



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 • www.state.ct.us/foi/ • email: foi@po.state.ct.us

Zachary Janowski and the
Yankee Institute for Public Policy,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2011-544

Commissioner, State of Connecticut, Department of
Economic and Community Development; and State of
Connecticut, Department of Economic and Community
Development,

Respondent(s)

August 20, 2012

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, September 12, 2012**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE August 31, 2012**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE August 31, 2012**. PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fourteen (14) copies** be filed **ON OR BEFORE August 31, 2012**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: Zachary Janowski
Lorrie Lewis Adeyemi, AAG

2012-08-20/FIC# 2011-544/Trans/wrbp/CAL//TCB

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FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Zachary Janowski and
The Yankee Institute for Public Policy,

Complainants

against

Docket #FIC 2011-544

Commissioner, State of Connecticut,
Department of Economic and Community
Development; and State of Connecticut,
Department of Economic and
Community Development,

Respondents

August 13, 2012

The above-captioned matter was heard as a contested case on June 4, 2012, at which time the complainants and the respondents appeared and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by email dated August 9, 2011, the complainants requested that the respondents provide them with records indicating the outputs generated based upon certain inputs to the Regional Economic Models, Inc. computer program that was used to analyze the 2011 Assistance Agreement between the respondent Department and the CIGNA Health and Life Insurance Company (the "requested records").
3. It is found that, by email dated September 21, 2011, the respondents declined to provide the requested records, claiming that they were exempt from mandatory disclosure pursuant to §1-210(b)(5), G.S.
4. By email dated and filed with the Commission on October 5, 2011, the complainants appealed to the Commission, alleging that the respondents' failure to provide the requested records violated the Freedom of Information Act. The complainants asked the Commission to order disclosure of the "requested records" and the "equivalent outputs of economic models in all other cases".

5. Section 1-200(5), G.S., states:

“Public records or files” means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. Sections 1-210(a) and 1-212(a), G.S., state, respectively, in relevant parts:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

...

Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.

7. Section 1-210(b)(5), G.S., states in relevant part:

Nothing in the Freedom of Information Act shall be construed to require disclosure of...(5)(A) Trade secrets, which for purposes of the Freedom of Information Act, are defined as information, including formulas, patterns, compilations, programs, devices, methods, techniques, processes, drawings, cost data, customer lists, film or television scripts or detailed production budgets that (i) derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use, and (ii) are the subject of efforts that are reasonable under the circumstances to maintain secrecy....

8. It is found that in December 2011 the respondent Department entered into an agreement with CIGNA, requiring the respondent Department to make a grant valued at between \$50 and \$80 million to CIGNA, and requiring CIGNA to retain certain jobs in Connecticut, to create certain new jobs in Connecticut, and to relocate its corporate headquarters from Philadelphia, PA to Bloomfield, CT.

9. It is also found that the respondents utilized a computer program developed by Regional Economic Models, Inc. (“REMI”) which is a mathematical model of the Connecticut economy. The REMI computer program analyzes various scenarios in order to ensure that, pursuant to a given assistance agreement, the State of Connecticut will

emphasized that the outputs would not have economic value after an agreement is finalized.

14. The respondents argued that consultants could bargain for a better deal for subsequent clients locating in Connecticut, costing Connecticut taxpayers more, if the requested records were disclosed. Deputy Commissioner Angelo testified that it would “harm Connecticut a great deal” if other states, especially New York and New Jersey, had access to the requested records and could make a reasonable assessment of the value of a given company to Connecticut. Conversely, if the respondents could get analogous information created by other state governments, the respondents would know which companies to target in those jurisdictions. Respondents illustrated the importance of information competition by citing the results of a leak to Rhode Island newspapers that Walgreen’s would locate in Kingston, R.I. The Walgreen’s distribution center in question, a \$250 million investment, was ultimately built in Connecticut.

15. It is found that, by “reverse engineering” more than one set of REMI outputs over a period of time, consultants and other states would gain a clear picture of Connecticut’s economic development practices and business plan. With this information, consultants would get better deals for clients locating in Connecticut and other states would compete more effectively with Connecticut for companies in their states as well as companies already in Connecticut. This conclusion underscores the independent economic value of the REMI outputs for a given agreement, such as the requested records herein, even after the agreement is finalized.

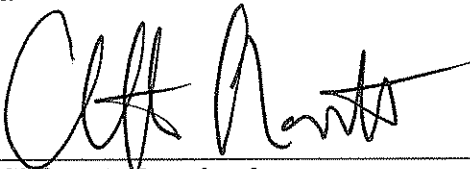
16. It is found that the requested records contain information, including patterns, compilations, methods, techniques and processes, all of which derive independent economic value from not being generally known. It is also found such information is not readily ascertainable by proper means by other persons who could obtain economic value from its disclosure. Finally, it is found that the requested records are subject to efforts that are reasonable under the circumstances to maintain their secrecy.

17. It is concluded that the requested records are “public records” within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

18. It is also concluded that the requested records are exempt as trade secrets from mandatory public disclosure pursuant to §1-210(b)(5)(A), G.S. The respondents did not violate §1-210(a) and 1-212(a), G.S., when they declined to provide the requested records.

The following orders by the Commission are hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is hereby dismissed.



Clifton A. Leonhardt
as Hearing Officer