

# Exhibit B

**WB** | WARD & BERRY PLLC

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WASHINGTON, D.C. 20006

1751 PINNACLE DRIVE  
TYSONS, VA 22102

March 24, 2023

Director, Office of Governmental Liaison and Disclosure  
IRS FOIA Request  
Headquarters Disclosure Office  
CL:GLD:D  
1111 Constitution Avenue, NW.  
Washington, DC 20224  
Request sent via foia.gov

***RE: Freedom of Information Act (“FOIA”) Request for Documents and Communications Regarding New America, Professor Ariel Jurow-Kleiman, Code for America, Internal Revenue Service (“IRS”), and Treasury Department (“Treasury”)***

Dear Disclosure Officer:

Pursuant to the FOIA, 5 U.S.C. § 552 and the IRS FOIA Regulations promulgated thereunder, 26 C.F.R. Part 601.702, *et seq.*, I hereby request electronic copies of documents and communications relating to Congress’s appropriation of funds to the Internal Revenue Service (“IRS”) under § 10301(1)(B) of the Inflation Reduction Act, Pub. L. 117-168 (hereinafter “IRA”) for the purpose of establishing a “Task force to design an IRS-run free ‘direct efile’ tax return system.” *See also*, Attachment A, Mar. 6, 2023 Letter to the Honorable Douglas O’Donnell from the U.S. House Committee on Ways and Means.<sup>1</sup> The task force is to provide Congress with a report that includes “the opinions of an independent third-party on the overall feasibility, approach, schedule, cost, organizational design, and Internal Revenue Service capacity to deliver such a direct efile tax return system”. IRA, § 10301(1)(B)(III).

The timeframe for the documents and communications I seek is from July 1, 2022, through the present. Also, for purposes of this request, the term “document” should be defined broadly, and includes, but is not limited to emails, memoranda, reports, notes, plans, meeting agendas, charts, data, presentations and analyses. For the purposes of this request, the term “communications” should also be defined broadly, and includes, but is not limited to emails, voicemails, and instant messages via Microsoft Teams (or its equivalent).

IRS offices likely to have the documents or communications responsive to this request include, but are not limited to, the following: IRS Commissioner’s Office, “Wage and Investment (“W&I”) Division”, “Communications and Liaison”, “Office of the Chief Counsel”, “Equity, Diversity, and Inclusion”, “Office of Professional Responsibility”, “Office of Promoter Investigations”, “Procurement”, and the “Taxpayer Experience Office”.

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<sup>1</sup> The House Committee on Ways and Means letter is available at: <https://waysandmeans.house.gov/wp-content/uploads/2023/03/03.06.2023-Ltr-on-IRS-Direct-eFile-Study.pdf>.

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Specifically, I request the following:

1. All documents that list, show, or reveal any contracts (either competitive or sole source), grants, Memorandums of Understanding, or awards of any type related to the IRS's use of an independent third-party to provide an opinion on the feasibility of an IRS-run free direct efile tax return system. IRA, § 10301(1)(B).
2. All justifications and approvals ("J&As") and/or determinations and findings ("D&Fs") submitted in support of an IRS award made using other than full and open competition (to include sole source awards) to New America.<sup>2</sup>
3. All documents and communications by, between, or among IRS personnel, Treasury, and/or New America regarding New America's past performance and experience in any government contract or grant dealing with IRS and federal tax administration.
4. All justifications and approvals ("J&As") and/or determinations and findings ("D&Fs") submitted in support of an IRS award made using other than full and open competition (to include sole source awards) to Ariel Jurow-Kleiman.<sup>3</sup>
5. All justifications and approvals ("J&As") and/or determinations and findings ("D&Fs") submitted in support of an IRS award made using other than full and open competition (to include sole source awards) to any entity providing an opinion on the feasibility of an IRS-run free direct efile tax return system. IRA, § 10301(1)(B).
6. All documents relating to meetings, including remote by video or telephone, and in-person meetings of New America personnel, Ariel Jurow-Kleiman, and/or any other expected contractors as to providing an opinion on the feasibility of an IRS-run free direct efile tax return system.
7. All internal documents and communications by, between, or among IRS personnel that include the following search terms: "New America", "NA", or derivatives thereof.
8. All internal documents and communications by, between, or among IRS personnel that reference the following search terms: "Ariel Jurow-Kleiman", "Professor Kleiman", "AJ Kleiman", "Ariel Stevenson", or derivatives thereof.
9. All external documents and communications by, between, or among IRS personnel that reference the following search terms: "New America", "NA", or derivatives thereof.
10. All external documents and communications by, between, or among IRS personnel and

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<sup>2</sup> Tobias Burns, *IRS to release report on free online tax-filing system in May*, THE HILL (Feb. 8, 2023), <https://thehill.com/business/3849684-irs-to-release-report-on-free-online-tax-filing-system-in-may/>

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

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any other agency, executive branch official, the White House, or Member(s) of Congress that reference the following search terms: “New America”, “NA”, “Ariel Jurow-Kleiman”, “Professor Kleiman”, “AJ Kleiman”, “Ariel Stevenson”, or derivatives thereof. IRS personnel who might have communicated with the White House include former IRS Commissioner Charles Rettig and W&I employees.

11. All documents and communications by, between, or among IRS personnel and/or Treasury personnel concerning MITRE Corporation (“MITRE”) being used or not used in the preparation and production of an independent third-party opinion on the feasibility of an IRS-run free direct efile tax return system. IRA, § 10301(1)(B). To the extent MITRE provided such an opinion to the IRS, or any other agency, after passage of the IRA, I request its immediate production.
12. All documents and communications by, between, or among IRS personnel that refer to the requirement that the IRS select an “independent third party” to draft a report on the IRS’s capability to deliver a direct efile tax return system. *See* IRA, § 10301(1)(B).
13. All documents and communications by, between, or among IRS personnel that set forth the criteria the IRS used to select its independent third-party evaluator in accordance with the IRA, § 10301(1)(B).
14. All communications from the IRS to the U.S. House of Representatives Committee on Ways and Means, and/or the U.S. Senate Committee on Finance, that reference New America.
15. All documents that list the IRS personnel who were involved in the selection process of New America and Ariel Jurow-Kleiman to act as the independent third-party evaluators in connection with the IRA, § 10301(1)(B).
16. All documents and communications by, between, or among IRS personnel relating to how the IRS has spent, or plans to spend, the \$15 million provided through IRA, § 10301(1)(B); including, but not limited to, documents and communications relating to each individual and/or entity that has received funding, how much funding each received, and what each is being asked to do with that funding.
17. All documents and communications by, between, or among IRS personnel relating to any organization paid or consulted on an aspect of the IRS or the Department of the Treasury’s work related to IRA, § 10301(1)(B), including but not limited to “Code for America”.

If IRS regards any of the documents subject to this FOIA request as potentially exempt from disclosure under the FOIA rules and regulations, IRS nonetheless should exercise its discretion to disclose them.

We also request that IRS produce copies of responsive documents in their entirety,

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including all attachments. In the event IRS determines that a document contains material or information that falls within a statutory exemption to mandatory disclosure, please review such material or information for possible discretionary disclosure. Furthermore, Section 552(b) of FOIA provides that if some parts of a file are exempt from release, "reasonably segregable" portions of the nonexempt material should be provided. Therefore, if IRS determines that some of the information requested is exempt from disclosure, please provide a copy of each of the nonexempt documents and portions of documents.

We agree to accept a rolling production of material. Paragraphs 1, 2, 4, 6, 10, 11, and 12 above are our priorities. The IRS and the Treasury have indicated the Independent study work will be made public in May. We respectfully request that IRS prioritize this FOIA as it may reveal unusual contract actions that will be critical to the Congress's evaluation of New America and Professor Jurow-Kleiman's deliverables under their respective agreements.

Ultimately, we also request that IRS confirm in writing when IRS has determined that all documents responsive to this request, or portions thereof, have been furnished or specifically identified and denied under claim of authority pursuant to Section 552(b) of FOIA.

In the event IRS determines that IRS does not have any documents responsive to this request, or portions thereof, please confirm this in writing as well.

As IRS is aware, courts have ruled that agencies refusing to release documents requested pursuant to FOIA must prepare and release indexes of the documents withheld. Therefore, if IRS determines that part or all of any document requested herein is exempt from release, please provide an index of the documents IRS has elected to withhold. Each such index must: (a) be contained in one document and be complete in itself; (b) adequately describe each withheld document or deletion from a released document; (c) state the exemption claimed for each withholding or deletion; (d) explain in detail why the exemption is relevant; and (e) be specific enough to permit a reasoned judgment as to whether the material is actually exempt under FOIA. Furthermore, in the event of a withholding, please separately state IRS's reasons for not exercising IRS's discretionary powers under FOIA to release in the public interest (for example, to increase competition and expand current technology) any material IRS may deem to be exempt.

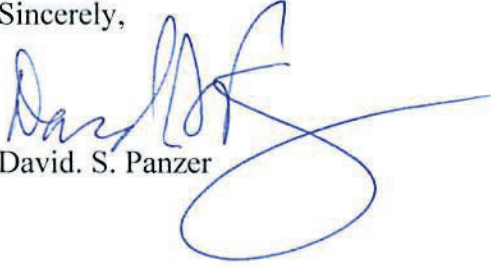
For purposes of fee category, this request is a commercial use request. We agree to pay all reasonable search, review and duplication costs incurred in connection with this request up to \$5,000. Please notify me at (202)331-8160 if you determine that such costs will exceed \$5,000, as we are likely to authorize such additional expenditures.

We anticipate that IRS will adhere to the time limitations set forth in Section 552(a)(6)(A) of FOIA and 26 C.F.R. § 601.702. Please contact me as soon as possible if you have any questions about this request or need further information in order to provide a timely response. In the event that this request should be directed to another office, such as the IRS Headquarters Office, please forward it to the proper office and notify me of such transfer.

Please contact me at (202) 331-8160 or panzer@wardberry.com should you have any questions concerning this request.

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Sincerely,



David. S. Panzer