

From: Edward Barocas
Sent: Monday, June 03, 2013 11:02 AM
To: 'Taylor, Eric'
Cc: Thomas MacLeod; Guenther, Alan
Subject: RE: OPRA Response

Dear Mr. Taylor,

None of the links you provide below contain scoring sheets for the submitted applications. Since you have failed to turn over those documents by the date proposed, it appears that you are refusing to provide them. However, if scoring sheets simply were never made or maintained, please provide such clarification.

Sincerely,
Ed Barocas
ACLU-NJ Legal Director

From: Taylor, Eric [<mailto:Eric.Taylor@njhe.state.nj.us>]
Sent: Friday, May 31, 2013 4:39 PM
To: Edward Barocas
Cc: Thomas MacLeod; Guenther, Alan
Subject: RE: OPRA Response

Dear Mr. Barocas:

In response to your specific request below for "[a]ll scoring sheets and other records used to determine the eligibility of, approval or denial of funding to, and amount awarded to [applicants]," information responsive to your request can be found at:

<http://www.nj.gov/highereducation/documents/130204HigherEducationCapitalFacilitiesProgramsSolicitation.pdf>

<http://www.nj.gov/highereducation/archives/documents/130513BuildingOurFutureBondAct.pdf>

<http://www.nj.gov/highereducation/archives/documents/130513CapitalImprovementFundAct.pdf>

<http://www.nj.gov/highereducation/archives/documents/130513HigherEducationEquipmentLeasingFundsAct.pdf>

<http://www.nj.gov/highereducation/archives/documents/130513HigherEducationFacilitiesTrustFundAct.pdf>

<http://www.nj.gov/highereducation/archives/documents/130513HigherEducationTechnologyInfrastructureAct.pdf>

Access is denied for any documents which, if disclosed, would give an advantage to competitors or bidders, Open Public Records Act at N.J.S.A. 47:1A-1.1, or for any documents that constitute inter-agency or intra-agency advisory, consultative, or deliberative material. Open Public Records Act at N.J.S.A. 47:1A-1.1. As indicated in Alan Guenther's May 23, 2013 email to your office, the Office of the Secretary of Higher Education is conducting a search for documents that are responsive to the requests

you have submitted. Should additional documents responsive to the specific request above be located during the course of the search conducted by this office, those documents will be released provided they are not exempt from disclosure under the Open Public Records Act.

Thank you for your attention to this matter.

Very truly yours,

Eric Taylor, Esq.
Director, Office of Licensure and Acting OSHE OPRA Custodian
Office of the Secretary of Higher Education
(609) 984-3738
eric.taylor@njhe.state.nj.us

From: Edward Barocas
Sent: Friday, May 24, 2013 1:38 PM
To: Guenther, Alan
Cc: Taylor, Eric; Thomas MacLeod
Subject: RE: OPRA Response

Dear Mr. Taylor and Mr. Guenther,

I am writing regarding your email response (see below) regarding three ACLU-NJ OPRA requests. You requested additional time (until June 24, 2013) to respond to certain aspects of our requests.

The ACLU-NJ has no objection to your request for an extension regarding Items 1 and 4 in our request dated May 10, 2013, as well as Item 4 in our May 8, 2013 OPRA Request #2.

However, you also requested an extension regarding Item 3 in our May 8, 2013 OPRA Request #2 as well as Item 3 in our request dated May 10, 2013. Those specific requests were for "All scoring sheets and other records used to determine the eligibility of, approval or denial of funding to, and amount awarded to [applicants]." The scoring sheets are easily-identifiable, easily-obtainable items that should, upon request, be provided in short order. To the extent that our requests for "*other such records* [other than the scoring sheets] used or relied upon to determine the eligibility for and amount awarded to each of these applicants" would require additional time, we do not object to your request for an extension regarding *that specific aspect of the requests*. However, we request that the scoring sheets be provided as soon as possible, and no later than 5 p.m. on Friday, May 31st. Please let me know by 2 p.m. on Tuesday, May 28, 2013, whether this schedule for release of documents is acceptable.

Sincerely,
Ed Barocas
ACLU-NJ Legal Director

From: Guenther, Alan [<mailto:Alan.Guenther@njhe.state.nj.us>]
Sent: Thursday, May 23, 2013 5:23 PM
To: Edward Barocas
Cc: Taylor, Eric
Subject: OPRA Response

May 23, 2013

Ed Barocas
Legal Director
American Civil Liberties Union
P.O. Box 32159
Newark, N.J. 07102

Mr. Barocas:

Please be advised that I did not receive the two OPRA requests dated May 8, 2013 until May 21, 2013. Accordingly, the time to respond to those requests has not yet expired. Nevertheless, I will respond to those requests through this e-mail, and will address the other issues raised in your May 20, 2013 e-mail.

May 8, 2013 OPRA Request #1

By letter dated May 8, 2013, you submitted an OPRA request seeking "policies, regulations and other general guidelines regarding eligibility for, approval of, and determination of the amounts of..." of various Higher Education-administered grants. Information responsive to your request can be found at:

<http://www.nj.gov/highereducation/documents/130204HigherEducationCapitalFacilitiesProgramsSolicitation.pdf>

<http://www.nj.gov/highereducation/archives/documents/130513BuildingOurFutureBondAct.pdf>

<http://www.nj.gov/highereducation/archives/documents/130513CapitalImprovementFundAct.pdf>

<http://www.nj.gov/highereducation/archives/documents/130513HigherEducationEquipmentLeasingFundsAct.pdf>

<http://www.nj.gov/highereducation/archives/documents/130513HigherEducationFacilitiesTrustFundAct.pdf>

<http://www.nj.gov/highereducation/archives/documents/130513HigherEducationTechnologyInfrastructureAct.pdf>

May 8, 2013 OPRA Request #2

By a second letter, dated May 8, 2013, you made four requests.

With regard to your first request for "[r]ecords documenting the amounts proposed to be distributed from each of the ... Higher Education funding programs or awards ...," information responsive to your request can be found at:

<http://www.state.nj.us/highereducation/documents/130430CapitalFinancingGrants-ListsofApprovedProjects2.pdf>

With regard to your second request for "[a]ll applications for funding pursuant to the above-listed programs or funds, submitted in 2012 and 2013, by each of the 'Private Institutions'..." your request for access is denied because it seeks information which, if disclosed, would give an advantage to competitors or bidders. Open Public Records Act at N.J.S.A. 47:1A-1.1.

With regard to your third and fourth requests, please be advised that the Office of the Secretary of Higher Education will require an extension to June 24, 2013 to search for potentially responsive documents and conduct a legal review.

May 10, 2013 OPRA Request

By a letter dated May 10, 2013, you made four OPRA requests.

With regard to your first, third and fourth requests, please be advised that, as I previously indicated, the Office of the Secretary of Higher Education will require an extension to June 24, 2013 to search for potentially responsive documents and conduct a legal review.

With regard to your second request for "[t]he applications submitted by *each and every* academic institution seeking funds from the [various] funding sources, including but not limited to the successful applications listed in the chart entitled "Higher Education Capital Financing Grant Programs," your request for access is denied because it seeks information which, if disclosed, would give an advantage to competitors or bidders. Open Public Records Act at N.J.S.A. 47:1A-1.1.

Please be aware that I will be out of the office until June 5 and that Eric Taylor will be serving at the acting OSHE OPRA Custodian. All OPRA correspondence should be addressed to Eric at eric.taylor@njhe.state.nj.us until I return.

Sincerely,
Alan Guenther
OSHE OPRA Custodian