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17   IN THE UNITED STATES DISTRICT COURT

18   THE NORTHERN DISTRICT OF CALIFORNIA

19   SAN FRANCISCO DIVISION

20

21 PUBLIC.RESOURCE.ORG., a California non-   ) Case No. 3:13-CV-02789-WHO
   profit organization,   )
22   )
                Plaintiff,   ) **DECLARATION OF CLAY JOHNSON**
23   )
          v.   )
24   )
   UNITED STATES INTERNAL REVENUE   )
25 SERVICE,   )
)
26   Defendant.   )

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Declaration of Clay Johnson

DWT 24875461v1 0200593-000001

I, Clay Johnson, declare as follows:

1.   Since 2013, I have been the founder and CEO of the Department of Better Technology, a small business which builds products to help government acquire technology faster and cheaper. I have personal knowledge of the matters stated in this declaration and could competently testify to them if called as a witness. Our customers include cities throughout the country, such as the City of Louisville, Kentucky as well as federal agencies and nonprofit organizations.

2.   In 2014, I was appointed a Senior Fellow at the Center for American Progress, a nonprofit, nonpartisan research institution in Washington, D.C., where I work on Federal IT procurement policy reform. In 2014, I was also appointed by the National Archives and Records Administration to serve on the Freedom of Information Act Advisory Committee.

3.   In 2012, I was appointed as a Presidential Innovation Fellow by the White House. I was assigned to the White House Office of Science and Technology Policy and the Small Administration where I was the team leader for the RFP-EZ program, which helps small technology companies get easier access to the Federal Government's nearly $77 billion information technology supply chain. Our program made it easier for small businesses to bid on opportunities, and the resulting bids were shown to be 30% lower than those through the traditional FedBizOps procurement process. Our program allowed 270 small businesses that had never before participated in federal contracting to take part.

4.   From 2008 to 2010, I was the founding Director of Sunlight Labs at the Sunlight Foundation. Our team pioneered numerous open source solutions that are used throughout the country to analyze and interact with government information sources. For my efforts, Google and O'Reilly Media named me "Open Source Organizer of the Year" at the Open Source Convention, the largest annual gathering of this type of developer.

5.   From 2003 to 2004, I was the Senior Web Programmer for the Dean for America Campaign and from 2004 to 2008 I was the co-founder of Blue State Digital, a firm that provided the technology that powered many political campaigns, including the 2008 Obama for America effort.

Declaration of Clay Johnson

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6.   In my work, I have become very familiar with federal policies in the area of administrative practice and procurement, including the Federal Acquisition Regulations (FAR), the Freedom of Information Act (FOIA), the Paperwork Reduction Act, and the OMB circulars and Executive Memoranda dealing with the use of information technology.

7.   I am an experienced computer programmer and am familiar with text editors, XML, and programmatic manipulation of files in XML and other formats. I am familiar with the Form 990, which is available in image format. I understand the basics of the Modernized e-File (MeF) system, which is used to electronically file the Form 990 in an XML format with PDF attachments.

8.   I have examined the 2011 Form 990 filed by the American National Standards Institute (EID 13-163523), which was made available for my inspection at https://bulk.resource.org/irs.gov/eo/doc/doc/13-1635253_990_201112.pdf

9.   Working with this information in image format, where the e-file information has been laid into the form and released as a bitmap image, is exceedingly difficult for such a complex return. To effectively work with this information, one must essentially retype all the information in the return into a machine-processable format. Retyping this information is very tedious and subject to numerous errors.

10.   Optical Character Recognition (OCR) is one technique for retrieving information from the image into a machine-processable format, but this technique is error prone and does not work well on complex forms with an irregular layout and many columns of information such as the Form 990.

11.   As a computer programmer, it would be significantly easier, indeed almost trivial, to work with this information in the XML format. I – and others – could very easily write a parser that transferred information from the XML MeF format into a database management system for further release.

12.   I have examined Government Exhibit 107, Estimate of Retrieval, Redaction, & Delivery of 9 Electronically Filed Forms 990. It was made available to me at http://www.archive.org/download/gov.uscourts.cand.267289/gov.uscourts.cand.267289.46.15.pdf

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13.   I was informed that the IRS documentation for the MeF program lists XMLSpy as the XML editing software used by the IRS. XMLSpy is made by a company called Altova. I went to USAspending.Gov on August 17, 2014, and searched for contracts between Altova and the Internal Revenue Service. The USAspending.Gov site lists $567,908 in transactions between Altova, Incorporated and the Department of the Treasury, Internal Revenue Service. The search I executed was

http://usaspending.gov/search?form_fields={"search_term"%3A"ALTOVA"%2C"dept"%3A["2000"]}

14.   The Altova MissionKit is used by developers and retails for $869 to $1739. The XMLSpy 2014 Professional Edition sells for $499 and the Enterprise Edition for $999. I learned this information by looking at the Altova web site at https://shop.atova.com/.

15.   Given the size of the IRS expenditures on this software, it is fair to say that there are literally hundreds of copies of XMLSpy in use at the IRS.

16.   In examining Exhibit 107, the Estimate of Retrieval, I do not find the estimates to be credible. For example, the estimate includes 4.5 hours for manual redaction of XML using the XMLSpy editor and then 2.25 hours for saving those files. Removing one or several elements from an XML file is a trivial task that will only take a few minutes. Saving a file, including validation of the resulting XML to make sure it is still valid, is also a trivial task that only takes a few minutes.

17.   I am aware of the Declaration of J. Archibald, Manager of Submission Processing Programs for the IRS, in which she describes the process for scanning, restriction, and redaction of the Form 990. That declaration was made available to me at http://www.archive.org/download/gov.uscourts.cand.267289/gov.uscourts.cand.267289.46.5.pdf

18.   In the current system, the IRS takes an e-file return and produces a series of images of the complete return. Those images are then displayed on a screen, where personnel manually remove (redact) the schedules that must not be released.

19.   For the 9 files that are the subject of this declaration, the IRS already has a redacted version of those files ("the currently released version"). The IRS can image the original XML data

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and produce an unredacted version of those files ("the unredacted version"). This allows a very simple and quick comparison between the unredacted and the redacted versions. This visual comparison quickly yields a list of which schedules must be removed, which any programmer can quickly use to remove elements representing those schedules from the XML file. The resulting XML file can then be reimaged and compared to the currently released version. If the two versions match, the XML file is known to have been created with the correct data.

20.   Given my familiarity with the workings of government and my realistic understanding that sometimes take a bit longer in government than in the private sector, it is still inconceivable to me that the process of redacting these 9 XML files would take 64.1 hours. This estimate is not credible.

21.   Manual editing of an XML file is not the most efficient way to handle this kind of issue. Instead, a simple program can be written that will automatically process any Form 990 in XML format and remove any one of the schedules that must be removed before the file can be publicly distributed. In my professional opinion, this is not a difficult program to write. It could be done using the XSLT methodology that the IRS uses in their MeF program. The IRS clearly has extensive XSLT expertise, as demonstrated by the Modernized e-File (MeF) Stylesheets package the IRS releases. This package is available at

http://www.irs.gov/Tax-Professionals/e-File-Providers-&-Partners/Modernized-e-File-MeF-Stylesheets

24.   Instead of performing this operation using XSLT, there are a number of other programming techniques which could be used to easily and quickly write a program to perform these tasks. This includes the Java programming language and the Ruby programming language.

25.   I have examined Government Exhibit 105, "Require all Form 990 Series Tax and Information Returns be Filed Electronically: Vision and Strategy Phase Estimate, Basis of Estimate Report, Version 1.1" This information was made available to me at

http://www.archive.org/download/gov.uscourts.cand.267289/gov.uscourts.cand.267289.46.13.pdf

22.   This document estimates the cost of an IRS project to support mandatory e-filing of all exempt returns to be $19,733,000. However, the projects detailed in this estimate cover a wide

Declaration of Clay Johnson

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range of new activities, including creating of a new IRS web site and support for e-filing of the new Form 990-T, which is not currently supported. This cost estimate is therefore not the appropriate one to determine the cost to the IRS of preparing the currently filed XML files for public release as XML files with proper redaction. As noted above, this particular and very specific task is fairly simple and it would cost the IRS far less than $19 million to support the systematic process and release of all Form 990s in XML that are electronically filed.

23.   It is my professional opinion that manual redaction of 9 XML files to remove certain elements restricted from public view is not a very complex task and can be accomplished quickly and efficiently. It is also my professional opinion that writing a simple program that would automatically prepare an XML file for public release by systematically removing all restricted information is not very difficult. Release of the Form 990 as an XML file instead of an image is far superior and much more useful for the public and will provide far greater transparency for the information provided in Form 990s.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed this __26th__ day of September, 2014 at

10559 Serenbe Ln, Chattahoochee Hills GA
_____.

_____
CLAY JOHNSON