

February 24, 2023

Via Electronic Transmission: IRS FOIA Public Access Portal

Internal Revenue Service
GLDS Support Services
Stop 211
PO Box 621506
Atlanta, GA 30362-3006

RE: Request for Records Relating to IRS Cooperation with Congressional Oversight Authorities

Dear FOIA Officer:

INTRODUCTION

Empower Oversight Whistleblowers & Research (“Empower Oversight”) is a nonpartisan, nonprofit educational organization dedicated to enhancing independent oversight of government and corporate wrongdoing. We work to help insiders safely and legally report waste, fraud, abuse, corruption, and misconduct to the proper authorities, and seek to hold those authorities accountable to act on such reports by, among other means, publishing information concerning the same.

JusttheNews.com is an old-fashioned, honest journalistic outlet that reports news in a neutral voice, through the modern channels of YouTube, podcasting, e-books, and social media. The enterprise is wholly owned and operated by Bentley Media Group LLC.

BACKGROUND

On February 15, 2023, House Ways and Means Committee (“Committee”) Chairman Jason Smith, who had recently announced an Internet portal—<https://waysandmeans.house.gov/IRSwhistleblower>—for Internal Revenue Service (“IRS”) staff to report misconduct, maladministration, abuse, mistreatment of taxpayers, wrongdoing, and other matters of concern,¹ chided the IRS for its failure to inform the agency’s approximately 80,000 employees of the portal.²

¹ House Ways and Means Committee, *Smith Sets Sights on Aggressive IRS Oversight, Announces Direct Line of Communication for Agency Whistleblowers* (January 25, 2023), available at <https://waysandmeans.house.gov/smith-sets-sights-on-aggressive-irs-oversight-announces-direct-line-of-communication-for-agency-whistleblowers/>.

² House Ways and Means Committee, *Smith: IRS’s Failure to Support Whistleblower Pathway Deepens Mistrust of the Agency* (February 15, 2023), available at <https://waysandmeans.house.gov/smith-irss-failure-to-support-whistleblower-pathway-deepens-public-mistrust-of-the-agency/>.

In a letter dated January 25, 2023, Chairman Smith had informed IRS Acting Commissioner Douglas O'Donnell that whistleblower portal had become operational.³ Moreover, he asked Acting Commissioner O'Donnell to confirm for the Committee by February 8, 2023, that the IRS had shared a copy of the January 25th letter with all IRS personnel.⁴ The Committee reports that Acting Commissioner O'Donnell failed to honor the Committee's request,⁵ which would have furthered the Committee's oversight of the agency and the transparency of agency activities.

RECORDS REQUEST

To shed light on the IRS' cooperation with Congress' oversight power granted by Article 1, Section 8, Clause 18 of the United States Constitution, as interpreted,⁶ and pursuant to the Freedom of Information Act ("FOIA"),⁷ Empower Oversight and JusttheNews.Com request:

1. All communications sent by the House Committee on Ways and Means, or any member thereof, to the IRS, the IRS Commissioner, or any person acting as the IRS Commissioner, from November 1, 2018, to the present.
2. All communications sent by House Committee on Ways and Means staff persons that reference, clarify, explain, modify, or otherwise discuss, the communications requested in item number 1, above, from November 1, 2018, to the present.
3. All communications sent by the IRS, the IRS Commissioner, or any person acting as the IRS Commissioner, to the House Committee on Ways and Means, its chairman, or its staff, from November 1, 2018, to the present.

DEFINITIONS

"COMMUNICATION(S)" means every manner or method of disclosure, exchange of information, statement, or discussion between or among two or more persons, including but not limited to, face-to-face and telephone conversations, correspondence, memoranda, telegrams, telexes, email messages, voice-mail messages, text messages, Slack messages, meeting minutes, discussions, releases, statements, reports, publications, and any recordings or reproductions thereof.

"DOCUMENT(S)" or "RECORD(S)" mean any kind of written, graphic, or recorded matter, however produced or reproduced, of any kind or description, whether sent, received, or neither, including drafts, originals, non-identical copies, and information stored magnetically, electronically, photographically or otherwise. As used herein, the terms "DOCUMENT(S)" or "RECORD(S)" include, but are not limited to, studies, papers, books, accounts, letters, diagrams, pictures, drawings, photographs, correspondence, telegrams, cables, text messages, emails, memoranda, notes, notations, work papers, intra-office and inter-office communications, communications to, between and among employees, contracts, financial agreements, grants,

³ Letter from House Committee on Ways and Means to Acting Commissioner O'Donnell, dated January 25, 2023, available at <http://waysandmeans.house.gov/wp-content/uploads/2023/01/IRS-Whistleblower-Portal-Letter.pdf>.

⁴ *Id.*

⁵ House Ways and Means Committee, *Smith: IRS's Failure to Support Whistleblower Pathway Deepens Mistrust of the Agency* (February 15, 2023), available at <https://waysandmeans.house.gov/smith-irss-failure-to-support-whistleblower-pathway-deepens-public-mistrust-of-the-agency/>.

⁶ See, e.g., *Barenblatt v. U.S.*, 360 U.S. 109, 111 (1959) (the power to legislate includes the power to secure information needed to efficiently exercise the legislative function).

⁷ 5 U.S.C. § 552.

proposals, transcripts, minutes, orders, reports, recordings, or other documentation of telephone or other conversations, interviews, affidavits, slides, statement summaries, opinions, indices, analyses, publications, questionnaires, answers to questionnaires, statistical records, ledgers, journals, lists, logs, tabulations, charts, graphs, maps, surveys, sound recordings, data sheets, computer printouts, tapes, discs, microfilm, and all other records kept, regardless of the title, author, or origin.

“PERSON” means individuals, entities, firms, organizations, groups, committees, regulatory agencies, governmental entities, business entities, corporations, partnerships, trusts, and estates.

“REFERS,” “REFERRING TO,” “REGARDS,” “REGARDING,” “RELATES,” “RELATING TO,” “CONCERNS,” “BEARS UPON,” or “PERTAINS TO” mean containing, alluding to, responding to, commenting upon, discussing, showing, disclosing, explaining, mentioning, analyzing, constituting, comprising, evidencing, setting forth, summarizing, or characterizing, either directly or indirectly, in whole or in part.

“INCLUDING” means comprising part of, but not being limited to, the whole.

“House Committee on Ways and Means staff” means individuals employed by or detailed to the committee including, but not limited to, Praveen Ayyagari, Danielle Brown, Brandon Casey, Arjun Ghosh, Aliya Manjee, and Peg McGlinch.

INSTRUCTIONS

The time period of the requested records is November 1, 2018, through the present.

In searching for, reviewing, and producing the records described above, please **first** search for and produce the records described in item number one (*i.e.*, communications sent by the Chairman of the House Committee on Ways and Means, or any member thereof) **before** commencing any search for, review, and production of records described in item numbers two and three. The records described in item number one are likely to be centrally located and not likely to be subject to FOIA exemptions, which should facilitate their rapid collection and production, which should not be delayed by the search and review of records described in item numbers two and three.

Among the records located in response to item number one, please prioritize and produce **first** all correspondence that references the Chairman of the House Committee on Ways and Means, or the Chairman’s designee’s(s), authority to request and receive confidential tax return information under 26 U.S.C. § 6103.

The words “and” and “or” shall be construed in the conjunctive or disjunctive, whichever is most inclusive.

The singular form shall include the plural form and vice versa.

The present tense shall include the past tense and vice versa.

In producing the records described above, you shall segregate them by reference to each of the numbered items of this FOIA request.

If you have any questions about this request, please contact Bryan Saddler by e-mail at bsaddler@empowr.us.

FEE WAIVER REQUEST

Empower Oversight and JusttheNews.Com agree to pay up to \$25.00 in applicable fees, but notes that they qualify as “representatives of the news media” and request a waiver of any fees that may be associated with processing this request, in keeping with 5 U.S.C. § 552 (a)(4)(A)(iii).

Empower Oversight is a non-profit educational organization as defined under Section 501(c)(3) of the Internal Revenue Code, which helps insiders safely and legally report waste, fraud, abuse, corruption, and misconduct to the proper authorities, and seeks to hold those authorities accountable to act on such reports by, among other means, publishing information concerning the same. JusttheNews.Com is journalistic outlet that reports news in a neutral voice, through the modern channels of YouTube, podcasting, e-books, and social media. They have no commercial interest in making this request.

Further, the information that Empower Oversight and JusttheNews.Com seek is in the public interest because it is likely to contribute significantly to the public’s understanding of the the Internal Revenue Service’s cooperation with Congress’ oversight power granted by Article 1 of the United States Constitution.

Empower Oversight is committed to government accountability, public integrity, and transparency. In the latter regard, the information that that Empower Oversight receives that tends to explain the subject matter of this FOIA request will be disclosed publicly via its website, and copies will be shared with other news media for public dissemination.

For ease of administration and to conserve resources, we ask that documents be produced in a readily accessible electronic format. Thank you for your time and consideration. Please don’t hesitate to contact me with any questions.

Cordially,

[/Jason Foster/](#)

Jason Foster
Empower Oversight
Founder & President

[/John Solomon/](#)

John Solomon
JusttheNews.Com
Editor In Chief