

Exhibit D

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WASHINGTON, D.C. 20006

1751 PINNACLE DRIVE
TYSONS, VA 22102

March 28, 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 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 by, between or among the non-profit organization “Code For America” (hereinafter “CFA”) and the IRS, including but not limited to documents and communications exhibiting CFA’s role in providing services to the Volunteer Income Tax Assistance (“VITA”) program, documents and communications exhibiting CFA’s role in the IRS’s management of the Child Tax Credit (“CTC”) regarding tax administration, and documents and communications relating to CFA’s tax return software program made available on VITA’s website, as specified below.

The timeframe for the documents and communications I seek is from January 1, 2020, 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). For purposes of clarity, this FOIA request does not seek any document or communication referring and/or relating to any individual taxpayer’s case or any individual’s tax return information.

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” and within this VITA SPEC, “Communications and Liaison”, “Office of the Chief Counsel”, “Equity, Diversity, and Inclusion”, “Office of Professional Responsibility”, “Office of Promoter Investigations”, “Procurement”, the “Taxpayer Experience Office”, and the “Office of the Taxpayer Advocate.”

Specifically, I request the following:

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1. **Agreement and Negotiation Documents:** I request all documents and communications by, between, or among IRS personnel and/or Treasury personnel with CFA representatives regarding any agreement(s) (to include any competitive or sole source contracts), memorandum of understanding, Other Transaction Authority award(s), grant agreement(s), or other form of agreement that in any manner authorized CFA to have its software programs or code publicly available on VITA's IRS.gov website, including that portion of the CTC that allowed taxpayers who had not filed tax returns to obtain the CTC, and/or to complete a CFA-sponsored tax return.
2. **Government Funds Paid to CFA Related to any Agreement(s) Listed in Request 1:** For any agreement(s) responsive to Request 1, I request all documents and/or communications regarding government payment of funds, including, but not limited to, funds paid or due to be paid as a VITA grantee or in any other manner by IRS. If no documents indicate CFA has received funds for the software products or services it provided to the federal government – in effect making CFA a “volunteer” delivering those products or services – please provide all documents or communications that analyze or assess how this provision of software or services complies with requirements of Title 31 of the United States Code.
3. **All documents or communications relating to meetings, including remote by video or telephone, and in- person meetings of CFA personnel and IRS or Treasury personnel in Requests 1 or 2.**
4. **All documents and communications by, between, or among IRS personnel that include the following search terms: “Code for America”, “CFA”, or derivatives thereof.**
5. **White House and Treasury Communications Are Included in Requests 1, 2, 3, and 4 above:** All documents or communications by, between, or among IRS personnel, White House personnel, and/or Treasury personnel, to include any responses from IRS personnel relating to Requests 1, 2, 3, and 4. Responsive documents are likely to be found with the IRS offices listed above these requests.
6. **Rejected Returns By CFA:** All documents or communications by, between, or among the IRS and/or CFA that address: (a) the total number of tax returns submitted by CFA in calendar year 2021 through 2022; and (b) the number and/or percentage of such tax returns rejected by the IRS that were submitted by CFA, including those that were rejected because they were fraudulently filed, suspected of being fraudulently filed, or were filed after a return had already been submitted. I am not seeking documents that disclose individual tax return information, only document(s) that contains summaries of anonymized return data and reasons for such rejection.
7. **CFA Compliance with IRS Publication 1345 Requirements:** All documents or communications by, between, or among the IRS and/or CFA regarding CFA's (a) compliance with the requirements contained in IRS Publication 1345, and (b) Participants Acceptance Testing System (“PATs”) testing of CFA software. I do not seek Individual tax return data, only documents with anonymized summaries of aggregated return data.

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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, 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. Requests 1–5 above are our priorities.

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.

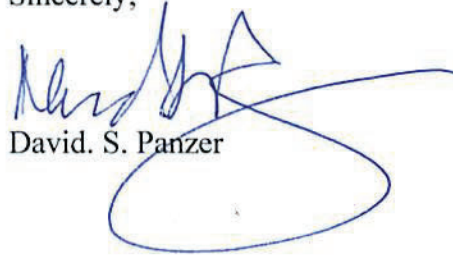
For purposes of fee category, this request is a commercial use request. We agree to pay all reasonable search, review and duplication costs incurred in connection with this request up to \$5,000. Please notify me at (202)331-8160 if you determine that such costs will exceed \$5,000, as we are likely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

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

Sincerely,



David. S. Panzer