United States Senate Committee on Finance
September 15, 2026

Responses to Questions for the Record to Andrew A. De Mello

1. In February 2026, District Court Judge Kollar-Kotelly ruled, and the DC Circuit agreed, that the IRS broke the law over 42,000 times by handing taxpayer addresses over to ICE. The court's public records show that when you were Acting IRS Chief Counsel, you cleared the agreement under which these illegal disclosures were made. In the past, the Reagan administration rejected an agreement like the one you approved because it believed such an arrangement was nearly guaranteed to result in illegal bulk disclosures. Did you think the information-sharing agreement you approved wouldn't result in these illegal disclosures to ICE—yes or no?

Response: This question refers to a decision of the U.S. District Court for the District of Columbia in *Center for Taxpayer Rights v. IRS*, 2026 WL 551105 (D.D.C. Feb. 26, 2026), and a related decision of the D.C. Circuit in the same case, 2026 WL 2635380, No. 26-5006 (D.C. Cir. Sept. 8, 2026). The litigation in which these decisions were handed down remains ongoing.

As your question indicates, I was Acting Chief Counsel—the senior lawyer responsible for providing legal advice to the Commissioner of the IRS—during at least a portion of the time that is in focus in the litigation. This question asks me to, in effect, share my thoughts regarding the legality of actions taken by the IRS (at least in part) during my tenure as Acting Chief Counsel. It would be inappropriate for me to answer this question both because this litigation is ongoing and because I have a duty of confidentiality to my client (which includes, but is not limited to, matters subject to the attorney client privilege (discussed in greater depth in response to Question Two)).

2. You declined to answer multiple committee questions regarding the DHS-IRS data-sharing initiative by citing pending civil litigation in *Center for Taxpayer Rights v. IRS*. Are you a named defendant in that litigation, or are you asserting a specific, recognized legal privilege that prevents you from answering Congressional inquiries about your official administrative actions as Acting Chief Counsel? Explain exactly what privilege you think applies to each of my specific questions and why, citing legal authorities.

Response: I am not a named party in *Center for Taxpayer Rights v. IRS* and I have not suggested otherwise.

The questions asked by this Committee concern my tenure as Acting Chief Counsel—the senior lawyer responsible for providing legal advice to the Commissioner of the IRS. The contents of any legal advice (including, but not limited to, in relation to matters at issue in *Center for Taxpayer Rights v. IRS*) I provided in that role are subject to executive privilege, attorney client privilege, and the deliberative process privilege.

Moreover, as a member of the New York bar, I am also independently prohibited under the New York Rules of Professional Conduct from revealing confidential information. *See* NYSBA NY

Rules of Prof. Conduct, Rule 1.6(a) ("A lawyer shall not knowingly reveal confidential information."). This Rule defines "confidential information" as to include not only information "protected by the attorney-client privilege" but *also* "information that the client has requested be kept confidential." *Id*. Accordingly, regardless of whether attorney client privilege—or any other privilege—applies, I am unable to provide such information

Finally, the Executive Branch has long explained that individual officials are limited in their ability to comment on open matters subject to litigation. *See, e.g.*, Letter to Rep. John Linder, from Robert Raben, Assistant Attorney General (Jan. 27, 2000).

3. In written responses to the Senate Finance Committee, you stated that no person in the Trump Administration asked you to revoke Harvard University's tax-exempt status. Still, everyone knew what Trump wanted, because he made his intention clear on social media. Did any individual outside of the federal government—including political advisors, campaign representatives, or external advocacy groups—request, urge, or suggest that you or the Office of Chief Counsel review, audit, or revoke Harvard University's tax-exempt status? Did you suggest, initiate, or direct any review, audit, or legal challenge regarding any particular taxpayer's tax-exempt status during your tenure at the IRS, including as Acting IRS Chief Counsel? If so, explain why you took that action.

Response: The Question asked by Ranking Member Wyden on August 14, 2026, expressly asked whether "*anyone in the Administration*, including but not limited to Treasury, ask[ed] you to revoke Harvard University's tax-exempt status?" (emphasis added). Consequently, I limited my answer to "anyone in the Administration." To be clear, no member of the Administration *and no individual outside of the federal government* including, but not limited to, political advisors, campaign representatives, or external advocacy groups requested, urged, or suggested that I review, audit, or revoke Harvard University's tax-exempt status. And I did not do so.

Moreover, I did not suggest, initiate, or direct any review, audit, or legal challenge regarding any individual taxpayer's tax-exempt status during my tenure as Acting IRS Chief Counsel.

4. Since leaving the position of Acting Chief Counsel at the IRS, did you, at any time, retain private counsel for matters related to your time at the IRS? Please answer Yes or No.

Response: After my service as Acting IRS Chief Counsel concluded, I retained a private attorney in conjunction with an EEO claim filed against the agency where I was named in a pro forma capacity. My understanding is that the complainant made a telework request which the agency denied. The individual did not directly report to me nor did I deny the request. My recollection is that the individual worked in a field office outside of the Washington, D.C. area and was approximately 9 levels below the Chief Counsel.

5. Are you currently using the services of an attorney for matters related to your time at the IRS?

Response: See my response to Question Four.

6. In October 2024, the Council of Inspectors General for Integrity and Efficiency (CIGIE) released a report concerning allegations against you, DHS IG Joseph Cuffari, and others. That investigation sought "potentially key evidence"[1] related to a DHS OIG contract with a law firm that DHS IG Cuffari allegedly used to retaliate against DHS OIG whistleblowers. CIGIE investigators could not obtain certain records about that contract because you only saved them to your laptop, which went missing according to DHS OIG personnel cooperating with CIGIE investigators, and not to the DHS OIG network. Why did you keep records about this contract off of the DHS OIG network drive and only on that laptop?

Response: When I arrived at DHS OIG, I asked the Inspector General (to whom I reported at the time) where he wanted me to save my documents and work product because I could not find a document management system in which to save them. He explained there was no document management system. We briefly discussed it and he ultimately told me to save the documents in the safest place possible from a security perspective—the desktop of my local computer. I was, and remain, unaware of any law, rule, or regulation requiring me to save my work products and documents elsewhere within DHS OIG, especially as my direct supervisor, the Senate-confirmed head of the office specifically directed the materials to be saved there. When CIGE sent me a notice in connection with my work, I requested permission from the Inspector General to deliver my work products to CIGE. He denied the request and told me that I had to abide by privilege and confidentiality rules in protecting them.

At the conclusion of my detail, I handed in my laptop personally to the Assistant Inspector General for Management and told her that it should be kept under circumstances analogous to a litigation hold. I do not have any information about what happened to the laptop after that.

7. This investigation found "by a preponderance of the evidence that IG Cuffari engaged in conduct undermining the independence or integrity reasonably expected of his position"[2] in part due to the matter involving the controversial DHS OIG contract with that law firm. Did you ever raise any concerns with DHS IG Cuffari about the appropriateness and risks of the DHS OIG contracting with a law firm to investigate internal whistleblowers who had disclosed concerns to Congress and elsewhere about IG Cuffari? If so, what were the concerns you raised?

Response: I always advised the Inspector General to follow the law in handling such concerns. I explained the process that CIGE established for complaints and recommended he follow it.

8. In March 2025, President Trump appointed you as Acting IRS Chief Counsel to replace former Acting IRS Chief Counsel William Paul after he reportedly was viewed as uncooperative with DOGE's efforts to access legally protected taxpayer data. During your tenure as Acting IRS Chief Counsel, did you assist the efforts of DOGE employees to gain access to protected taxpayer data? If so, what was the nature of the taxpayer data that you helped DOGE obtain?

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[1] https://www.documentcloud.org/documents/25193101-full-integrity-committee-package-on-dhs-ig-cuffari-dated-october-2-2024/?q=demello&mode=document#document/p29

[2] https://www.documentcloud.org/documents/25193101-full-integrity-committee-package-on-dhs-ig-cuffari-dated-october-2-2024/?q=demello&mode=document#document/p29

Response: Allegations with respect to DOGE access to taxpayer data are the subject of ongoing litigation. Specifically, the Plaintiff's Amended Complaint filed May 16, 2025, in *Center for Taxpayer Rights v. IRS*, No. 25-cv-00457 (D.D.C.), contains numerous such allegations. For the reasons set forth above in response to Question Two, I cannot provide the answer requested.