute to silence NEPA supporters.

One hop forward.

- **Cities Take On Chemical Security:** After several chemical accidents at U.S. facilities and en route to or from U.S. facilities in 2005, cities across the nation began compensating for the federal government's inability to establish chemical security by enacting their own local laws. The District of Columbia, Boston, Cleveland, Chicago, and Baltimore all pursued local legislation to mitigate the risks of shipping hazardous materials through their heavily populated centers. The District of Columbia became the first U.S. city to pass legislation banning hazardous shipments passing through its city limits destined for other locales in 2004.

One hop back.

- **Courts Halt D.C. Chemical Security Law:** Unfortunately, after a rail company and the Department of Justice challenged the D.C. law, the courts stayed implementation of the ordinance. Despite the court decision, several cities continue to move forward with their own chemical security legislation. With four full years having passed since the terrorist attacks of 9/11, the federal government has still taken no action to protect urban centers from threats posed by hazardous material shipments.

One nomination hop back.

- **Supreme Secrecy:** In September 2005, the Senate held a hearing on Judge John Roberts' nomination to replace William Rehnquist as Chief Justice of the Supreme Court. Despite full disclosure being of the utmost importance to the Senate's difficult task, the White House continually fought against releasing documents from Roberts' time as White House associate counsel during the Reagan administration. Not only were these critical documents to ascertaining the appointee's ability and qualifications withheld initially, when they were eventually released from the Ronald Reagan library, they revealed that

Roberts supported government secrecy and strenuously avoided any implication that the White House had an obligation to provide information to anyone, including Congress.

Two big environmental hops back.

- **Hurricane Katrina:** Both immediately following Hurricane Katrina and as long-term recovery moves forward, the EPA and other agencies responsible to protecting public health have failed to fully inform citizens in a timely manner of the potential dangers from releases of toxic and hazardous materials that had been stored in and around New Orleans. The insufficiency of EPA's testing for environmental hazards, the absence of informative health warnings for recovery workers and returning residents, and its failure to provide protective equipment all clearly point to the agency's inability to accomplish its goal of protecting public health and the environment. As environmental and health groups have continued to press for more information on the agency's testing results, EPA continues to withhold much of this information.
- **Right to Know Less:** In September 2005 EPA announced plans to significantly roll back reporting of toxic pollution under the Toxics Release Inventory (TRI) program. The TRI program has been the nation's premier tool for notifying the public about releases of toxic chemicals for almost 20 years. The TRI annually provides communities with details about toxic chemicals released into the surrounding air, land, and water. Despite the program's widely hailed success, however, EPA has proposed several changes to reduce the amount of paperwork companies must file, each of which would dramatically cut information available to the public on toxic pollution. A broad coalition of environmentalists, labor unions, first responders, state officials, community groups, health professionals, and others have begun an extensive campaign to oppose the changes.

A hop forward with a hop back.

- **State Biomonitoring Arrives, Almost:** After three years of work to pass a biomonitoring bill in the California legislature, this year lawmakers narrowly approved a bill. The state bill represents the next generation in the public's right to know about environmental impacts. Governor Arnold Schwarzenegger, however, vetoed the bill on Oct. 7. The Healthy Californian's Biomonitoring Program (SB 600) would have established America's first state-wide program to assess levels of human chemical exposure.

Two hops back.

- **USA PATRIOT Act, Still:** Several powers granted to government agencies to secretly search, seize and collect information on groups and citizens under the USA PATRIOT Act received a great deal of congressional attention in 2005. Many of the most controversial provision were set to expire at the end of the year, including a section that allowed law enforcement agencies to collect records from libraries and bookstores. Lawmakers in the House and Senate negotiated a compromise that extends the provisions four years with only modest modifications of the law's far-reaching powers and sweeping secrecy.
- **Ultra-Secret Agency:** In November, Sen. Richard Burr (R-NC) introduced legislation that would create the Biomedical Advanced Research and Development Agency

(BARDA) to research and develop strategies to combat bioterrorism and natural diseases. The bill would, for the first time ever, completely exempt the new agency from all open government laws. Burr has already begun negotiations with open government advocates to correct the legislation and ensure that the agency will have some level of public accountability and transparency. The introduction of a bill with such overarching and broad secrecy, however, demonstrates just how far open government advocates still must go to instill the principles of openness and accountability into our government and its leadership.

Secrecy Endangers Biodefense Effort

The ultra-secretive agency proposed to lead the nation's effort against biological attacks and national threats posed by pandemics may have to be less secretive if Congress is going to give its approval. You read it right: Congress is balking at approving too much secrecy.

Legislation proposed by Sen. Richard Burr (R-NC) would create the first federal agency completely exempt from the Freedom of Information Act (FOIA), giving it a dubious distinction that not even the Central Intelligence Agency, which is subject to FOIA, would share. In addition, the agency's advisory committees would be exempt from the Federal Advisory Committee Act (FACA), shielding the agency from the very law designed to ensure advice is made with integrity and without undue influence of any special interest. Such exclusion is ironic given other controversial sections of the bill, such as provisions that would give liability protection to drug makers who might create drugs that do medical harm.

The new Biomedical Advanced Research and Development Agency (BARDA) would coordinate the federal government's efforts to address biological, chemical and other threats to public health and would reside within the Department of Health and Human Services. The new agency would fund research and coordinate a national effort to make the country safer from such threats. Currently, these efforts are scattered among several federal agencies.

The unprecedented secrecy, as written into the bill passed out of committee on Oct. 17, received public criticism that the bill's sponsors had not anticipated. They have now promised a "do-over" to make the agency transparent and encourage the open exchange of scientific information.

Congressional staff will sit down on Dec. 14 with open-government advocates and members of the scientific community to craft better language. Open government advocates contend the current exemptions under FOIA and FACA, from which Burr carved deep loopholes for BARDA, are sufficient to protect any sensitive information the new agency may handle. These groups are hopeful the bill's sponsors can better codify specific circumstances and situations which would warrant further secrecy and thus abandon the blanket secrecy of the original text.

Patriot Act Negotiations Come to a Head

With the deadline fast approaching for renewal of USA PATRIOT Act powers, lawmakers appeared unable to reach an agreement. Senate Democrats are proposing to give Congress

another 90 days to negotiate before controversial provisions expire this year, while Senate Majority Leader Bill Frist (R-TN) is calling for renewal before Congress leaves this year.

The House and Senate each passed versions to reauthorize the USA PATRIOT Act, which expires on December 31. The two versions had vastly different provisions that needed to be reconciled in a conference between the two chambers. The Senate version, which passed unanimously, had modest, but important, changes to key provisions affecting civil liberties. The House version did not.

The House-Senate conference on the bill appeared to be quite contentious. The public fight appeared to be over the length of reauthorization for three sections of the bill dealing with government access to business records (including libraries and booksellers in Section 215), roving wiretaps (Section 206), and surveillance of "lone wolf" suspects who have no obvious link to terrorists organizations (added to the Foreign Intelligence Surveillance Act).

Amidst last-minute arm-twisting, Sen. Arlen Specter (R-PA) appeared to be the key swing as he pushed his Republican colleagues in the House to accept the Senate's language that extends these provisions for four years instead of the seven- or 10-year extensions sought by House negotiators. The White House relented and House and Senate Republicans put forth a conference agreement, without Democratic support. The Republican conference agreement contains four-year extensions and modest changes elsewhere, including slight rule modifications that fell far short of the Senate version, under which federal agents can secretly search homes and businesses.

A bipartisan coalition of Senators, as well as a coalition of public interest groups, have been critical of the conference agreement, maintaining that the modified rules are not nearly enough to protect civil liberties, and do not meet the bipartisan standard set by the Senate when it passed its version. The six Senators--Larry Craig (R-ID), Dick Durbin (D-IL), Russ Feingold (D-WI), Lisa Murkowski (R-AK), Ken Salazar (D-CO) and John Sununu (R-NH)-- [released a statement](#) explaining, "We are gravely disappointed that the conference committee made so few changes to the Patriot Act reauthorization package..." and threatening a filibuster of the conference report if it is not fixed.

The public interest coalition argues that the conference agreement leaves the law open to abuse and "fishing expeditions" into the private records of innocent Americans, instead of focusing on suspected terrorists. Specifically, the coalition has raised concerns over three issues:

- The Library Records Provision (Sec. 215) -- This provision allows the government to obtain a secret court order for any records or items from libraries and booksellers. The conference agreement does not require the government to show a connection between the records being sought and a suspected terrorist. Moreover, the target of the investigation may not be suspected of having any link to terrorism, and the recipient of the court order has limited rights to challenge it. The Senate version of the bill required the government to show a connection when seeking such court order in order to stop "fishing expeditions" that unduly invade privacy.
- Sneak and Peak Provision (Section 213) -- This provision allows delayed notice of searches of homes and businesses. The conference agreement allows a 30-day delay in providing notice of a search. Prior to the Patriot Act, a maximum of seven days could

transpire before notification and the Senate version would have reinstated that requirement. Such sneak and peak searches are not limited to persons or businesses with links to terrorism.

- National Security Letters (Section 505) -- This provision expanded the power of the FBI to issue National Security Letters (NSLs) to obtain records from businesses about their customers. This includes credit reports, records from Internet Service Providers, and financial records. Recently the *Washington Post* revealed that NSLs were used roughly 30,000 times, many times more than had been previously disclosed. The conference agreement does not require court approval or a connection between the requested records and a suspected terrorist, and limits rights to challenge the action.

Other civil liberties issues have been raised concerning the conference agreement. On Dec. 12, the ACLU expressed concern that the agreement would give the Secret Service expanded authority to charge protesters accused of disrupting major events. Also on Dec. 12, several Democratic Senators and members of the House proposed that Congress temporarily extend the current Patriot Act powers for three months to work out a good compromise on these contentious issues. Such an extension may give lawmakers the opportunity to better understand how current powers are used. However, it appears that congressional leadership is uninterested in this approach and, along with the White House, want the bill reauthorized now.

The House is expected to pass the conference agreement next week. It is unclear whether the Senate leadership has the 60 votes necessary to cut off the filibuster by the bipartisan group of six Senators.

For more on the USA PATRIOT Act, see www.aclu.org.

Fight to Save the Toxics Release Inventory Heats Up

Since the Environmental Protection Agency (EPA) announced plans on Sept. 21 to [reduce TRI chemical release reporting](#), the agency has faced an ever-growing flurry of criticism and opposition. The program receives tremendous support, because for nearly 20 years it has been an essential tool in addressing environmental and public health concerns. In response to EPA's proposals to cut reporting on TRI chemical releases, in order to eliminate paperwork for reporting companies, individuals and organization have expressed outrage and begun to rally around the program.

The National Environmental Trust hosted a Dec. 1 [press conference](#) where public health professionals, state officials, and first responders described how the proposals would among other things hamper planning for emergencies and hinder the fight against cancer. Michael Harbut, M.D., of the Center for Occupational and Environmental Medicine at the Barbara Ann Karmanos Cancer Institute, explained, "We know that a lot of chemicals regulated under the TRI program cause cancer. To reduce the amount of information available to cancer researchers is just plain terrible."

Several groups used the occasion to unveil reports critical of EPA's management of the TRI program of late. U.S. PIRG coordinated press events and report releases of ["Undisclosed](#)

[Pollution](#)" in 20 states describing the state-level impact of EPA's proposals. OMB Watch released a report, entitled "[Dismantling the Public's Right to Know](#)," that details EPA's systematic weakening of the TRI program. According to Sean Moulton, senior policy analyst with OMB Watch, "The current EPA leadership seems more concerned with sparing companies a bit of paperwork than it is with protecting the public."

Organizations are also making their opposition to EPA's proposals known to members of Congress. More than 100 regulatory, emergency, environmental, labor and social investment groups have signed onto [a letter asking Congress](#) to ensure that EPA abandons TRI cutbacks. According to the letter, the groups "oppose the EPA's recent proposals to reduce the amount of information collected and made public under the Toxics Release Inventory" and "urge Congress to call for the EPA to immediately withdraw these proposals."

A bipartisan [letter from several U.S. Senators](#) sent to EPA Administrator Stephen Johnson points to congressional leaders' concerns over EPA's plans. According to the letter, "We are concerned that alternate year reporting would deny citizens up-to-date information about local toxic releases, reduce incentives to minimize waste generation, withhold important information from public health agencies, and undermine the ability of States and EPA to guide their compliance assistance and enforcement priorities." The letter was signed by Sens. Jim Jeffords (I-VT), Barbara Boxer (D-CA), Ron Wyden (D-OR), Hillary Rodham Clinton (D-NY), Barack Obama (D-IL) and John McCain (R-AZ).

The proposed cutbacks are receiving increased coverage in media outlets across the country. Newspapers have printed more than 60 stories on the proposals, and at least 10 papers editorializing against the cutbacks. A Dec. 10 *Toledo Blade* editorial entitled "[Keep Toxic Release Law](#)" states, "One of the most successful anti-pollution measures in the United States over the past two decades is the Toxics Release Inventory. Congress should put a stop to a plan by the Bush Administration to substantially weaken this important public information law."

In a related development, EPA Assistant Administrator Kimberly Nelson of the Office of Environmental Information has announced her departure from the agency at the start of 2006. Nelson is seen by many as the chief proponent inside the agency of the TRI reporting rollbacks. A Dec. 9 *Inside EPA* story maintains that "EPA information chief Kim Nelson's impending resignation could undermine the agency's ability to finalize controversial changes to the Toxics Release Inventory (TRI) her office proposed this fall..."

The EPA's public comment period on the proposals closes Jan. 13. Those wishing to weigh in on EPA's plans can use [OMB Watch's TRI Action Alert](#) to send comments to EPA and Congress. To find out more about the proposals, please visit OMB Watch's [TRI Resource Center](#).

Failing Grade on Chemical Security

As the [former 9/11 Commission](#) issued failing grades on the government's preparedness for another terrorist attack, a new draft of chemical security legislation is being circulated by Sen. Susan Collins (R-ME). The bill establishes authority for the Department of Homeland Security to regulate the security plans of U.S. chemical plants. Unfortunately, if its current language remains, the bill will fail to make communities safer from either terrorist attacks or chemical accidents.

The draft bill falls short on several important issues--issues that should be addressed before the bill is formally introduced:

Safer Technologies

The bill requires companies to submit security plans to the Department of Homeland Security (DHS) for review and certification. While the bill mentions safer chemicals and technologies among suggested security provisions, it does not require companies to consider these obvious steps for reducing the risk chemical facilities pose to neighboring communities. Any substantial chemical security effort should require companies to conduct such a review as a first step. Safer chemicals and technologies could eliminate the need to implement extensive security measures to prevent a terrorist attack or establish complex emergency response plans to address a chemical accident.

Universal Requirements

The draft bill also fails to create strong universal governmental standards for chemical facility security plans. Instead of establish specific minimum components that all security plans should include, the draft bill currently allows companies to pick which items to include in the plans they submit to DHS. Universal requirements would ensure that company security plans are in accordance with basic chemical safety practices and procedures. The bill also contains overly broad provisions that encourage DHS to accept voluntary industry association programs, which could create an uneven implementation of the law and leave vulnerabilities unaddressed. The final bill should establish standard components that each vulnerability assessment and security plan must contain at a minimum. The bill should make clear that assessments from alternative programs will be evaluated against these standards to ensure this baseline of safety and security is met.

Accountability

Collins' draft bill fails to establish any public accountability safeguards to ensure that security plans meet surrounding communities' high standards and are being implemented properly. Obviously, the bill should not allow specific security plans or information directly taken from them to be publicly disclosed; it should contain, however, provisions ensuring that the public remains adequately informed. First, the bill should include a savings clause that explicitly states that information currently collected and made public under other laws will not become secret under this new law. Second, the bill should include two proactive requirements to inform the public. On the facility-specific level, without disclosing any of the details of the actual plans, DHS should make public the certification status of all facilities required to report under this law. On the aggregate level, DHS should be required to release an annual report on the overall status of the nation's chemical security. Such an aggregate report would provide a method to assess the law's efficacy in addressing security problems, while avoiding disclosure of any particulars that could leave individual plants more vulnerable. Third, the bill should include a mechanism for officials, workers, first responders and others outside the company to notify DHS about problems they learn about at a particular plant. Finally, the bill should clearly explain that official whistleblowers will be protected from any criminal or civil penalties.

Floor, Not Ceiling

The most troubling aspect of the draft chemical security bill, however, is not what it's missing, but rather what it's included: a new provision that allows preemption of state laws. The draft bill would prevent states from establishing laws that provide greater security and safety

requirements. Interestingly, this provision appeared, seemingly out of nowhere, shortly after New Jersey passed a bill that would require best practices at chemical facilities and would require 43 exceptionally dangerous sites in the state to implement safer practices. The federal legislation should provide a floor, *not a ceiling*, for chemical security, thereby allowing states to enact stronger chemical security protections as they see fit. This dangerous provision should be dropped from the draft bill and replaced with a clause that clearly states that the federal law does not preempt states from enacting their own chemical security legislation.

A series of discussions have taken place regarding the Collin's bill since the draft version was leaked. Collins reportedly is intent on introducing the bill, which would be referred to the Senate Committee on Homeland Security and Government Affairs, a committee Collins chairs, before Congress breaks for the holidays. It is unclear how many of the above concerns can be addressed in such a short timeframe. What is clear is that this legislation needs significant improvement in all these areas if it is to carry out its intended purpose of addressing the shortcomings in U.S. chemical security pointed out by the 9/11 Commission that undermine national security and the safety of communities nationwide.

Year in Review: More Poor Budgetary Stewardship

When it came to tax and budget issues, 2005 was an overwhelmingly disappointing year in the nation's capital. Facing long-term challenges and numerous obstacles, both President Bush and the U.S. Congress seemed to suffer from a severe case of disconnectedness from the fiscal and economic realities that should have moved them toward more rational, healthy tax and budget policies.

The country is on an unsustainable economic path, largely due to tax cuts aimed at benefiting the wealthy and corporate elites, combined with the long-term concerns of an aging population and shamelessly exorbitant spending on defense and homeland security. The federal budget, a blueprint for our national priorities, sends the wrong message and will have the wrong results. We now have an economy that is chugging along while creating a chasm between the rich and the rest. While Congress finagles more tax cuts, people continue to suffer in the economic aftermath of Hurricane Katrina. Long-term investments in our people, environment and infrastructure go largely ignored.

Below is a summary of the year's continued misguided priorities, irresponsible and failed policies, and far-too-frequent missed opportunities. The American people should expect more from its elected officials, and those leaders should be able to deliver better ideas, more principled leadership, and more tangible results than that have this year. Let's hope 2006 brings these things and along with them a more promising future for America.

Budget/Appropriations

A Radical and Irresponsible Budget

President Bush sent his proposed Fiscal Year 2006 (FY 06) budget to Congress on Monday, Feb. 7, in a package that was one of the most special-interest-driven and fiscally bleak budgets presented in recent memory. The budget called for a large transfer of benefits to corporate

special interests and the most well-off through additional tax cuts, regulatory and litigation "reforms," and other measures that weaken public safeguards and government in general. At the same time, the president proposed cutting a variety of programs serving low- and middle-income Americans. The budget called for a trade-off that would be both unfair and unwise, and many of his proposals were adopted by Congress with little informed debate, inclusion of alternative views, or compromise.

[Negative Reactions to Budget Come From Both Sides of the Aisle](#)
[President Bush's FY 06 Budget: An Overview](#)
[Service Cuts for the Poor to Finance Tax Cuts for the Rich](#)
[The Ultimate Special Interest](#)

Congress' Continued Failure To Do Its Job

Congress failed to completing the Fiscal Year 2006 appropriations bills before the start of the fiscal year on Oct. 1, causing the government to be funded through a stark continuing resolution (see below) that under-funds many government programs. The consistent inability of Congress to complete its most core duties in a timely fashion points to larger problems not only with the political environment in Washington, but also to the day-to-day choices and priorities identified by the leaders of the House and Senate.

[Senate Needs to Follow House's Lead On Appropriations to Avoid Omnibus](#)
[Congress' Reconciliation Work Crowds Out Appropriations](#)

Budget Process

One-Sided PAY-GO

The administration proposed and Congress adopted one-sided Pay-As-You-Go (PAYGO) rules that would bar any legislative changes to mandatory spending that would increase the deficit or raise taxes. The only option for increasing funding for mandatory programs under this proposal would be decreases in funding for other mandatory programs, once again pitting programs serving low- and moderate-income Americans--such as unemployment insurance, Food Stamps, and Medicaid--against one another. No comparable fiscal restraints were adopted for tax cuts, and Congress continued to cut taxes primarily for the most wealthy, even after Hurricane Katrina laid bare entrenched, dehumanizing poverty that remains far-too-common in America today. The Senate voted twice to reinstate true PAYGO rules and failed both times by a single vote.

[PAY-GO Narrowly Defeated in Senate Reconciliation Bill](#)

High-Jacked Reconciliation Process Expands Deficits

In its budget resolution, Congress called for a bill that would allow for special fast-track protections for \$34 billion in cuts to mandatory programs and more than twice that amount in additional tax cuts. Not only would this bill increase the deficit contrary to the original purpose of the reconciliation process, but also showcase the cruel combination of program cuts for low- and middle-income Americans and tax break handouts to the wealthy.

[Congress Passes Irresponsible Budget Resolution](#)
[Tax Cut Measure Guarantees Increasing Deficits](#)

Crafty Continuing Resolution Furthers Spending Reduction

The continuing resolution (CR) still in place for part of the government as constructed by Congress funds government programs at the lowest conscionable level. Because of its unusual

structure, the CR has resulted in the dramatic under-funding of programs, setting spending levels at the lowest of three possible levels: the enacted totals for Fiscal Year 2005 (FY05), or either of the completed levels of the House or Senate FY06 spending bills. The structure also resulted in funding levels and policies being enacted that had only been debated in and passed by one chamber of Congress, thereby bypassing part of the constitutional process by which money is appropriated from the Treasury and leaving less opportunity for stakeholder input. At the time the CR was passed, only two appropriations bills had been signed into law.

[Congress Passes Stark Continuing Resolution; Many Programs Will See Funding Cuts](#)

Dishonest Budgeting and Deceptive Analysis

The Bush administration has continued to promote dishonest, and manipulative budget practices that have decreased the transparency of the federal budget and altered the debate about important long-term policies. This includes skewing budget analysis in order to reinforce and support political goals, omitting certain costs of proposed policies and actual war costs from budget analysis, and assuming the extension of the president's tax cuts. In doing so, the White House has misled Congress and the American people about the fiscal health of our country and our capacity to meet current and future financial obligations.

[Bush, Congress Hide True Cost of Permanent Tax Cuts](#)

[OMB Continues to Manipulate Budget Projections](#)

[Analysis of Misleading OMB Mid-Session Review](#)

[Bush Criticized for 'Dishonest' War Budgeting](#)

Economy and Jobs

Congress Fails to Increase Minimum Wage For Eighth Straight Year

Despite numerous efforts to do so in the Senate this year, Congress will close out its eighth straight year without passing an increase to the federal minimum wage. Many states, tired of waiting for leadership from the federal level, have instituted their own minimum wage increases.

[Congress Rejects Competing Minimum Wage Amendments](#)

[Florida, Nevada Vote to Raise Minimum Wage by \\$1](#)

[New York Joins States Raising Minimum Wage](#)

Economy Improves, Fails to Benefit Most Americans

Despite better job growth, stronger economic indicators, and a positive year for the stock market, most Americans families continued to see little improvement in their household financial situations and prospects. The government reported more Americans living in poverty (over 1.1 million more), more Americans lacking health insurance (over 800,000 more), still more households experiencing food insecurity (over 2 million more), and an unprecedented fifth straight year of stagnant wages. While benefiting those already well off, current economic policies have left the vast majority of American households spinning their wheels or moving backward.

[Despite Recovering Economy, Poverty on the Rise for Fourth Straight Year](#)

[Service Cuts for the Poor to Finance Tax Cuts for the Rich](#)

Estate Tax

House Continues to Undermine Common Good

For the third time in four years the House of Representatives passed a bill to permanently repeal the estate tax. The irresponsible and dangerous bill will undermine the public sector's ability to create and sustain opportunity for generations to come.

[House Again Passes Irresponsible Estate Tax Repeal](#)

Fate of Estate Tax Rested With Senate

Once again, the fate of the estate tax was left up to the Senate where a House-passed repeal bill had died in 2003. Despite a vigorous push by pro-repeal corporate interests, Senate GOP leaders was unable to bring the estate tax issue forward for a vote. With a vote scheduled on full repeal in September, Hurricane Katrina struck, knocking the issue off the Senate agenda for the remainder of 2005.

[Circumstances Force Frist to Postpone Estate Tax Vote](#)

Government Performance

PART Enters Third Year of Futility in Rating Federal Programs

The Program Assessment Rating Tool, the White House's tool for evaluating federal programs, entered its third year of incorporation by the Office of Management and Budget. Unfortunately, PART has thus far failed as an unbiased, useful mechanism to grade programs across the federal government, instead proving itself to be but a thin veneer of accountability and good government, thrown up to deflect attention and criticism from controversial, politically biased judgments. In this sense, the PART mechanism itself, ironically, continues to fail to demonstrate results and has not garnered the amount or breadth of support necessary for it to impact the makeup of the federal government.

[All PART of the Game](#)

[PART Backgrounder](#)

Results/Sunset Commissions Proposals Introduced in Congress

The White House submitted a legislative proposal to Congress that would imperil the balance between the executive and legislative branches, by concentrating power in the White House free of democratic accountability, and expose long-standing public protections to powerful special interests and industry insiders. The proposal would jeopardize future program funding and give the executive branch the power to reorganize federal offices and departments.

[White House Power Grab Puts Public at Risk](#)

Federal Tax Policy

President's Tax Reform Panel Spends Year Producing Recommendations

The President's Advisory Panel on Tax Reform submitted its report to Treasury Secretary John Snow recommending ways to make the tax code simpler, fairer, and more pro-growth. The recommendations had been in the works since January, when President Bush established the panel through an executive order. Fortunately, the long-awaited recommendations turned out not to be the rubber stamp for conservative regressive tax policies many observers expected, but instead represent a mix of ideas that confront the difficulty of enacting tax reform, not only in a harshly divided political environment, but also with a deeply unhealthy federal budget. Unfortunately, however, the recommendations are unlikely to be enacted as proposed, as the administration is expected to cherry-pick the aspects of the proposals it prefers for its Treasury recommendations to be released in early 2006.

[Tax Panel Offers "Tough Love" Tax Reform Recommendations](#)

Congress and Administration Continue Obsession with Tax Cuts

From reconciliation instructions to Social Security overhaul proposals, all the way to hurricane

relief and recovery efforts, the administration and Congress remain focused, to the point of mania, on budget-busting tax cuts. No matter the challenge faced, our national leadership appears to have found the answer: a tax cut. Yet most of their proposals give extraordinarily disproportionate benefits to the wealthy and will fundamentally erode what little security the government can give its citizens, by exacerbating the long-term fiscal imbalance currently in place in our federal budget.

[Federal Tax Policy Resources](#)

State Fiscal Policy

Amid Misguided Efforts to Shrink State Governments, Colorado Rebels

With over 20 other states considering proposals to severely limit state spending and institute automatic tax cuts, the citizens of Colorado voted to overturn its "Taxpayers Bill of Rights" this year because of the detrimental impact the law has had on public structures and Coloradans' quality of life. This victory for common sense fiscal policies has already influenced efforts underway in other states and, with luck, will continue to stall the efforts of anti-government ideologues to institute similar laws in other states in 2006.

[Despite Colorado's Disaster, More States Consider Restrictive Budget Rules](#)
[TABOR: A Losing Proposition For Colorado](#)

Tax Cuts: The Final Melee

Continuing its trend of bucking compassion and fiscal responsibility in lieu of tax cuts for the wealthy, the House of Representatives voted last week to pass the \$56 billion reconciliation tax bill. This vote, which came on the heels of the vote to *save money* by slashing mandatory spending, culminated what seemed to be a month of illogical, hypocritical voting. Unlike the Senate tax bill, which centered on extending Alternative Minimum Tax relief (which is increasingly hitting upper middle-income taxpayers), the House tax bill was centered on a two-year extension of low tax rates on capital gains and dividends, the benefits of which will go predominately to the super wealthy. It is no wonder Rep. David Obey (D-WI) said that House actions "makes Mr. Scrooge look like Mother Teresa."

The House voted mainly along party lines, [234-197](#) in passing this bill. Nine Democrats took the plunge and voted to increase the deficit while providing tax breaks for the wealthy, along with all but three Republicans. Those Democrats were Reps. John Barrow (GA), Melissa Bean (IL), Dan Boren (OK), Robert Cramer (AL), Henry Cuellar (TX), Lincoln Davis (TN), Bart Gordon (TN), Jim Marshall (GA), and Mike McIntyre (NC). The three Republicans voting against the tax cuts were Reps. Sherwood Bohmert (NY), Jim Leach (IA), and Fred Upton (MI).

This bill, according to the Joint Committee on Taxation, will extend through 2010 the 15 percent capital gains and dividends tax rate at a cost to the federal government of \$20.6 billion. Robert Reich, former Secretary of Labor under President Clinton, pointed out in his recent article [Class Warfare With Taxes](#) that the House's actions speak volumes on where the loyalties of its members lie, particularly in light of their choice to cut taxes on capital gains while the Senate used the reconciliation process to extend AMT relief. Reich says:

Most of the benefits of the House's proposed extension of the dividend and capital gains tax cuts would go to the top one percent of taxpayers, with average annual incomes of more than \$1 million. Most of the benefits of the Senate's cut in the AMT would go to households earning between \$75,000 and \$100,000 a year, who would otherwise get slammed.

Reich goes on to point out that most likely, capital gains and dividends tax cuts *as well as* an extension of AMT relief will end up as part of final bill negotiations. He calls this skilled political maneuver an "elegant compromise" by Congress to pass both measures while exploding the deficit. Congressional Republicans say the costly tax cuts are needed to "grow the economy" and thus indirectly help people in need, but at the same time they slash mandatory spending on proactive programs that *directly* help people in the name of deficit reduction. National budget deficits need to be dealt with, but by a combination of reducing spending and rolling back irresponsible tax cuts--not the reverse Robin Hood tactics of this Congress.

House Passes Additional Tax Cuts

On Dec. 7, the day before the House passed the tax reconciliation bill, its members voted on three other tax cuts, bringing the total amount of tax cuts passed during these two days to \$94.5 billion. As Concord Coalition executive director Robert Bixby aptly [stated](#):

I don't think it makes any sense to go through all the difficulty they just went through with the budget-cutting bill, then give it all back in tax cuts. If they want to cut taxes, fine, but they are going to have to cut spending by at least that much to help the deficit, and clearly they are not willing to do that. They have to start looking reality in the face.

The bills passed were:

- [H.R. 4096](#), which passed by a vote of [414-4](#)
This bill extends AMT relief by one year at a cost of \$31.2 billion. It was passed outside of the reconciliation process so that House GOP leaders would have enough room in the reconciliation tax bill to extend the costly capital gains and dividends tax cuts.
- [H.R. 4440](#), which passed the House by a similarly large margin: [415-4](#).
The bill, which will cost \$7.1 billion over five years, will provide tax breaks for businesses in the "Gulf Opportunity Zone." Because of the work of Frank Wolf (R-VA) and other House members, GOP leaders exempted casinos, country clubs, hot tub facilities, liquor stores, massage parlors, golf courses, racetracks and tanning salons from the tax breaks.
- [H.R. 4388](#), which will extend a provision allowing members of the military to use their combat pay to claim their earned income credit
The bill will cost \$153 million.

Each of the bills passed with broad bipartisan support and little discussion of how the deficit will be impacted. The budget deficit is projected to reach between \$331 billion and \$350 billion in Fiscal year 2006 and remain above \$300 billion each year through 2010, when most of Bush's tax cuts are set to expire. If the tax cuts are extended, these projected deficits will undoubtedly skyrocket above that figure. (In related news, the Treasury Department [announced](#) that

November's deficit of \$83.1 billion was the largest ever for that month.) When Congress will begin to face reality and enacting tax policies that will put the country back on track is unclear, what is not is that such a policy realignment is becoming increasingly imperative to face the difficult long-term fiscal challenges looming in the not-so-distant future.

Budget Cuts: The Final Showdown

The Senate's return to Washington this week means that conferees have begun final negotiations on the budget reconciliation bill. The two versions of this bill, which aims to cut entitlement spending over five years, contain [vast differences](#), particularly with respect to cuts to Medicaid, student loans, and food stamps. Legislative work on the drafting and passage of the reconciliation bill not only proved to be an [obstacle to Congress' appropriations work](#), but has already extended the congressional session as members have engaged in a showdown over certain contentious provisions, including exploratory drilling in the Arctic National Wildlife Refuge (ANWR), funding cuts to Medicare, Medicaid and popular social welfare programs such as food stamps.

Although Rep. Roy Blunt (R-MO), the Majority Whip who is currently acting as House Majority leader, mentioned last week that the House might finish its work as early as this Thursday, House aides were told to keep their schedules open through Dec. 23. This unusually long extension would, at least in part, be due to what promises to be a serious face off over ANWR language in the final budget bill.

The House only narrowly passed its version of the budget bill, 217-215 last month. GOP leaders [struggled for weeks](#) before they were able to muster enough votes to pass the bill and ultimately needed to remove the ANWR language to appease House moderates.

While a number of these House moderates will not support a final conference report that includes ANWR language, Senate negotiators are applying pressure to have it included. Sen. Ted Stevens (R-AK) is leading this fight, as he and other proponents view the filibuster-proof reconciliation bill as their best chance politically to move forward with what has been a 25-year attempt to open the refuge for drilling.

Stevens has used his position as Defense Appropriations Subcommittee Chairman as leverage by refusing to move forward with the Pentagon budget until he receives assurances that ANWR will be included in the final budget reconciliation bill. He is also touting the recent [CBO estimates](#) that have doubled potential revenues from Arctic drilling to \$10 billion. Half of these "savings" would benefit the federal government, which Stevens claims could mean more sweeteners, in the form of either rebuilding projects for Gulf Coast lawmakers or more than \$1 billion in low-income heating subsidies.

In addition to ANWR, lawmakers and Hill staff have been haggling over proposed cuts to Medicare, Medicaid, and food stamps. Reports indicate that negotiators are moving toward dropping the House's nearly \$700 million in food stamp cuts as well as language reauthorizing the nation's welfare programs, but details on cuts to Medicare and Medicaid are still unavailable. While the House proposed no cuts to Medicare and over \$11 billion in cuts to Medicaid, the

Senate bill proposed \$5 billion in cuts to Medicare and \$4.3 billion in cuts to Medicaid. Unlike the House version, the Senate bill spared beneficiaries from feeling the impact of the cuts by aiming them solely at administrative changes. It is still unclear how these differences will be reconciled.

While the House budget bill cuts \$50 billion from mandatory programs over five years and the Senate version cuts \$35 billion, reports have indicated that the final budget bill will cut around \$45 billion from these programs over five years. This figure, ironically, is exactly one-fifth of the amount that President Bush's 2001 and 2003 tax cuts cost the Treasury **this year alone** (\$225 billion). These "savings" unfortunately amount to little more than cuts to services for low-income Americans that Congress is turning around and putting into the pockets of the [wealthiest taxpayers in the form of tax cuts](#). Despite congressional rhetoric, these bills will *increase* deficits.

A number of advocacy, community, human needs, labor and watchdog groups have joined together to form the [Emergency Campaign for America's Priorities \(ECAP\)](#), which is dedicated both to fighting the passage of both the tax and budget reconciliation bills, and to holding politicians accountable for voting against the interests of their constituents.

ECAP is holding a number of [events](#) both nationwide and in Washington this week, including a prayer circle with [Jim Wallis](#) of the Christian social justice group [Sojourners](#). Wallis has frequently referred to the budget as a "moral document" and is staging a rally at the Capitol to protest budget decisions that reward the rich at the expense of the poor. More information can be found at the websites of [Sojourners](#) and [ECAP](#).

Congress Staggers Toward End-of-Session Finish Line

To the amazement of many and the pleasure of none, Congress is still in Washington this week trying to wrap up the 2005 legislative session. Only two must-pass bills remain incomplete (the Labor/Health & Human Services and Defense appropriations bills), yet both the House and Senate seem preoccupied with other matters--namely, the spending and tax reconciliation bills, immigration reform, pension overhaul, and reauthorization of the USA Patriot Act, which some consider another must-pass (at least temporarily as it expires at the end of this year). That Congress is still working to complete appropriations bills that should have been finished in September is indicative of a legislature that has struggled to focus on its [logical priorities throughout the course of the year](#).

The two remaining appropriations bills have been delayed for a variety of reasons, some foreseen and some not. The House unexpectedly rejected the Labor-HHS bill by a vote of [209 - 224](#) on Nov. 17. Twenty-two Republicans voted against the bill, citing numerous problems, including the removal of spending earmarks for specific districts.

[GOP leaders were initially divided](#) about whether to return to the conference and negotiate changes that would allow the bill to pass the House on its own or combine it with the Defense bill in a year-end "minibus." But the conferees for the Labor bill met the night of Dec. 12 and made small changes and minor modifications to the bill that are believed to ensure its passage.

House negotiators increased funding for rural health care programs by \$90 million and removed a provision barring Medicare coverage for erectile dysfunction drugs such as Viagra. Seven House Republicans cited the rural health care cuts as the primary reason they voted against the bill in November.

Rep. David Obey (D-WI) criticized the amended conference report for continuing to under-fund priorities within the bill and simply reshuffling the configuration of funds to win the necessary number of votes. Obey released a statement maintaining, "This new version simply moves around a small amount money to make modest restorations in a few health programs by making deeper cuts elsewhere. The new bill retains most of the fatal flaws of the first. It is still a bad bill." The House is expected to vote as early as Wednesday to approve the revised conference agreement.

The Defense bill has had its own challenges to passage, the most visible being a provision to put restrictions on treatment of detainees overseas. Sen. John McCain (R-AZ) sponsored an amendment to the Defense bill that would prohibit "cruel, inhumane, or degrading" treatment of detainees by U.S. military personnel. Both the White House and top-ranking House Republicans oppose McCain's language, but GOP congressional leaders are optimistic about reaching a compromise on the language by the end of this week.

Aside from the detainee provision, it is still unclear whether an across-the-board cut of between 1 and 2 percent to all discretionary spending will be included on the Defense bill. House conservatives are seeking the cut to help offset the cost of Hurricane Katrina emergency spending, but others in the GOP caucus want to exclude defense accounts from the cut, thereby reducing the savings by approximately 50 percent.

Still more troubling, these cuts are being used as a bargaining chip with conservatives in the House. In order to reach consensus with the more moderate Senate and hold House conservatives in line on [budget reconciliation cuts](#), House leaders are holding off on setting the level of an across-the-board cut until negotiations are complete. This gives them the flexibility to lower the mandatory cuts in reconciliation to appease moderate Republican Senators, but still hold on to conservatives in the House by promising to "make it up" to them with a larger across-the-board cut in discretionary spending. This is federal policy making at its most manipulative and cynical.

Moreover, across-the-board cuts are counterproductive. Not only are they too small to make a significant difference for the long-term fiscal problems the country now faces, but they will scale back some of the very same programs and priorities Congress has recognized an increased need for in the aftermath of Hurricane Katrina--especially those providing housing, health care, and nutritional assistance for the most vulnerable.

Congress needs to act on both the Labor and Defense bills before the current continuing resolution expires on Dec. 17, leaving little time for an open and honest debate about the impact of the proposals now being throw around inside the Capitol.

A Year of Attacks on Advocacy, Autonomy

According to a [survey](#) of Louisiana residents released last month by Louisiana State University, faith-based organizations and nonprofits got higher marks than government for their hurricane recovery efforts. While not surprising given the abysmal government response, the findings raise larger questions about the role of the federal government in providing resources to the nonprofit sector. Nonprofits face major [long-term budget challenges](#) at the federal level that will continue to make it more difficult to serve the people and missions they exist to serve.

Even as tax and budget cuts are starting to have an impact on nonprofits, we see efforts to limit the advocacy voice of groups. This has come in the form of restrictions on the federal grantees' use of private funds, and slippage of election reforms into nonprofit issue advocacy. Moreover, as Congress begins to tackle allegations of corruption, particularly among lobbyists and elected officials, nonprofit advocacy rights may also wind up curtailed.

One [bill](#) in the House that included a new affordable housing fund created enormous anxiety and action within the sector. Reminiscent of the 1990s Istook amendments that silenced the advocacy voice of nonprofits, this bill would have restricted nonprofits from receiving affordable housing funds if they engaged in voter registration and other nonpartisan voter activities, lobbying, or produced "electioneering communications" with their private funds. Broader than the Istook amendments, the bill's language would have cut off grants to nonprofits that "affiliated" with any other entity doing such activities. The definition of affiliation contained in the affordable housing provision was so broad as to implicate board members, coalition partners, and those giving certain amounts of money--including state government grants. The provision passed the House in a closely contested vote. Now it is up to the Senate.

While attacks on advocacy such as the affordable housing fund provision took place, Congress stepped up efforts to investigate the governance and oversight of charities. At the encouragement of the Senate Finance Committee, Independent Sector formed a [panel](#) to propose recommendations for improving governance and oversight of the sector. Other groups, such as the National Committee for Responsive Philanthropy (NCRP) and the Philanthropy Roundtable, developed recommendations of their own. The NCRP recommendations targeted foundations, and the Philanthropy Roundtable raised concerns about developing new requirements when existing requirements are inadequately enforced. Many groups raised concerns about the impact of such proposals on small nonprofits. As the year draws to a close, congressional proposals for reform will likely be pushed into 2006.

A new area of concern emerged for the nonprofit sector this year: [anti-terrorism financing](#). The Combined Federal Campaign (CFC), the government's workplace charitable giving program, had earlier told applicants that they must check their employees and others they give money to against a variety of terrorist watch lists. In addition to the civil liberties issues involved, major concerns were raised about the accuracy of these lists. The ACLU and 12 other organizations, including OMB Watch, challenged the CFC requirement.

This year, the CFC concluded that eligibility was not contingent on checking terrorist watch lists, but on certifying compliance with anti-terrorism financing laws. The CFC also suggested nonprofit participants follow guidelines developed by the Treasury Department. These guidelines, [Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-Based Charities](#) have faced widespread opposition since their introduction in 2002.

A [number of nonprofits and foundations](#) worked with the Treasury Department during 2005 to revise the guidelines. Last week, the Treasury Department issued a new revision that in many respects moves in the wrong direction. The overall effect is to place charities in the role of government investigators and informers, diverting resources from charitable activity to what may prove to be useless information collection and reporting. The revised guidelines reflect a larger problem with the federal government's approach to anti-terrorist financing issues: instead of focusing resources on following investigative leads, the government is collecting vast amounts of information in the hope that something will turn up--in essence, looking for the proverbial needle in a haystack. This does not effectively prevent diversion of funds to terrorist networks.

Many policy developments in 2005 had implications for the nonprofit sector. To follow is an overview of the most influential developments related to OMB Watch's work.

A New Attack on Advocacy: Private Fund Encroachment

- **Legal Services: [Litigation](#)** challenging the constitutionality of limitations on the advocacy rights of government-funded nonprofit legal services groups advanced recently with oral arguments before a federal appeals court. On Nov. 2, the U.S. Court of Appeals for the Second Circuit heard oral argument in *Velazquez v. Legal Services Corporation* (LSC), a lawsuit brought on behalf of a coalition of lawyers, indigent clients and New York City officeholders, arguing the government has no business regulating the privately funded, constitutionally protected activities of legal service programs. The attorney for the Justice Department argued that the government had an important interest in having legal services programs focus exclusively on the categories of case the government chooses to fund. This statement cuts to the heart of why the outcome of this case is important to the nonprofit sector. If the federal court upholds the LSC restrictions on the use of the private funds of nonprofit legal services programs, the *Velazquez* case could open the door for an attempt by Congress to limit the use of the private funds of a wide variety of federal grantees, restricting whatever it deems threatening or out of line with its intentions.
- **Affordable Housing Fund Anti-Advocacy Provision:** Restrictions on the use of private funds were not exclusive to the courts. On Oct. 26, H.R. 1461, the Housing Finance Reform Act, passed the House 331-90, despite a provision that disqualifies nonprofits from receiving affordable housing grants if they have engaged in voter registration and other nonpartisan voter activities, lobbying, or produced "electioneering communications." Organizations applying for the funds are barred from participating in such activities up to 12 months prior to their application, and during the period of the grant even if they use non-federal funds to pay for them. Most troubling, affiliation with an entity that has engaged in any of the restricted activities also disqualifies a nonprofit from receiving affordable housing funds under the bill.

Led by the affordable housing community, nonprofit groups [rallied](#) against the appalling anti-advocacy provisions. After losing a close House fight by five votes, the nonprofit sector continues to work to ensure the language is not included in the Senate version. The Senate bill, S. 190, currently does not contain an affordable housing fund provision, to which the anti-advocacy language could be attached.

- **Head Start:** Language in the Head Start Improvements for School Readiness Act, S. 1107, creates [new barriers](#) to voter registration by expanding the current prohibition on use of program (i.e., federal and matching) funds to private funds. Moreover, the provision appears to expand the reach of the prohibition from specific Head Start programs to the program's sponsoring agency. This revision has significant implications for how Head Start grantees may use their private funds; as such funds might be considered part of the program. Head Start grantees are already prohibited from using Head Start program funds for any type of political activity, including voter registration.

A coalition of nonprofit organizations sent a letter to the sponsors of the legislation, Sens. Michael Enzi (R-WY), Edward Kennedy (D-MA), Lamar Alexander (R-TN) and Chris Dodd (D-CT), asking for clarification that the provision only pertains to federal Head Start funds.

Elections and Issue Advocacy

- **IRS Audits:** Recent audits by the IRS as part of its Political Intervention Program (PIP) have led to growing concern and legal confusion about the difference between statements by individuals and statements attributed to organizations, and what constitutes genuine issue advocacy, as opposed to partisan electioneering. In 2004, the IRS initiated the new PIP process to review cases of potential violations on the ban on partisan activities by 501(c)(3) organizations. The process came under fire when the National Association for the Advancement of Colored People (NAACP) was [audited](#) because its chair criticized President Bush during a July 2004 convention speech. The concern about muzzling charities picked up steam this year as the pastor of All Saints Episcopal Church in Pasadena, CA [announced](#) in November that the IRS was conducting a formal examination of the church's tax-exempt status, due to an anti-war, anti-poverty sermon delivered two days before the 2004 presidential election.
(<http://www.ombwatch.org/article/articleview/3167/1/403>)
- **Federal Election Commission Regulations:** A diverse coalition of charities filed an [amicus brief](#) on Nov. 14 in the Supreme Court case *Wisconsin Right to Life v. Federal Election Commission* urging the court to protect the right of nonprofits to broadcast grassroots lobbying communications. The multi-party amicus brief was filed on behalf of 35 conservative and progressive charities (exempt under 501(c)(3) of the federal tax code). The brief argued that the electioneering communications restrictions deny charities the right to petition the government for redress of grievances, which is protected by the First Amendment and that the Bipartisan Campaign Reform Act cannot be constitutionally applied to 501(c)(3) charities because such organizations cannot engage in partisan electioneering.

The FEC also began a rulemaking proceeding to review the "electioneering communication" exemption for 501(c)(3) organizations, after it was the subject of a court challenge by BCRA's sponsors. The outcome of this rulemaking may have a direct impact on whether charities can engage in [issue advocacy](#) 30 days before a primary and 60 days before a general election.

Lobbying Reform

- In response to [recent scandals](#) involving congressional travel paid for by a nonprofit serving as a conduit for a registered lobbyist, Congress may be stepping up lobbying reform legislation. Legislation introduced in the House and Senate is aimed at lobbyists in general but may result in changes for charities, particularly in regard to reporting of grassroots lobbying and disclosure of donors.

Anti-Terrorist Financing Issues

- **Combined Federal Campaign:** The Office of Personnel Management's Combined Federal Campaign (CFC), the federal government's workplace charitable giving program, finalized a [rule change](#) on Nov. 7 that moved away from its previous requirement that all participating charities check their employees' names and those entities they contribute to against government watch lists.

The American Civil Liberties Union joined forces with 12 national nonprofit organizations, including OMB Watch, in challenging the requirement to check terrorist watch lists. The suit was put on hold when the Office of Personnel Management (OPM) proposed in March to change the requirement. OPM proposed that participating charities certify that they are in compliance with existing anti-terrorist financing laws. The final rule was consistent with the March proposal: "OPM does not mandate that applicants check the Specially Designated Nationals (SDN) list or the Terrorist Exclusion List (TEL)." Unfortunately, the OPM rule encourages charities to follow the Treasury Department's anti-terrorist financing guidelines (see below).

- **Treasury Department Anti-Terrorist Financing Guidelines:** On Dec. 5, the Treasury Department released a revised version of its November 2002 [Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-Based Charities](#). The Treasury Department announcement requested public comment on the revisions by Feb. 1, although the revised guidelines immediately replace the 2002 version.

The Treasury Guidelines have been the focus of criticism from a number of nonprofits, and a working group of nonprofits and foundations worked with the Treasury Department, in an effort to improve the guidelines. In addition, the Georgetown University Public Policy Institute hosted an event discussing the impact of the guidelines and other anti-terrorism financing requirements on the charitable sector.

Unfortunately, the new guidelines move in the wrong direction calling on nonprofits to check a terrorist watch list for employees, recipients they give money or in-kind support to, and employees of recipient entities. The guidelines also call on nonprofits to report anyone on the list, as well as "any suspicious activity" by individuals or groups, to the government.

In the wake of Katrina, charities and foundations scrambled to figure out how to aid the victims of Hurricane Katrina, helping them get housing, jobs, transportation, health care, education for their children, post-trauma counseling, and other services. Charities also focused on long-term outcomes, the work of nonprofits can help prevent the massive devastation wrought by Hurricane Katrina. Good charitable giving legislation should only be Congress' first step in aiding charities in getting the resources they need when Congress and the nation is asking so much of them.

Congress also must do more than rely on the nonprofit sector's disaster preparedness and relief programs.

Congress cannot expect a vibrant nonprofit sector to provide services in the face of disaster or step in when there are budget cuts, and in the same breath not allow the sector to speak out on issues without the fear of retribution. When government seeks to limit free expression under the very programs it deems beneficial to underserved communities and individuals--whether it involves legal representation for the poor or civic engagement for affordable housing recipients--government exerts a level of control antithetic to our democracy.

Revised Anti-Terrorist Financing Guidelines for Charities

On Dec. 5 the U.S. Department of the Treasury released a revised version of its November 2002 *Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-Based Charities*. The Treasury Department announcement requested public comment on the revisions by Feb. 1, but stated the revised guidelines are now operational. The 2005 version not only does not incorporate the *Principles of International Charity*, a proposed alternative to the earlier guidelines developed by a working group of nonprofit organizations and released in late 2004, but moves in the wrong direction by adding new and onerous requirements on nonprofits.

The revised guidelines apply to all charities, including foundations and grantees, both foreign and domestic. An expanded introduction notes that adherence to the guidelines provides no legal protection from government sanctions, including the freezing and/or seizing of assets, and makes three new points: 1) the guidelines are voluntary, 2) they are intended to assist the sector in avoiding the risk of diversion of funds, and 3) they are a response to what the Treasury Department perceives as a widespread problem of terrorist abuse of charities.

The introduction states, "Investigations have revealed terrorist abuse of charitable organizations, both in the United States and worldwide, often through the diversion of donations intended for humanitarian purposes but funneled instead to terrorists...This abuse threatens to undermine donor confidence and jeopardizes the integrity of the charitable sector, whose services are indispensable to both national and world communities." No facts are presented or referenced to support this sweeping claim.

Four very general Fundamental Principles are listed: that charities should 1) follow the law, 2) exercise due care in performing their duties, 3) maintain fiscal responsibility, and 4) consider precautions that are above and beyond legal requirements. The guidelines then address general governance and accountability measures in a detailed and expanded section on anti-terrorist financing "best practices."

The revised guidelines drop some of the overly specific provisions in the 2002 version's Governance section, such as the number of board meetings that should be held in a year and definitions of conflicts of interest that were inconsistent with IRS rules. The revised guidelines add two new recommendations for Boards of Directors, stating each member is responsible for ensuring the charity complies with all laws, and records of organizational decisions "should immediately be made available for inspection by the appropriate regulatory/supervisory and law

enforcement authorities," without any reference to normal standards for regulatory investigative thresholds or search warrants.

The section on financial accountability calls on groups with budgets over \$250,000 to conduct audits and make these audits public, and also limit cash distributions to small amounts in short timeframes. The transparency and disclosure provisions continue to at times duplicate and at times contradict IRS and state regulatory requirements in this area, expanding beyond the 2002 version, exceeding what is required in the IRS Form 990, the information return filed annually by charities and foundations.

The section on anti-terrorist financing best practices encourages charities to "apply a risk-based approach, particularly with respect of foreign recipients" but does not explain what factors indicate increased risk or what types of responses are appropriate to different levels of risk. In addition, it does not distinguish between foundation grants to charities and charitable aid, including services, provided to individuals. It recommends extensive information collection on board members, key employees, and recipients of funds or in-kind contributions. This includes searches of public information to determine if recipients, board members, key employees or senior management have been *suspected* of terrorist-related activities if they received funds or in-kind contributions.

The new guidelines say charities should comply with programs administered by the Office of Foreign Assets Control (OFAC) and assure themselves recipients and their own board members, key employees and senior management at all business locations do not appear on the Specially Designated Nationals (SDN) terrorist watch list. Footnotes encourage checking other lists, including those of other countries. This raises obvious ethical problems in countries that use terrorist watch lists to suppress dissent.

If a match is found with the SDN list, the charity should "immediately" report it to OFAC. The guidelines also indicate that the charity "can provide" information on "any suspicious activity" to OFAC and the FBI. No definition of what constitutes suspicious activity is given, but the guidelines instead encourage charities to check publicly available information.

The guidelines also call on charities to require recipients of funds and in-kind contributions to certify that they do not employ, transact with, provide services to or deal with groups or people listed or known to support terrorism. For recipients to complete this certification, they will likely need to certify all the people and groups they provide services to, as well as all the vendors they deal with. The call for certifications goes beyond what is required by the Combined Federal Campaign's new rule for charities participating in the federal workplace giving program. Obvious questions also arise about the value of obtaining such certifications. After all, will a terrorist refuse to sign a certification? The overall effect of the new guidelines is to place charities in the role of government investigators and informers, diverting resources from charitable activity to what may prove to be useless information collection and reporting. It reflects a larger problem with the federal government's approach to anti-terrorist financing: instead of focusing resources on following investigative leads, the government is collecting vast amounts of information in the hope that something will turn up - in essence, looking for the proverbial needle in a hay stack - a wholly ineffective method of preventing the diversion of funds to terrorist networks.

The larger legal context governing federal anti-terrorist financing programs and the prohibition on providing "material support" to terrorists in the USA PATRIOT Act give these so-called "voluntary" guidelines more legal weight than they merit. Unchecked powers to freeze and seize charitable assets based on secret evidence, with no meaningful recourse, make the voluntariness of these guidelines questionable. However, by calling them voluntary, the Treasury Department avoids the rigors of the formal rulemaking process that governs creation of enforceable regulations.

A more detailed [summary of the guidelines](#) is available, as well as a [side-by-side comparison](#) of the 2002 and the 2005 revised version.

Comment on Proposed IRS Exemption from Privacy Act

The Internal Revenue Service is [proposing](#) a new Privacy Act system of records exempt from release for Tax Exempt and Government Entities (TE/GE) case management, which could have implications for audited 501(c)(3) organizations.

The system would contain records emanating from investigations into individuals and other taxpayers involving money laundering, statutory compliance violations, and other areas of non-compliance. The records may contain information about individuals that describe TE/GE's methods of investigating exempt organizations, as well as information regarding informants in investigations.

The IRS is proposing to exempt this system of records from release under the Privacy Act. Specifically, it allows the IRS to:

- refuse release of records pertaining to an individual
- refuse to acknowledge the existence of records pertaining to an individual
- refuse to disclose the agency procedures relating to accessing records
- refuse to inform the requester of civil remedies available to the individual in the event of an adverse determination by an agency concerning access to information contained within the record systems

The IRS argues that the release or acknowledgement of these records would provide an individual or entity subject to an investigation with significant information concerning the nature of the investigation, and could result in the altering or destruction of documentary evidence, or the influencing of witnesses.

While the IRS' concerns may be valid as applied to the investigatory period, the notice does not allow for the release of records once an investigation has been concluded, even with redaction of informant-identifying information. The Federal Register notice also does not provide for the release of records during the determination period of an audit, even if the investigation is over.

Nonprofits are urged to [comment](#), in order to retain their rights to view the records of allegations made against them. Nonprofits' rights under the Privacy Act could prove particularly beneficial

in understanding IRS interpretation of 501(c)(3) issue advocacy in cases such as the audits of the [NAACP](#) or [All Saints Episcopal Church](#). Comments are due by Jan. 6.

Cartoon: The Purpose of Government is...

