

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

PUBLIC RESOURCE.ORG	)	
Plaintiff	)	
v.	)	Case No: 3:13-cv-2789
INTERNAL REVENUE SERVICE,	)	
Defendant.	)	

**DECLARATION OF DWAYNE ROSS**

I, Dwayne Ross, pursuant to the provisions of 28 U.S.C. § 1746, declare as follows:

1. I am an Information Technology Specialist with the Estimation Program Office (EPO), within the Financial Management Services, Budget Formulation, of the Internal Revenue Service (IRS or Service). I have been a full-time estimator with EPO since March 2008 and have been responsible for delivering more than thirty estimates, including support for several major IRS programs. I received a Bachelor of Science in 1992 from the University of Maryland, College Park and a Master's Certificate in Project Management in 2001 from the George Washington University School of Business and Public Management. I have six and a half years of applications experience with the commercial parametric models used by the EPO. (Parametric models are predictive modeling tools built from a set of mathematical equation which, in this case, are used for estimating software development effort and schedule based on project attributes.) I am experienced in applying the function point methodology for software sizing. I also have an in-

depth knowledge and perspective of best practices in estimating and IRS-specific estimation guidelines.

2. The IRS EPO is the organization that is primarily responsible for employing mature project estimation processes and tools to deliver full life cycle estimates of cost, effort, schedule, and staffing for legislative and budget cycle proposals and ongoing major Development, Modernization and Enhancement (DME) investments that require Information Technology (IT). Financial Management Services (FMS), Budget Formulation, has oversight of the EPO. The FMS Director reports directly to the Associate Chief Information Officer (ACIO) of Strategy and Planning.
3. The EPO accomplishes its budget estimation mission and goals by implementing a program based on industry best practices in the areas of parametric estimation, measurement, and forecasting. EPO has developed more than 300 estimates since FY2008 and has developed between forty and sixty IT estimates annually over the last three years. The EPO team is comprised of experienced estimators with specialized experience in parametric modeling, software sizing, function point methodology, and collection and analysis of historical (sunk) project performance information so that it may be used to tune and refine (calibrate) parametric estimation models. Together, the team has a collective experience of fifty years in estimating, and the estimation team has an average of six point four years with EPO. The GAO, in a recent audit of IRS IT Major Investments, cited

three of EPO's estimates as reliable because they substantially met characteristics for being comprehensive and well-documented.

4. I was the lead estimator on the FY2014 legislative proposal, "*Make e-Filing Mandatory for Exempt Organizations*" [hereinafter referred to as Form 990 electronic Filing (e-File) proposal]. An explanation of the proposal is provided in the General Explanations of the Administration's Fiscal Year 2014 Revenue Proposals by the Department of Treasury. A Basis of Estimated (BOE) Report that documents the estimate that was prepared for the Form 990 e-File proposal is attached to this declaration as exhibit 105.
5. The FY 2014 legislative proposal regarding Form 990 was resubmitted in the FY 2015 Congressional Justification under the title, "*Make e-Filing Mandatory for Exempt Organizations.*" The FY 2015 proposal was supported by the cost estimate prepared by the EPO office and documented in the BOE Report. The proposal has two parts: 1) enable the IRS to accept and process all tax-exempt organizations Form 990 series returns that are electronically filed, and, 2) require the IRS to make the electronically filed Form 990 series returns publicly available in a machine readable format in a timely manner, as provided in regulations. Once Congress mandates that all series 900 returns be filed electronically, this will justify the creation of a system to replace, or greatly reduce the use of the existing system, which provides records in a nonmachine readable, PDF TIF format. This would also justify any request for an increase in the budget for Information Technology (IT).

6. Most tax-exempt organizations are required to file an annual return. The applicable form an organization must file generally depends on its financial activity. The IRS currently accepts e-filed Forms 990, 990-EZ and 990-PF. Form 990 is used by organizations whose gross receipts  $\geq$  \$200,000, or total assets  $\geq$  \$500,000. The 990-EZ form may optionally be filed if receipts are less than the Form 990 thresholds. The 990-PF form must be filed by all private foundations, regardless of financial status.
7. There are three 990 series forms that the IRS currently does not accept through e-file:
  - a. Form 990-T is used by a tax exempt organization to report its unrelated business income and to figure the tax owed on that income.
  - b. Form 990-BL is used by a non-profit organization specializing in black lung benefits to report its income, expenses, and other financial information.
  - c. Form 990-W is a worksheet published by the IRS allowing a tax exempt organization to estimate the tax owed on unrelated business income.  
Form 990-W is not required to be filed.
8. The scope of the Form 990 e-File proposal was limited to enabling e-filing of the Form 990-T, as well as making all electronically filed Form 990 series returns publicly available in a machine readable format. Form 990-BL e-file was excluded from the scope of the estimate because of its low volume. The benefit for e-filing the form did not justify the cost. Form 990-W e-file was excluded from the scope of the estimate because it is only a worksheet and not required to be

filed. A new process to filter the filed 990 series returns to redact individual Personally Identifiable information (PII), such as contributor names or other return information protected by section 6103 of the Internal Revenue Code, is also included in the estimate.

9. The Form 990 e-File proposal estimate documented in the BOE Report has a total non-recurring (implementation) cost of \$14.27M. Of that cost \$12.8M is the IT non-recurring portion. The total 5-year investment, including Operation and Maintenance (O&M), is \$19.4M. The \$18.18M cost in the Congressional Justification is the sum of the first 3 years of the project. Some of the key points that are highlighted in the BOE Report include:
  - a. The estimate reflects the information that is available during the vision and strategy phase of the IRS Enterprise Life Cycle (ELC). Vision and strategy phase estimates have a high degree of uncertainty because estimates are developed based on high-level capabilities prior to requirements being baselined (*i.e.*, approved). This phenomenon is known as the "Cone of Uncertainty," which suggests a significant narrowing of the cone occurs during the first 20-30% of the total calendar time for the project.
  - b. The highest cost component of the estimate was the development effort for the Modernized e-File (MeF) system to receive and process the new Form 990-T. The cost of e-Filing new form types varies considerably. The

estimated cost of \$4.3M for new MeF processing was based on a previous estimate for Form 990 Revision Analysis that was completed in FY2007.

- c. The software development estimate for redacting the forms and hosting them on a public website was about \$2M. Combining that effort with the \$4.3M for e-Filing Form 990-T, software development accounts for \$6.3M of the \$12.8M in non-recurring costs. The other costs in the proposal are for shared infrastructure, deployment and management costs.
- d. No new hardware was included in this estimate based on the assumption that the volume of Form 990-T returns could be supported with existing processing capacity.

10. Standard ground rules and assumptions were applied to provide placeholder costs for many of the IT services and materials that will likely be needed and would be revisited once the proposal is approved for implementation.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 13 day of August, 2014.



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Dwayne Ross  
Information Technology Specialist  
IRS Estimation Program Office  
Internal Revenue Service  
5000 Ellin Road  
Lanham, Maryland