



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

BRUCE D. FELDMAN
ASSISTANT ATTORNEY GENERAL
SPECIAL COUNSEL
RECORDS ACCESS OFFICER

August 6, 2014

via e-mail: elena@judgewatch.org

Ms. Elena Sassower
Center for Judicial Accountability, Inc.
P.O. Box 8101
White Plains, NY 10602

RE: Freedom of Information Law (FOIL) Request # 140346

Dear Ms. Sassower:

This letter responds to your correspondence dated July 1, 2014, which, pursuant to FOIL, requested the following:

“[R]e: Records Pertaining to the Attorney General’s Approvals of Contracts for Services by:

- (1) Kasowitz, Benson, Torres, Friedman, LLP
- (2) Kirkland & Ellis, LLP
- (3) Loeb & Loeb, LLP

Enclosed is the ‘Justification for Contract between the New York State Assembly and Kasowitz Benson Torres Friedman LLP’, together with pertinent pages of the August 2013 Contract, #C111945.

The Contract limits compensation for services to \$50,000. Paragraph S states:

‘This agreement will not take effect until approved, in writing, hereon by the Offices of the Attorney General and State Comptroller of the State of New York.’ (underlining added).

Page 5 is a signature page for the parties, followed by a section entitled ‘APPROVED AS TO FORM’, which has lines for the signatures of the Attorney General and Comptroller and for the dates thereof. These are each stamped. The Attorney General’s stamp reads: ‘APROVED AS TO FORM NYS ATTORNEY GENERAL SEP 25 2013 Lorraine I. Remo LORRAINE I. REMO, PRINCIPAL ATTORNEY’.

Paragraph J of the Contract states:

‘The Assembly may, at any time, by written notice, make changes in or additions to work or services within the general scope of this contract upon the approval of the Office of the Attorney General and the Office of the State Comptroller. ...’ (underlining added).

Paragraph O of the Contract states:

‘No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing, executed by the parties hereto, and approved by the Offices of the Attorney General and Comptroller of the State of New York ...’ (underlining added).

Attached is a November 27, 2013 letter signed by the parties modifying Contract #C111945 by increasing compensation for services to \$350,000, together with a December 2, 2014 acknowledgment of firm or partnership pertaining thereto. Neither reflect approval of the Attorney General and Comptroller.

Paragraph D of the Contract states:

‘The retained attorney or law firm will represent the New York State Assembly in judicial litigation related to the services to be provided under this agreement only when such services are specifically requested by the Assembly and approved by the Attorney General. Such approval must be requested separately for each matter to be litigated and must be received prior to the commencement of services.’ (underlining added).

Request is made for:

- (1) all publicly-available records pertaining to the ‘Justification for Contract’, including the names of the ‘Several law firms’ which were contenders for the Contract and their supporting proposals/memos, if any;
- (2) all publicly-available records establishing the Attorney General’s approval of Contract #C111945, pursuant to Contract paragraph S;
- (3) all publicly-available documents establishing the Attorney General’s approval of the November 27, 2013 modification - and of any further modifications - pursuant to Contract paragraphs J and O;
- (4) all publicly-available documents reflecting the Attorney General’s approvals of the ‘specifically requested’ authorizations for ‘Judicial litigation related to the services to be provided under this agreement’ which the Assembly was required to have ‘requested separately for each matter’, pursuant to Contract paragraph D - most importantly, for the declaratory judgment action against the Commission to Investigate Public Corruption, whose verified complaint, dated November 22, 2013, was filed on that date in Supreme Court/New York County (#160941/2013).

Presumably, the Attorney General and Comptroller were required to approve comparable

contracts for the New York State Senate and Kirkland & Ellis, LLP and for Temporary Senate President Jeffrey Klein and Loeb & Loeb, LLP. Pursuant to FOIL, request is made for:

(5) copies of the contracts for the Senate and Kirkland & Ellis, LLP and for Temporary Senate President and Loeb & Loeb, LLP, including 'Justifications' and supporting proposals/memos, approved by the Attorney General;

(6) such modifications of the contracts as the Attorney General approved;

(7) the Attorney General's approvals of the separately-requested authorization of judicial litigation 'for each matter', most importantly, for the declaratory judgment action against the Commission to Investigate Public Corruption, whose verified complaint, dated November 22, 2013, was filed on that date in Supreme Court/New York County (#160941/2013).

Pursuant to Public Officers Law § 89.3, your response is required 'within five business days' of your receipt of this request. I would appreciate if you e-mailed it to me at elena@judgewatch.org."

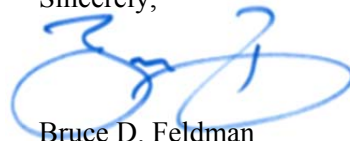
Attached to this e-mail are documents numbered 140346-1 through 140346-18 that respond to your request.

Under Public Officers Law § 87(2)(a), records that are exempted from disclosure by state or federal statute are exempt from disclosure under FOIL. Please be advised that certain records responsive to your request are exempt from disclosure and have been withheld pursuant to Civil Practice Law and Rules § 3101(c) because the records constitute attorney work product.

Further, please be advised that certain records responsive to your request are exempt from disclosure and have been withheld pursuant to Public Officers Law § 87(2)(g) because the records are intra-agency materials.

You have a right to appeal the foregoing decision. If you should elect to file such an appeal, your written appeal must be submitted no later than 30 days after your receipt of this letter to Kathryn Sheingold, Records Appeals Officer, State of New York, Office of the Attorney General, Division of Appeals and Opinions, The Capitol, Albany, New York 12224. You may reach the Records Appeals Officer at (518) 473-2533.

Sincerely,



Bruce D. Feldman
Assistant Attorney General

Attachment