

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

PUBLIC RESOURCE.ORG)
)
Plaintiff)
)
v.)
)
INTERNAL REVENUE SERVICE,)
)

Defendant.)

Case No: 3:13-cv-2789

DECLARATION OF LISA ROSENMERKEL

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

1. I am the Chief, Imaging and Technical Support Branch in the Data Management Division of Research, Analysis and Statistics (RAS) in the Internal Revenue Service (Service or IRS). I have been an IRS employee for twelve years, a management official for two years, and in this position since January 2014. I have a bachelor's degree in economics and a master's degree in business administration.
2. My duties include overseeing the Data Management Division's Imaging Section which provides maintenance and technical support for the SEIN (SOI Exempt Image Net) system. SEIN is a TE/GE (Tax Exempt Government Entities) owned process for making exempt organization returns available to the public.
3. I was contacted by Ms. A. M. Gulas, Senior Counsel, Office of Associate Chief Counsel (Procedure and Administration), and asked to compile the costs associated with maintaining and operating the existing SOI Exempt Organization

Image Net (SEIN) system, which is used by Wage and Investment (W&I) employees in the Ogden Service Center to create and redact the images of disclosable exempt organization forms used to satisfy section 6104 requests.

4. Generally, returns are processed as they are received to ensure they are available if a request is received, although paper returns are given priority over electronic to expedite the paper copy into the process. The estimated cost (rounded to the nearest dollar) of SEIN hardware, software and support for calendar year 2013 are as follows: (a) \$575,530 for staff (includes direct labor, benefits and overhead) and, (b) \$414,089 for hardware/software and maintenance, which is a total of \$989,619. The imaging and redacting are performed by Wage and Investment employees in the Ogden Service Center. These employees are generally paid at a salary grade 4 and 5.
5. SEIN, the current TIF-based process, is a formally developed system. The W&I SEIN clerks utilize a series of highly-specialized custom-built software applications to complete their job. There are checks built into the SEIN software applications that enable the clerks to complete their work effectively and efficiently. There are safeguards in place to minimize risk, such as built-in pop-up reminders to note the next step in the process or to alert them to a potential issue. In addition, SEIN clerks receive extremely detailed documentation on the process and attend formal and informal training.
6. Not all of the returns processed by SEIN are available through a section 6104 request due to disclosure restrictions. Non-disclosable returns include Forms

8871, 4720, and some Forms 990-T. In 2013, approximately 16 percent of returns processed were not disclosable, and, therefore, not available via a 6104 request. As a result, to obtain the cost of SEIN utilized for preparing images for the section 6104 process, the total cost of SEIN was prorated by 84 percent, the ratio of processed returns which are disclosable. This brings the subtotals to: (a) \$481,889 for staff, and (b) \$346,715 for hardware/software and maintenance, for a total of \$828,603.

7. SEIN processes multiple types of returns each year. As I mentioned above, not all of the returns processed by SEIN are available through a section 6104 request due to disclosure restrictions. Nondisclosable returns include Forms 8871, 4720, and some Forms 990-T. The total number of returns processed by the SEIN system in 2013 was 935,431. The total number of forms processed in 2013 by the SEIN system to be made available under section 6104 was 783,232.
8. Because the TE/GE Exempt Organization division does not have an existing process to retrieve, redact and deliver exempt organization Form 990 return information in an electronic format, I was also asked to compile an estimate of the resources necessary – on a one time basis – for Research Analysis and Statistics (RAS) to complete the retrieval, redaction and delivery of the nine electronically-filed Forms 990 (returns filed by exempt organizations) that plaintiff requested in the forms' native format, or in an XML format. XML (extensible marking language) format is a way of compactly storing large volumes of data which allows for the data to be used by different computer systems, languages

and applications. RAS has access to the native electronic format of the returns for use in its statistical analysis, and is familiar with the XML format.

9. The estimated cost for RAS to retrieve all data for the nine electronically-filed Forms 990 that plaintiff requested, then redact non-disclosable and private information, and deliver the XML on CD is \$6,200, or about \$690 per return. (A copy of the cost estimate is attached to this declaration as exhibit 107.) The costs were developed using a framework created by the IRS Chief Financial Office to cost reimbursable products. This is the framework ordinarily used by the IRS when costing reimbursable products.
10. Because neither RAS nor EO has a program to perform the redaction, this task would have to be done manually. Manual redaction is a labor intensive process and is detailed in paragraphs 13 and 14, below. The process estimated is one designed to provide the data with minimum delay. Therefore, the process envisioned here is, by definition, one of short duration - measured in months - because the analytical experts and subject matter experts in RAS pulled in to provide the data on the rush basis are not well-suited to performing those tasks repeatedly, and do not make up the type of staff, nor nearly the scale of staff, necessary to perform those tasks for an indeterminate time and at an substantially larger scale.
11. My estimate includes costs associated with redaction and review to prevent the release of non-disclosable taxpayer data or personal information. While this reduces the risk of releasing such information, it does not remove it entirely. The

costing detailed here only reflects the immediate cost of completing the redaction for nine electronically-filed Forms 990. The cost does not include the creation of any system or process which would allow for repeated use. This is an *ad hoc* process involving subject matter experts pulled from other responsibilities for the express purpose of fulfilling this one-time project. The subject matter experts would not be available for this process outside of this single *ad hoc* request. Additionally, an *ad hoc* manual process such as this includes an inherent risk.

12. Repeated requests would be best served by a formally developed automated process. Such an endeavor would be developed and owned by TEGE (Tax Exempt Government Entities) and would require the development of program specifications, creation and testing of specialty redaction software, quality review of the resulting output, and implementation of a public release mechanism. This would not include oversight costs and additional software, hardware, or measurable computing time that might be required for an automated process. Additionally, to mitigate risk, the automated process should meet FISMA (Federal Information Security Management Act) requirements and it should be supported by a dedicated, specialized staff with formal training and infrastructure to ensure the protection of personally identifiable information.
13. The manual process would be performed by a team. Subject matter experts, in this case an Economist and a Statistician, would be essential to the redaction process due to their experience with exempt-organization filings as well as the appropriate redaction requirements. The *ad hoc* nature of this process requires

highly-graded, experienced staff to complete the redaction efficiently, accurately, and to minimize risk. Lower-graded staff would require significant training prior to contributing to this process, which would not be cost or time effective for an *ad hoc* process such as this. IT specialists, supervisory IT specialists and program managers in RAS would be required for their technical expertise to perform a redaction process in native or XML format.


14. The manual process would begin with IT specialists installing the necessary software for XML redaction. The subject matter experts (SMEs) would then need to familiarize themselves with the software and how to remove the redacted data. The junior SME would develop redaction requirements for the Forms 990 and the senior SME would review the requirements. The data pulled from storage would be reviewed by a senior IT Specialist to ensure it included the appropriate, complete forms. Both SMEs would then review images created from the original XML to determine the schedules and attachments included with each return including those that will need to be redacted. Once this review is concluded, the junior SME would use their findings to review the XML for taxpayer PII (personally identifiable information) as well as items not available for public disclosure, redact information as appropriate, and create new redacted XML files. The senior SME would complete a quality and privacy review of the redacted XML to ensure that the redactions were consistent with law and that taxpayer privacy was protected. The SMEs' supervisor and an IT supervisor would complete a managerial review of the redacted XML. As a final security measure,

IT specialists would create a new image using the redacted XML. A statistical assistant would review the new image to ensure the redaction process did not inadvertently alter disclosable portions of the return. The junior SME would then copy the approved XML files onto a CD and, once the contents were verified by the senior SME, the CD would be shipped to the customer.

15. This estimate is for a manual process performed as a separate stand-alone request, and as such it does not include costs that would be associated with an automated, recurring process for larger numbers of returns. This manual stand-alone process does not include oversight costs and additional software, hardware, or measurable computing time that might be required for an automated process. Any automated process would require the development of program specifications, creation and testing of specialty redaction software, quality review of the resulting output, and development of a public release mechanism. /

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

Executed this 12 day August, 2014.



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