

CENTER for JUDICIAL ACCOUNTABILITY, INC.

Post Office Box 8101
White Plains, New York 10602

Tel. (914)421-1200

E-Mail: mail@judgewatch.org
Website: www.judgewatch.org

January 15, 2025

TO: NYS Commission on Legislative, Judicial & Executive Compensation
NYS Division of the Budget

FROM: Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: FOIL Request – The Division of the Budget’s Assistance to the Commission on Legislative, Judicial & Executive Compensation in the Second Phase of its Work

At the June 27, 2024 first meeting on legislative and executive compensation of the [Commission on Legislative, Judicial and Executive Compensation](#), Chair Fahey introduced “James Dewan from the New York State Division of Budget”, thereupon asking him to give his “title [] and [] a brief sense of what your experience is” ([VIDEO](#), [Transcript](#), at 7). Mr. Dewan stated:

“I am a unit head over the Division of Budget’s General Government and Workforce Unit. In that capacity, we manage any budgetary issues related to New York State’s workforce, as well as considering the issues that are presented by Executive Law with the payment of agency commissioners that are named in Section 169 of the Executive Law. I’ve worked for the State for nearly 20 years. Most of that experience has been with the Division of the Budget managing relations issues. That includes New York State’s negotiation with our public employee unions and looking at the cost of New York State’s workforce and considering how New York State compensates its workforce in terms of both salary and also the cost of fringe benefits as well.”

Mr. Dewan’s presence was for purposes of assisting the Commission with its “background research” (Tr. 16) and Chair Fahey stated the timetable and protocol (Tr. 21-22):

“if you can get it to us in the first week of September, we’ll have more questions then, that’s the way it works, and we’ll send you something in writing saying these are the kind of questions we have and we’ll follow-up with you and you and I can talk directly about it also”.

It was also expected that Mr. Dewan or some other representative of the Division of the Budget would attend and participate at the Commission’s October 10, 2024 public hearing – and the colloquy was as follows (Tr. 22):

Comm’r Kovner: “And you can anticipate at a public hearing many people will testify and if you are attending on behalf of the Department, the Budget Department, you’ll be asked – there will be questions that you will be in the lead in terms of answering.

Dewan: “Of course. I’d be happy to do that.

Chair Fahey: “Something to look forward to.

...

Dewan: “Mark that on my calendar...People have thoughts. It’s good to understand what people’s viewpoints are.”

Pursuant to FOIL ([Public Officers Law Article VI](#)), this is to request:

1. records reflecting who at the Commission requested and who at the Division of the Budget selected/authorized/directed Mr. Dewan to “help [the Commission] do background research”;
2. all records that Mr. Dewan furnished the Commission pertaining to the commissioners’ requests at the June 27, 2024 meeting, and, specifically:
 - (a) “about the history of Section 169” that Mr. Dewan stated he had (Tr. 10);
 - (b) about “the board members that are covered under Section 169 that are subject to the Commission’s jurisdiction that are not full-time positions...[and confirm[ation] that those individuals that are board members are allowed to have...outside income”, as stated by Mr. Dewan (Tr. 14);
3. all records as to non-salary other “compensation” and “fringe benefits” of the statewide elected officers, the legislative elected officers, and the Executive Law §169 state officers that Mr. Dewan would have reasonably furnished the Commission, consistent with “how New York State compensates its workforce” and the express requirements of [Chapter 60, Part E, of the Laws of 2015](#);
4. all records reflecting whether Mr. Dewan furnished the above “in the first week of September” and, if not, the date he did;
5. all records of the Commission’s questions and additional requests to Mr. Dewan in response such “background research” as Mr. Dewan initially furnished – and of Mr. Dewan’s responses and the subsequent exchanges;
6. all records reflecting who compiled and approved the document entitled “[Compensation Commission Information](#)”, dated September 27, 2024, from the Division of the Budget, but not bearing the name of any person – and not posted on the Commission’s website prior to its October 10, 2024 hearing at which its 27 pages were presented by Chair Fahey, as a “slideshow” ([VIDEO](#), at 25mins-39mins, [Transcript](#), 6, 16-23);
7. all records reflecting why, at the October 10, 2024 hearing, Mr. Dewan did not himself present the September 27, 2024 “Compensation Commission Information” and did not attend the hearing;

8. all records reflecting why the September 27, 2024 “Compensation Commission Information” has no “information about the history of Section 169”, no information as to whether Section 169 board members are “full-time” and “allowed to have...outside income”, and no information about non-salary “compensation and non-salary benefits”;
9. all records reflecting why the chart entitled “History of General Salary Increases for Unionized Employees” at page 7 of the “Compensation Commission Information” states:

“The salaries of statewide elected officials and the individuals appointed to EXL §169 positions were last updated in January 2021”

when that is obviously incorrect based on the chart at page 2 entitled “Compensation Commission Determination Summary”, showing salary increases subsequent to 2021 for at least some “EXL §169 positions” in “Tier C” and “Tier D”;

10. all records pertaining to the salary increases for “Tier C” and “Tier D” “EXL §169 positions” subsequent to 2021;
11. all records reflecting approval/oversight by the executive and legislative branches of the \$750,000 salary of “SUNY Chancellor” and \$464,000 salary of “SED President”, listed at page 8 of the “Compensation Commission Information” on the chart entitled “NYC Comparable Salaries – Tier A”, annotated by an asterisk reading “Salary exceeds EXL §169 salary due to Board Action”.
12. all records as to the “history of Section 169” as relates to [Executive Law §169.3](#) and the “salary plans” pertaining to SUNY and CUNY pursuant thereto promulgated over the course of that “history”;
13. all records reflecting whether the two charts accompanying the Commission’s recommendations for “EXL §169 positions” in its [November 14, 2024 Report](#) (at pp. 11-13) are the work-product of the Division of the Budget;
14. all records of the Division of the Budget’s calculations as to the cost to the state of the salary increases for “EXL §169 positions” recommended by the [Commission’s November 14, 2024 Report](#) (at pp. 11-13) and, additionally, of the cost of its concomitant salary-based other “compensation” and benefits – including in response to inquiry of Commissioner Megna or other commissioners prior to approval of the Report.

Thank you.