May 22, 2012

Mr. David L. Rosen  
Office of Legislative Services  
Legislative Budget and Finance Officer  
State House Annex  
P.O. Box 068  
Trenton, NJ 08625-0608

Dear Mr. Rosen:

Included for your consideration are departmental responses to questions posed on April 26, 2012 at the Senate Budget and Appropriations Committee hearing.

**Senator Weinberg**

Responding to OLS Discussion Point #4 in the FY 2012-2013 Department of the Treasury Budget Analysis, the Treasury indicated that it settled one Open Public Records Act (OPRA) case in FY 2011 in which a plaintiff had appealed before the New Jersey Superior Court the Treasury’s decision to deny the plaintiff’s OPRA request. Neither party made admissions or concessions, but as part of the settlement the New Jersey State Lottery agreed to pay the plaintiff’s attorney fees of $2,621.45. Please provide background information on the case and the settlement.

**Response:** The case arose out of an August 2010 OPRA request asking for electronic format information of all New Jersey Lottery check registers from January 1, 2006 to December 31, 2009. The request was denied by Treasury within the required seven business day response period as confidential financial information not subject to OPRA.

At the end of October 2010, Treasury received a copy of the complaint filed in Superior Court (*Miller vs. New Jersey Department of the Treasury*) regarding this request. Upon review of the complaint, it was determined that the requested information was not available from any existing reports. Discussions between the two sides in this matter continued through late 2010 and early 2011 as part of an effort to work toward a settlement acceptable to both parties. To provide the information, and to do so in electronic format as requested, required combining files and creating a new record through custom programming. In creating this program, there was also an opportunity to exclude information specific to individuals (social security number, home address, etc.) and confidential information such as bank account numbers.
In February 2011 the settlement agreement was finalized. The requester agreed to pay a special service charge of $817.35 to Lottery for the extraordinary expenditure of time and effort required to create the report in response to the request. The New Jersey Lottery agreed to and paid the plaintiff’s attorney fees. The settlement was concluded without either party making admissions or concessions and included the dismissal of the Superior Court case, with prejudice, and without any costs or fees other than the attorney fees as previously noted.

**Senator Pou**

Please specify the actual amount of non-salary State government information technology expenditures in FY 2011 and the projected amount for FY 2012 and FY 2013.

**Response:** The amount of non-salary State government information technology expenditures in FY2011 was $169 million. The projected amounts of non-salary State government information technology expenditures for FY 2012 and FY 2013 are $132 million and $138 million respectively. These amounts include hardware, software, maintenance and consultant costs.

Sincerely,

Andrew P. Sidamon-Eristoff
State Treasurer

c: Mary Messenger, Assembly Democratic Office  
Jerry Traino, Assembly Republican Office  
Kimberly M. Clemmensen, Office of Legislative Services  
Thomas Koenig, Office of Legislative Services  
Charlene M. Holzbaur, Office of Management and Budget  
Eric D. Snyder, Treasurer’s Office