June 10, 2014

Mr. Paul Joseph Harcz, Jr.

E-mail: joeharcz@comcast.net

1365 E. Mt. Morris Rd.

Mt. Morris, MI 48458

Re: Response to Your Email of 6-4-14 on the 4-30-2014, FOIA Response to Request for Information on L. Wilson & L. Elster, Affirmative Action Plan and RSA Reports

Dear Mr. Harcz, Jr.:

This email is in response to your June 4, 2014, email (which is below) in which you responded to my April 30, 2014, FOIA Response regarding the subject above.

Please be advised of the following:

34 C.F.R. 361.19 is entitled “Affirmative Action for Individuals with Disabilities.” It reads,

“The State plan must assure that the State agency takes affirmative action to employ and advance in employment qualified individuals with disabilities covered under and on the same terms and conditions as stated in section 503 of the Act.

Authority: Section 101(a)(6)(B) of the Act; 29 U.S.C. 721(a)(6)(B)).”

Response – P.J. Harcz, Jr.

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Section 361.19 specifically mentions that the state’s “affirmative action to employ and advance” individuals with disabilities are to comply with Section 503 of the Act.

“The Act” is the Vocational Rehabilitation Act of 1973. In its current form, Section 503 is found under the citation 29 C.F.R. 793, entitled “Employment under Federal Contracts.” Subpart (a) reads:

“Any contract in excess of $10,000 entered into by any Federal department or agency for the procurement of personal property and non-personal services (including construction) for the United States shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified individuals with disabilities. The provisions of this section shall apply to any subcontract in excess of $10,000 entered into by a prime contractor in carrying out any contract for the procurement of personal property and non-personal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within ninety days after September 26, 1973.”

Therefore, 34 CFR 361.19 essentially states the following:

“The State plan – which is given to the Secretary describing the State’s services for vocational rehabilitation and the policies that will be followed – must assure that the State agency takes affirmative action to employ and advance in employment qualified individuals with disabilities covered under and on the same terms and conditions as stated in section 503 of the Act – that is, if the contract or subcontract for

Response – P.J. Harcz, Jr.

June 10 2014

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employment is (1) entered into with a Federal Department or Agency, (2) is in excess of $10,000 and (3) is for procurement of personal property or non-personal services for the United States, the contract should contain a provision that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified individuals with disabilities.”

Mr. Harcz, 1.9% of Michigan’s population is defined as legally blind. The Bureau of Services for Blind Persons employs approximately 20% of its workforce classified as legally blind. Clearly, we are in compliance with all diversity mandates.

Sincerely,

Carla Miller Haynes, FOIA Coordinator

Bureau of Services for Blind Persons

Attachment: Email Response

cc: Edward F. Rodgers II

Sue Luzenski

Mike Pemble

Katie Belknap

From: joe harcz Comcast [mailto:joeharcz@comcast.net]

Sent: Wednesday, June 04, 2014 9:05 AM

To: Haynes, Carla (LARA)

Cc: Rodgers, Edward (LARA); Luzenski, Sue (LARA); Pemble, Mike (LARA); Belknap, Katie (LARA)

Subject: Re: FOIA Response to Your Email of April 25, 2014 on Wilson-Elster Info, Affirmative Action

Plan & RSA Reports

Dear Ms. Hanes et al,

Please note the following requirments for BSBP from the Vocational Rehabilitation Act rules. And note that not one single person hired or designated as a "student assistant" by BSBP has been blind or otherwise disabled.

Citation:

Sec. 361.19 Affirmative action for individuals with disabilities.

 The State plan must assure that the State agency takes affirmative

action to employ and advance in employment qualified individuals with

disabilities covered under and on the same terms and conditions as

stated in section 503 of the Act.

(Authority: Section 101(a)(6)(B) of the Act; 29 U.S.C. 721(a)(6)(B))

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

From: Haynes, Carla (LARA)

To: joe harcz Comcast

Cc: Rodgers, Edward (LARA) ; Luzenski, Sue (LARA) ; Pemble, Mike (LARA) ; Belknap, Katie (LARA)

Sent: Wednesday, April 30, 2014 4:48 PM

Subject: FOIA Response to Your Email of April 25, 2014 on Wilson-Elster Info, Affirmative Action Plan &

RSA Reports

April 30, 2014

Mr. Paul Joseph Harcz, Jr.

E-mail: joeharcz@comcast.net

1365 E. Mt. Morris Rd.

Mt. Morris, MI 48458

Re: FOIA Response to Request for Information on L. Wilson & L. Elster,

Affirmative Action Plan and RSA Reports

Dear Mr. Harcz, Jr.:

Previously on March 11, 2014, you requested under the Freedom of

Information Act (FOIA), information described in your email

as: “Regardless I’m requesting the federal funds expended for the hiring

of Ms. Lindsey Wilson and Ms. Lauren Elster you have expended for their

jobs sir and what V.R. tasks they do on behalf of V.R. of the blind in

Michigan.” You do not ask for the salaries of Ms. Elster and Ms. Wilson.

Please be advised that Ms. Wilson no longer is employed by the Bureau of

Services for Blind Persons (BSBP). At the time of her employment she

received $15.03 per hour only for the hours she worked. She received no

benefits. Student Assistants are not full-time employees entitled to

benefits.

Presently Ms. Elster is currently earning $15.03 per hour for the hours she

works. She does not receive benefits.

Previously, you requested information described as: “Moreover, I am

requesting your (BSBPs/LARAs) affirmative action plan under Section 503

as required by the above referenced, legal and regulatory requirements.”

Section 503 of the Rehabilitation Act of 1973, as amended, states, “Any

contract in excess of $10,000 entered into by any Federal department or

FOIA Response – P.J. Harcz, Jr.

April 30, 2014

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agency for the procurement of personal property and nonpersonal services

for the United States shall contain a provision requiring that the party

contracting with the United States shall take affirmative action to employ

and advance in employment qualified individuals.” 29 USC § 793 (1993).

This section was incorrectly cited. It does not apply to the Michigan Bureau

of Services for Blind Persons, as the Bureau is not a Federal department

or agency. Furthermore, it does not require an affirmative action

plan. Rather, it mandates that contracts for personal or nonpersonal

property in excess of $10,000 entered into by Federal departments or

agencies, which this Bureau is not, include a provision requiring the

contractor to take affirmative action. It does not require the installation of a

Bureau sponsored affirmative action program, as the FOIA request

suggests.

You did not previously request our “affirmative action program”. BSBP has

worked diligently to provide employment for members of the blind

community. Presently 20% of BSBP’s employees are legally blind. In

summary, we previously did answer your questions on the student

assistant and affirmative action plan, however, your April 25 (Friday),

2014, email sent at 10:28 PM is incorrect. We did respond to your two

requests as indicated above.

You have requested information in your April 25, 2014, email which you

describe as: “Moreover when it comes to the RSA 15 and 911 reports I did

not ask for an out of date RSA web site but, rather for BSBP’s submission

in my most accessible format and in a timely manner, without surcharge in

compliance with the ADA and 504.”

Please be advised that the RSA 911 report is a “text file” which contains

only numbers. This file is transmitted to RSA based on closures. If you

wish to have us to attempt to produce this file, we estimate the cost for this

will be $104.70 (see attached invoice) to process this request. This will

require a deposit of $52.35 in advance of this project being completed.

FOIA Response – P.J. Harcz, Jr.

April 30, 2014

Page 3 of 3

Upon receipt of your deposit, we will transfer this data into a complete

document. Then we will send you a readable document.

Please be advised that the RSA 15 is submitted to RSA in their

format. Once they approve the report, it will be placed on the RSA

webpage. Therefore, your request is granted and the information will be

available on the RSA webpage.

Please note that nothing within the federal American with Disabilities Act

(ADA), Section 504 of the Rehabilitation Act of 1973 (RA), as amended, or

the state’s FOIA (MCL 15.231 et seq.) requires a public body to process

FOIA requests free of charge. Further, while the ADA and Section 504 of

the RA may mandate that, upon request, material be produced in an

accessible format without charge, neither the ADA or Section 504 of the

RA preclude a public body from charging costs under the state’s FOIA.

Thusly, please note that no labor fee charges have been, or will be,

assessed to convert existing, nonexempt public records responsive to your

requests into an accessible format to forward to you.

Sincerely,

Carla Miller Haynes, FOIA Coordinator

Bureau of Services for Blind Persons

Attachment: Email Request for Information

cc: Edward F. Rodgers II

 Sue Luzenski

 Mike Pemble

 Katie Belknap

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF SERVICES FOR BLIND PERSONS

FREEDOM OF INFORMATION ACT INVOICE

NAME AND ADDRESS OF REQUESTER:

Mr. Paul Joseph Harcz, Jr.

E-mail: joeharcz@comcast.net

1365 E. Mt. Morris Rd.

Mt. Morris, MI 48458

REQUEST RECEIVED: March 11, 2014

TYPE OF REQUEST: Email

REQUEST PARTIALLY DENIED: Yes

EXEMPT INFORMATION WITHHELD/REDACTED: To be determined

EXTENDED RESPONSE NOTICE ISSUED: No

REQUESTED INFORMATION WILL BE: Emailed/Invoiced For Payment

ACCOUNT CODE: Index: 36200 PCA: 11343

DLARA CONTACT: Melvin Farmer, Central FOIA Coordinator

(517) 373-0194, Ottawa Building, 4th Floor, 611 W. Ottawa, Lansing,

MI 48909

The FOIA provides that the department may charge a fee to comply with

requests for public records. The processing fee is composed of hourly

wages and benefit costs of the lowest paid employee(s) capable of

processing the request; the duplication of records at assessed costs per

page; mailing costs; and other related special costs. Prior to searching

and copying requested records, the department may request full payment

or 50% of the estimated costs exceeding $50.00 with the balance required

before mailing the records. Assessed costs are related to your request for:

“Moreover when it comes to the RSA 15 and 911 reports I did not ask for

an out of date RSA web site but, rather for BSBP’s submission in my most

accessible format and in a timely manner, without surcharge in compliance

with the ADA and 504.”

INVOICE CALCULATIONS

LABOR

 Locating and Duplicating Cost:

Number of Hours: 1 hrs. x Hourly Rate (of the Departmental

Analyst required to retrieve the report): $54.37 =

Amount: $54.37

 Examining and Extracting Cost:

Number of Hours: 1 hrs. x Hourly Rate (of the Departmental

Analyst required to retrieve the report): $50.33 = Amount:

$50.33

TOTAL LABOR: $104.70

POSTAGE (estimate): To be determined based on the amount of

information

DUPLICATING: Number of Pages (0) times Copying Rate of $0

OTHER (overtime, audio tapes, discs, photos, security, etc.): $0

SUBTOTAL: $104.70

Less waived indigency fee under FOIA Act MCL 15.234 Section 4(1):

INVOICE TOTAL: $104.70

DEPOSIT\* $52.35

TO BE PAID\*: $52.35

Make check or money order payable to: STATE OF MICHIGAN

Remit to: Department of Licensing and Regulatory Affairs

Office Services Mailroom

7150 Harris Drive, PO Box 30015

Lansing, MI 48909

RETURN ORIGINAL COPY OF THIS INVOICE WITH YOUR PAYMENT

\*Please note that if a deposit is requested, the indicated amount is an

estimate of the cost of complying with your request. The actual cost may

vary somewhat from this amount.

?

From: joe harcz Comcast <joeharcz@comcast.net>

Sent: Friday, April 25, 2014 10:28 PM

To: Haynes, Carla (LARA)

Cc: Rodgers, Edward (LARA); Christyne.Cavataio@ed.gov; BRIAN

SABOURIN; Marlene Malloy MCRS Dir.; nfbmi-talk@nfbnet.org;

MARK MCWILLIAMS MPAS; Elmer Cerano MPAS; MARK CODY; Joe

Sibley MCBVI Pres.; commissioner-hudson@outlook.com;

BSBPcommissioners

Subject: non responsive

This is non-responsive.

I requested the salaries of Ms. Elster and Ms. Wilson respectively. These

were not forthcoming or answered.

Moreover I requested the Section 503 of the Rehabilitation Act affirmative

action program which is federally required and not the ersatz, state rights,

bogus affirmative action program.

Moreover when it comes to the RSA 15 and 911 reports I did not ask for

an out of date RSA web site but, rather for BSBP’s submission in my most

accessible format and in a timely manner, without surcharge in compliance

with the ADA and 504.

To wit send me these things once again without obfuscation or without

invocation of state rights over federally prescribed civil rights laws as

you’ve been notified of over and over again.

And send them to me as plain text attachments and/or Word attachments

to my e-mail address.

This isn’t difficult for a federally funded organization supposedly for the

blind by all the RSA millions is it?

April 14, 2014

Mr. Paul Joseph Harcz, Jr.

E-mail: joeharcz@comcast.net

1365 E. Mt. Morris Rd.

Mt. Morris, MI 48458

Re: FOIA Response to Request for Information on L. Wilson & L. Elster,

Affirmative Action Plan and RSA Reports

Dear Mr. Harcz, Jr.:

This email is in response to your March 25, 2014, email request for

information, received by this office on March 26, 2014, of which an

extension was taken to April 11, 2014. Please be advised that the Bureau

of Services for Blind Persons (BSBP) is processing this request under the

state’s Freedom of Information Act (FOIA), MCL 15.231 et seq.

You have requested information as described in your email which also is

included below.

“Regardless I’m requesting the federal funds expended for the hiring of

Ms. Lindsay Wilson and Ms. Lauren Elster you have expended for their

jobs sir and just what V.R. tasks they do on behalf of V.R. of the blind in

Michigan.

Moreover, I am requesting your (BSBps/LARAs) affirmative action plan

under Section 503 as required by the above referenced, legal and

regulatory requirements.

Also, I am requesting in accessible format and also to be posted forthwith

to the BSBP web site all financial and other reports that are required to be

sent to RSA. That includes in part all RSA 15 reports, all RSA (CSR 911)

reports, and all reports relative to the implementation of the State Plan

including all standards and indicators.”

FOIA Response – P.J. Harcz, Jr.

April 14, 2014

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In regards to your request for information regarding Ms. Lindsay Wilson

and Ms. Lauren Elster, your request is partially granted and partially

denied. As to the granted portion, the job specifications and pay range for

the State of Michigan Student Assistant classification is available online at

www.michigan.gov/mdcs, then Job Specifications/Pay, Student

Assistant. I have also attached a copy of the LARA General Policy,

Student Assistant Program. In regards to the denied portion of your

request, under the FOIA, MCL 15.233, Section 3(5), does not require a

public body to create a new record. To the best of my knowledge,

information or belief, we do not have documents in our possession

responsive to your request.

In regards to your request for information regarding “your (BSBps/LARAs)

affirmative action plan under Section 503 as required by the above

referenced, legal and regulatory requirements”, your request is granted as

to documents pertaining to this request. I have attached the LARA

General Policy, Equal Employment Opportunity.

In regards to your request for “all financial and other reports that are

required to be sent to RSA. That includes in part all RSA 15 reports, all

RSA (CSR 911) reports, and all reports relative to the implementation of

the State Plan including all standards and indicators”, these reports are

available on the web at www.rsa.ed.gov/, then select Michigan, then

Reports and More RSA Programs (note that depending on which fiscal

year you are searching for, the report may be either under Michigan

Licensing and Regulatory Affairs (MLRA) or Michigan Commission for the

Blind).

Under the provisions of MCL 15.240, Section 10(1) of the state’s FOIA,

you may (1) submit a written appeal regarding the disclosure denial of any

portion of your FOIA request to Steve Arwood, Director, Michigan

Department of Licensing and Regulatory Affairs, Attention: Michael

Zimmer, Chief Deputy Director, P.O. Box 30004, Lansing, MI 48909. Your

appeal must include the word “appeal” and identify the reason(s) for

reversal of any disclosure denials; or (2) you may file an action in an

appropriate court within 180 days after this notice. If you prevail in court

action, the court may award you reasonable attorney fees, costs, and

FOIA Response – P.J. Harcz, Jr.

April 14, 2014

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disbursements. If the court finds the Department’s actions to be arbitrary

and capricious, the court shall award you, in addition to any actual or

compensatory damages, punitive damages in the amount of $500.00.

Sincerely,

Carla Miller Haynes, FOIA Coordinator

Bureau of Services for Blind Persons

Attachment: Email Request for Information

cc: Edward F. Rodgers II

 Sue Luzenski

 Mike Pemble

 Katie Belknap

From: joe harcz Comcast [mailto:joeharcz@comcast.net]

Sent: Tuesday, March 25, 2014 12:28 PM

To: Rodgers, Edward (LARA)

Cc: Elmer Cerano MPAS; MARK MCWILLIAMS MPAS;

Christyne.Cavataio@ed.gov

Subject: Fw: section 503 and more

 I've not recieved even a response to this request for information let

alone

the information which is a violation of the ADA and Section 504 of

theRehabilitation Act in and of itself.

Sincerely,

Paul Joseph Harcz, Jr.

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

From: joe harcz Comcast

To: Ed Rodgers BSBP Dir.

Cc: nfbmi-talk@nfbnet.org ; Zimmer, Mike (LARA) ; Steve Arwood LARA

Dep ;

Christyne.Cavataio@ed.gov ; Marlene Malloy MCRS Dir. ; valarie Barnum

Yarger MISILC ; BRIAN SABOURIN ; Elmer Cerano MPAS ; MARK CODY

; MARK MCWILLIAMS MPAS ; Sally Conway USDOJ

Sent: Tuesday, March 11, 2014 2:44 PM

Subject: section 503 and more

March 11 2014 to Rodgers vis a vis Section 503 and More

Paul Joseph Harcz, Jr.

1365 E. Mt. Morris Rd.

Mt. Morris, MI 48458

joeharcz@comcast.net

810-516-5262

To:

Edward Rodgers,. LARA, Bureau of Services to Blind Persons (BSBP)

Via e-mail….

Sir,

Let me point your attention to the following requirement for affirmative

action in the hiring of people with disabilities under Section 503 of the

Rehabilitation Act of 1973 as amended: “From Title I (VR)

regulations....individuals with disabilities.

The State plan must assure that the State agency takes affirmative action

to employ and advance in employment qualified individuals with disabilities

covered under and on the same terms and conditions as stated in section

503 of the Act.

(Authority: Section 101(a)(6)(B) of the Act; 29 U.S.C. 721(a)(6)(B))

“

Let me also note for the record that you and BSBP have not followed this

in the hiring, of people who are blind or otherwise disabled in its own

practices sir. To wit: you and your minions in LARA have hired dozens

upon dozens of “student assistants” and others since you took over BSBP

and not one. I repeat not one is a person with significant disabilities let

alone others hired for various projects that are not V.R. related like those

non-disabled, non-blind law clerks you’ve hired with federal V.R. funds to

do Lord knows what?

Regardless I’m requesting the federal funds expended for the hiring of Ms.

Lindsay Wilson and Ms. Lauren Elster you have expended for their jobs sir

and just what V.R. tasks they do on behalf of V.R. of the blind in Michigan.

Moreover, I am requesting your (BSBps/LARAs) affirmative action plan

under Section 503 as required by the above referenced, legal and

regulatory requirements.

In short you sir are running a V.R. entity to employ the blind and you must

have under Federal law (again citation above) the affirmative action

requirements for doing so within your own entity.

Furthermore I’m requesting this information in accessible format pursuant

to obligations under Section 504, the ADA and other federal civil rights

laws in my most accessible format and without surcharge, and without you

continually abusing state law (FOIA) to exact a surcharge or illegally and in

demonstrable discriminatory fashion otherwise, obfuscate obligations

under the ruse of the FOIA. Sir, these documents and information

requested are already required to be made public, for free and in

accessible format to me and thee and the proverbial man behind the tree. I

simply again request that all requested information is posted to

LARA’s/BSBP’s web site and sent to me as either plain text/and/or Word

attachments to my e-mail adress as you know…Or better all of the

above….

These are clearly federalism issues. But state laws or their abuse never

trump federal law and most especially in federally funded programs for

people with disabilities which wouldn’t exist without the laws or the funding

to begin with.

You and the legal obfuscators and abusers within this state can obfuscate

and in Orwellian fashion abuse all you wish. But if you don’t remit

accessible documents related to these activities there will be a legal

reckoning.

Better to remit them now than to face Section 1983 actions including those

against you personally for your documented civil rights abuses with

knoledge and forethought don’t you think?

Also, I am requesting in accessable format and also to be posted forthwith

to the BSBP web site all financial and other reports that are required to be

sent to RSA. That includes in part all RSA 15 reports, all RSA (CSR 911)

reports, and all reports relative to the implementation of the State Plan

including all standards and indicators.

Do it sir. Now, if not yesterday.

Sincerely,

Paul Joseph Harcz, Jr.

Cc: RSA

Cc: MCRS

Cc: NFB MI

Cc: several media

Cc: State Rep. Pam Faris

Cc: DSA J. Michael Zimmer, Steve Arwood

Cc: Sharon Ellis, State of Michigan ADA Compliance Officer?