

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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December 2, 2016

TO: Senate FOIL Appeals Officer/Senate Republican Conference Counsel Beth Garvey

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

RE: APPEAL: FOIL/RECORDS REQUEST: Senate-Assembly contract(s) with EFPR Group, LLP for this year's 'independent audit' of the 'internal controls' of the Senate & Assembly

Pursuant to the Senate's "Rules and Regulations Relating to Public Inspection and Copying of Legislative Records", §9 "Appeals", I here appeal Secretary of the Senate Francis Patience's December 1, 2016 denial of my above-entitled records request dated November 23, 2016. As required, copies of both documents are attached.

Secretary of the Senate Patience correctly identifies that I have requested:

“a copy of the Senate and Assembly contract(s) with EFPR Group, LLP to conduct this year's independent audit of the internal controls of each house of the Legislature...”

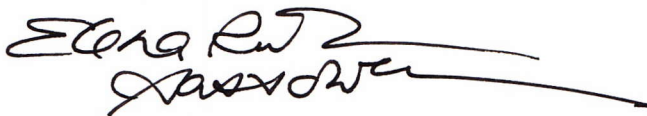
However, he then goes on to state:

“the records you request, if the records even exist, are not subject to disclosure pursuant to Senate rules”.

Tellingly, he does not specify the Senate rule exempting the contract from disclosure – and I do not believe the contract to be exempt.

Please advise, e-mailing your appeal decision to me at [elena@judgewatch.org](mailto:elena@judgewatch.org)

Thank you.



Enclosures

cc: Secretary of the Senate Francis Patience  
Assembly Records Access Officer Robin Marilla  
New York State Committee on Open Government Executive Director Robert Freeman  
Douglas Zimmerman, Chief Operating Officer/EFPR Group, LLP

## Center for Judicial Accountability, Inc. (CJA)

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**From:** Senate Foil <foil@nysenate.gov>  
**Sent:** Thursday, December 1, 2016 11:17 AM  
**To:** Center for Judicial Accountability, Inc. (CJA)  
**Subject:** Re: FOIL/RECORDS REQUEST: Senate-Assembly Contract(s) with EFPR Group, LLP for this Year's "Independent Audit" of the "Internal Controls" of the Senate & Assembly  
**Attachments:** Rules and Regulations March 2013.pdf

December 1, 2016

Ms. Elena Ruth Sassower, Director  
Center for Judicial Accountability, Inc.  
Post Office Box 8101  
White Plains, NY 10602  
cja@judgewatch.org

Dear Ms. Sassower:

This is to acknowledge receipt of your email dated November 23, 2016 pursuant to the Freedom of Information Law in response to my letter of the same date.

You are requesting ... " a copy of the Senate and Assembly contract(s) retaining EFPR Group, LLP to conduct this year's independent audit of the internal controls of each house of the Legislature ... ".

Please be advised the records you request, if the records even exist, are not subject to disclosure pursuant to Senate Rules.

I have attached a copy of the Senate's Rules and Regulations Relating to the Public Inspection and Copying of Legislative Records for your information.

Sincerely,

Francis W. Patience  
Secretary of the Senate

(See attached file: Rules and Regulations March 2013.pdf)

From: "Center for Judicial Accountability, Inc. \{(CJA)\}"  
<elena@judgewatch.org>  
To: "'Senate Foil'" <foil@nysenate.gov>, "Robin Marilla"  
<marillar@assembly.state.ny.us>  
Cc: <DZimmerman@EFPRgroup.com>

From: "Center for Judicial Accountability, Inc. \ (CJA\)"  
<elena@judgewatch.org>  
To: <foil@nysenate.gov>, "Robin Marilla"  
<marillar@assembly.state.ny.us>  
Cc: <DZimmerman@EFPRgroup.com>  
Date: 11/23/2016 01:46 PM  
Subject: RECORDS REQUEST: Compliance with Legislative Law Sec. 91

TO: Secretary of the Senate Francis Patience

Assembly Records Access Officer Robin Marilla

Attached is the Center for Judicial Accountability's above-entitled records request of today's date.

Thank you.

Elena Sassower, Director

Center for Judicial Accountability, Inc. (CJA)

914-421-1200

[www.judgewatch.org](http://www.judgewatch.org)

cc: Douglas Zimmerman, Chief Operating Officer/EFPR Group, LLP

## Center for Judicial Accountability, Inc. (CJA)

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**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
**Sent:** Wednesday, November 23, 2016 3:45 PM  
**To:** 'Senate Foil'; Robin Marilla  
**Cc:** 'DZimmerman@EFPRgroup.com'  
**Subject:** FOIL/RECORDS REQUEST: Senate-Assembly Contract(s) with EFPR Group, LLP for this Year's "Independent Audit" of the "Internal Controls" of the Senate & Assembly

TO: Secretary of the Senate Francis Patience  
Assembly Records Access Officer Robin Marilla

Below is Secretary of the Senate Patience's e-mail response of today's date to CJA's November 17, 2016 FOIL/records request, also below.

In light thereof and pursuant to Senate Rule VII ("Freedom of Information") and Assembly Rule VIII ("Public Access to Information"), this is to request a copy of the Senate and Assembly contract(s) retaining EFPR Group, LLP to conduct this year's independent audit of the internal controls of each house of the Legislature.

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
914-421-1200  
www.judgewatch.org

cc: Douglas Zimmerman/Chief Operating Officer/EFPR Group, LLP

-----Original Message-----

From: Senate Foil [mailto:foil@nysenate.gov]  
Sent: Wednesday, November 23, 2016 10:47 AM  
To: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
Subject: Re: This Year's "Independent Audit" of the "Internal Controls" of the Senate & Assembly, Pursuant to Legislative Law Sec. 92

November 23, 2016

Ms. Elena Ruth Sassower, Director  
Center for Judicial Accountability, Inc.  
Post Office Box 8101  
White Plains, NY 10602  
cja@judgewatch.org

Dear Ms. Sassower:

This is to acknowledge receipt of your email dated November 17, 2016 pursuant to the Freedom of Information Law.

You are requesting ... “ the written “requests for proposals” of Temporary Senate President John Flanagan and Assembly Speaker Carl Heastie; the winning proposal of EFPR Group, LLP; and the proposals submitted by other certified public accounting firms – or records reflecting the number and names of such firms ... ” .

Please be advised that no documents exist relevant to your request.

I have attached a copy of the Senate’s Rules and Regulations Relating to the Public Inspection and Copying of Legislative Records for your information.

Sincerely,

Francis W. Patience  
Secretary of the Senate

(See attached file: Rules and Regulations March 2013.pdf)

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From: "Center for Judicial Accountability, Inc. \CJA\"  
<elena@judgewatch.org>  
To: <foil@nysenate.gov>, <marillar@assembly.state.ny.us>  
Cc: <DZimmerman@EFPRgroup.com>  
Date: 11/17/2016 08:21 AM  
Subject: This Year's "Independent Audit" of the "Internal Controls" of the Senate & Assembly, Pursuant to Legislative Law Sec. 92

TO: Secretary of the Senate Francis Patience  
Assembly Records Access Officer Robin Marilla

Legislative Law Article VI, entitled “Internal Control Responsibilities of the State Legislature”, reads as follows with respect to “Independent audits” – the subject of its §92:

“1. At least once every three years, the independent certified public accountants selected pursuant to this section shall conduct audits of the internal controls of each house of the legislature. Such audits shall be performed in accordance with generally accepted government auditing standards and shall include a report on whether the respective house's internal controls are established and functioning in a manner that provides reasonable assurance that they meet the objectives of internal control as defined in section eighty-nine of this article. The report shall identify the internal controls both evaluated and not evaluated and shall identify internal control weaknesses that have not been corrected and actions that are recommended to correct these weaknesses. If any such internal control weaknesses are significant or material with respect to each house, the independent auditor shall so state. The temporary president of the senate and the speaker of the assembly shall make available to the public the results of such audits, including any related management letters. The temporary president and the speaker and any officer or employee of each house shall make available upon request to such independent certified public accountants all books and records relevant to such independent audits.

2. The temporary president of the senate and the speaker of the assembly shall request proposals from independent certified public accountants for audits of the internal controls of their respective house. The requests for proposal shall include a reference to the requirements for audits conducted pursuant to subdivision one of this section. The temporary president and the speaker shall select such independent auditors in accordance with a competitive procedure including an evaluation, based on quality and price factors, of those proposals received in response to such requests for proposals.”

Pursuant to Senate Rule VII ("Freedom of Information"), Assembly Rule VIII ("Public Access to Information"), and Public Officers Law Article VI ("Freedom of Information Law" [F.O.I.L]), this is to request a copy of all publicly-available records pertaining to the "competitive procedure" utilized to select the independent certified public accounting firm for this year's "independent audit" of the "internal controls" of the Senate and Assembly, culminating in the selection of EFPR Group, LLP. This includes:

- (1) the written "requests for proposals" of Temporary Senate President John Flanagan and Assembly Speaker Carl Heastie;
- (2) the winning proposal of EFPR Group, LLP; and
- (3) the proposals submitted by other certified public accounting firms – or records reflecting the number and names of such firms.

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
914-421-1200  
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cc: Douglas Zimmerman, Chief Operating Officer/EFPR Group, LLP