

STATE OF CONNECTICUT  
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Supriyo Chatterjee,

Complainant

against

Docket # FIC 2023-0243

Executive Director, CTNext LLC; and  
CTNext, LLC,<sup>1</sup>

Respondents

May 8, 2024

The above-captioned matter was heard as a contested case on September 20, 2023, February 9, 2024, and March 7, 2024, at which times the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

Pursuant to the Order of the Hearing Officer, the parties appeared for a continued hearing, on February 9, 2024, at which time the respondents made an additional witness available for direct and cross examination. Thereafter, the parties appeared for a second continued hearing on March 7, 2024, to allow for additional rebuttal testimony by the complainant as well as closing summations.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by email dated January 9, 2023, the complainant requested that the respondents provide him with copies of the following records:<sup>2</sup>

[a.] Meeting minutes, agendas, and records of voting in the Innovation Places Hartford/Launch Hartford meetings since the commencement of the program in 2017. This is elaborated in the CTNext and Innovation Places Grant Agreement at page 5 (see excerpt attached). ...

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<sup>1</sup> The caption has been amended to reflect the correct name of the respondent CTNext LLC.

<sup>2</sup> The Commission notes that the complainant contended, during the hearings and in his brief, that, in 2017, he requested from certain third-party entities certain records related to vendor bidding proposals and that he submitted a request to the respondents, on June 6, 2018, seeking financial records regarding "Hartford InsurTech program hosted by Startup Bootcamp." Such records requests are not the subject of the instant complaint and any claims regarding such requests are untimely. Accordingly, any allegations relating to such requests made in 2017 and 2018 shall not be further addressed herein. Should the complainant still seek those records, he is free to request them again.

[b.] The actual and complete financial statements submitted by Innovation Places Hartford/Launch Hartford for the two Digital Health accelerator programs held between 2019 and 2022. ...

3. It is found that, by email dated January 9, 2023, the respondents acknowledged the complainant's request, described in paragraph 2, above.

4. It is found that, by email dated February 7, 2023, the complainant followed up with the respondents seeking the status of the response to his records request, described in paragraph 2, above.

5. It is found that, by email dated March 14, 2023, the respondents provided the complainant with certain responsive records along with a memorandum and summary for context to the responsive records. It is also found that the respondents stated in such March 14, 2023 email that "the meeting minutes, agendas, and other records associated with Metro Hartford Alliance have not been retained by CTNext and are also not subject to this [Freedom of Information ("FOI") Act] request."

6. It is found that the complainant sent an email to the respondents on April 17, 2023, stating the following:

Please also include the list of all incomplete SOWs<sup>3</sup> and their respective funds returned to date (listed in the attached). As per the signed agreement between Metro Hartford Alliance and CTNext LLC ... if the Grant Recipient (i.e. Launch Hartford) fails to complete the Scope Of Work (SOW) by the date specified, the Grant Recipient (i.e., Launch Hartford) shall be required to return to CTNext grant proceeds not properly accounted for or used (see attached). I would like to point out that based on reports received to date - some SOWs do not appear complete or have fallen short and there may be more - SOW #4, #13, #16, #34, #36, #37A, #37B, & #39.

7. It is found that, by email dated April 17, 2023, the respondents replied to the complainant's April 17, 2023 email, described in paragraph 6, above as follows:

1. CTNext is certainly aware of the terms contained in the agreements with Metro Hartford.
2. We have been working on reconciling the Metro Hartford account. This effort continues and once completed we will forward you the information by the end of the Fiscal year at the very latest.

8. It is found that, by email to the respondents dated April 27, 2023, the complainant

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<sup>3</sup> The Commission notes that "SOW" refers to "Statement of Work."

renewed and clarified his records request described in paragraph 2, above, in relevant part, as follows:

As per the Innovation Places Grant Agreement between CTNext and Metro Hartford Alliance (on 9/22/2017) -the "fiduciary" Metro Hartford Alliance is to submit an audited annual financial report (see attached excerpt). May I have the aforementioned audited financial reports from 2017 to FY 2022 (June 30, 2022) showing the listed amount of SOW items that were returned as incomplete.... These returned SOW amounts would be to date (beyond June 30, 2022). I am attaching a copy of the original request made on January 9th, 2023. As stated in my original request - please also include the Meeting minutes, agendas, and records of voting in the Innovation Places Hartford/Launch Hartford meetings since the commencement of the program in 2017.

9. It is found that, on May 2, 2023, the respondents responded to the complainant, in relevant part, as follows:

[a.] Audits for 2017 through 2022. 2018 was the start year for Metro Hartford & CTNext. There is no 2017 audit. I have attached 2018, 2019, 2020 audits in 2 pdfs - one has 2 years. We have asked for the 2021 and 2022 from Metro Hartford and should receive shortly.

[b.] Metro Hartford meeting minutes, agendas, voting, etc... [I]f available, these are in the possession of Metro Hartford. CTNext does not have any of these records.

[c.] Q3-23 Quarterly report is not yet available. We will forward it to you when we receive it.

[d.] A reconciliation of the Metro Hartford Alliance along with funds to be returned will be available by the end of the fiscal as previously promised.

Per above, we still owe you - 2021 & 2022 audits, Q3-23 quarterly and a reconciliation of the Hartford Alliance SOWs.

10. By email dated May 17, 2023, the complainant appealed to this Commission alleging that the respondents violated the FOI Act by failing to comply with the requests described in paragraphs 2, 6, and 8, above.

11. In 1989, the Connecticut General Assembly created "as a body politic and corporate, constituting a public instrumentality and political subdivision of the state created for the performance of an essential public and governmental function, Connecticut Innovations,

Incorporated, [(“CI”),] which is empowered to carry out the purposes of the corporation, which are hereby determined to be public purposes for which public funds may be expended.” See §§32-11a and 32-35, G.S.

12. According to its website, CI is “Connecticut’s strategic venture capital arm and the leading source of financing and ongoing support for innovative, growing companies[;]” and CI offers “equity investments, strategic guidance and introductions to valuable partners, [thereby]...enabl[ing] promising businesses to thrive.”<sup>4</sup>

13. It is found that, on July 1, 2016, CI formed respondent CTNext LLC (“CTNext”), pursuant to §§32-39f *et seq.*, G.S., as a CI subsidiary pursuant to §32-11e, G.S. As a subsidiary of CI, CTNext is deemed a quasi-public agency and retains all the privileges, immunities, tax exemptions and other exemptions of CI, pursuant to §32-11e(c), G.S.

14. It is found that the primary purpose of CTNext is “to foster and oversee the growth and continuous improvement of a state-wide entrepreneurial ecosystem that is supportive of Connecticut innovators and entrepreneurs....” §32-39f, G. S.

15. It is found that, pursuant to §32-39k, G.S., the General Assembly established an innovation places program within CTNext, the main purpose of which is to:

(1) foster innovation and entrepreneurship by facilitating the designation and establishment of innovation places consisting of one or more compact geographic areas within the same municipality having entrepreneurial and innovation potential where (A) existing anchor institutions, institutions, companies and recreational spaces are in close proximity to start-up and growth stage businesses, (B) public transit is accessible, (C) a significant portion of the underlying zoning allows for mixed-use development, including, but not limited to, housing, office and retail, and (D) foot traffic is facilitated ....

16. It is found that CTNext is required to carry out certain program activities and make certain grants-in-aid, including, without limitation, innovation places grants-in-aid to innovation entities in designated innovation places to serve as hubs of entrepreneurship, innovation, business development, business growth and public/private collaborations. See §§32-39f and 32-39g, G. S.

17. It is found that, on July 1, 2020, CTNext entered into an “Innovation Places Grant Agreement” (the “Agreement”) with Metro Hartford Alliance, Inc. (“Metro Hartford Alliance”), the fiscal agent for the innovation place program known as Launc[H]artford. It is further found that Metro Hartford Alliance is a private, non-public, 501(c)(6) corporation and is not a subsidiary of CTNext nor CI.<sup>5</sup>

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<sup>4</sup> See <https://ctinnovations.com/>

<sup>5</sup> At the hearings, the complainant and the respondents testified, and it is found, that the Launc[H]artford program, or a predecessor thereto, began prior to 2020, however no additional contracts were submitted into evidence and there was a dispute as to the exact start date for such program.

18. It is found that, pursuant to Recital C of the Agreement, the proceeds of the grant funding, which CTNext provides to Metro Hartford Alliance, must be used for projects that benefit the innovation place program known as Launc[H]artford.<sup>6</sup> It is further found that, pursuant to the Agreement, Metro Hartford Alliance must submit to CTNext a SOW for each Launc[H]artford project it seeks to be funded, which must describe the project, any milestones, timelines, and budgets. It is also found that, in order for a project to receive any financial assistance from CTNext pursuant to the Agreement, CTNext must approve the SOW submitted for such project.

19. It is found that, paragraph 1 of the Agreement provides, in relevant part:

(c) Upon satisfaction of [certain specified] requirements ..., CTNext will provide [Metro Hartford Alliance] with grant proceeds in the amounts and at the times specified in [each SOW] .... In addition, within 30 days of the end of each September 30, December 31, March 31 and June 30, [Metro Hartford Alliance] shall provide CTNext with a certified written progress report in reasonable detail ....

(d) Within 30 days of the end of each June 30, [Metro Hartford Alliance] shall provide CTNext with a certified year-in-review report ....

(e) Within 30 days after the completion of each [SOW], [Metro Hartford Alliance] shall provide CTNext with a final invoice for each [SOW] and a certified written final close-out report in reasonable detail ....

20. It is found that paragraph 2(f) of the Agreement requires Metro Hartford Alliance to provide to CTNext an annual financial audit of grant expenditures within ninety days after the end of CTNext's fiscal year.

21. It is found that, pursuant to paragraph 2(g) of the Agreement, CTNext was entitled to have a non-voting representative (the "CTNext Observer") attend each meeting of the governing body of the Launc[H]artford program or Metro Hartford Alliance if Launc[H]artford did not have a separate governing body (the "Board").

22. It is found that paragraph 2(g) of the Agreement also provides, in relevant part:

The CTNext Observer shall: (i) receive notice of all meetings (both regular and special) of the Board and each committee of the Board ...; (ii) be entitled to attend (or, in the case of telephonic or electronic meetings, monitor) all such meetings; (iii) receive all

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<sup>6</sup> The Commission notes that the complainant's reference to "Innovation Places Hartford/Launch Hartford" in the complainant's request described in paragraph 2, above, refers to Launc[H]artford, as described in the Agreement.

notices, information and reports which are furnished to the members of the Board and/or committee ...; and (iv) receive as soon as available (but in any event not later than 60 days after such meetings) copies of the minutes of all such meetings.

23. It is found that, pursuant to paragraph 2(h) of the Agreement, Metro Hartford Alliance is responsible for monitoring and administering each project and providing grant proceeds received from CTNext pursuant to the approved SOWs.

24. Section 1-200(5), G.S., provides:

“[p]ublic records or files” means any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

25. Section 1-210(a), G.S., provides in relevant part that:

[e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to . . . (3) receive a copy of such records in accordance with section 1-212.

26. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

27. It is found that most of the records responsive to the requests described in paragraphs 2, 6, and 8, above, relate to records created by Launc[H]artford or Metro Hartford Alliance. Nonetheless, it is found that CTNext is entitled to and received copies of meeting notices, minutes and documents distributed to the Board as well as various financial reports pursuant to various provisions of the Agreement.

28. Based upon the credible testimony of the respondents’ witnesses and the evidence in the record, it is found that CTNext either maintained several of the responsive records or received such records from Launc[H]artford and Metro Hartford Alliance pursuant to the Agreement.

29. It is found that the respondents requested that Launc[H]artford and Metro Hartford Alliance conduct a search for records responsive to the complainant’s requests and, as a result, Launc[H]artford and Metro Hartford Alliance provided the respondents with responsive records.

30. It is concluded that the requested records, to the extent that they exist and, were maintained, or received by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

31. It is found that in addition to the records provided to the complainant on March 14, 2023, the respondents provided the complainant with fifty-five records responsive to the requests described in paragraphs 2, 6 and 8, above, on July 26, 2023.

32. At the hearings in this matter and his brief, the complainant acknowledged that he had received certain responsive records from the respondents. However, he contended that there should be additional responsive records, which the respondents had not provided to him. With respect to his records request described in paragraph 2.a., above, the complainant contended that the respondents failed to provide: agendas, minutes, and voting records for subcommittees meetings related to the Launc[H]artford accelerator programs known as InsurTech, Medtech/Digital Health, and Advanced Manufacturing for the years 2017 through 2023; agendas, minutes or voting records for 2017, January 2018, 2021, 2022 and 2023 of the Board; and records that were stored in Dropbox<sup>7</sup> links that were referenced on certain agendas and minutes that he received from the respondents in response to his request described in paragraph 2.a., above. With respect to his requests described in paragraph 2.b., 6 and 8, above, the complainant contended that the respondents should have provided him with certain reconciled SOWs as well as other financial statements, including a reconciliation of the Launc[H]artford Digital Health Accelerator program along with funds to be returned and the report for the third quarter of 2023 for Launc[H]artford Digital Health Accelerator program.

33. At the hearings in this matter and in their brief, the respondents claimed that they had performed thorough and diligent searches for records responsive to the complainants' requests described in paragraphs 2, 6 and 8, above, and that they provided the complainant with all responsive records that they maintained or received from Launc[H]artford and Metro Hartford Alliance. The respondents contended that the request described in paragraph 2.a., above, does not seek agendas, minutes and voting records for any subcommittees, nor documents stored in Dropbox links that were referenced in the agendas and minutes or discussed at the Board meetings. In addition, the respondents argued, with respect to the requests described in paragraphs 2.b., 6 and 8, above, that they provided all responsive financial records they were able to locate after a reasonably thorough search and that a reconciliation of the Launc[H]artford Digital Health Accelerator program along with funds to be returned as well as the report for the third quarter of 2023 for Launc[H]artford Digital Health Accelerator program did not exist at the time of the complainant's requests.

34. With respect to the complainant's claim that his request described in paragraph 2.a., above, included a request for agendas, minutes, and voting records for subcommittee meetings related to the Launc[H]artford accelerator programs known as InsurTech, Medtech/Digital Health, and Advanced Manufacturing, based upon the facts and circumstances of this case, and a

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<sup>7</sup> Dropbox is a file hosting and sharing service. Based upon the credible testimony at the hearings in this matter, it is found that the respondents did not create or maintain the subject Dropbox links and that the respondents did not use Dropbox as a form of record keeping. It is found that the referenced Dropbox links were created by Launc[H]artford and Metro Hartford Alliance staff as a tool for Board members to access records for their reference during Board meetings.

fair reading of such request, it is found that such request was limited to “[m]eeting minutes, agendas, and records of voting in the Innovation Places Hartford/Launch Hartford meetings since the commencement of the program in 2017.” It is found that the request does not include a request for records relating to subcommittee meetings and makes no mention of InsurTech, Medtech/Digital Health, and Advanced Manufacturing.

35. With respect to the complainant’s claim that his request described in paragraph 2.a., above, included a request for all documents stored in Dropbox, it is found that, based upon the facts and circumstances of this case, and a fair reading of such request in its totality, such request does not request records stored in Dropbox, even if a Dropbox link had been referenced in certain meeting agendas and minutes. It is found that the Dropbox links stored hundreds of pages of records, mainly relating to proposals for financial assistance that were submitted to Launc[H]artford and Metro Hartford Alliance, which sought financial assistance from CTNext, and include frank assessments and scoring of such proposals. It is found that the complainant’s request described in paragraph 2.a., above, does not include a request for records reviewed at the Board meetings, nor records related to the Launc[H]artford program or proposals for funding submitted to Launc[H]artford and Metro Hartford Alliance or CTNext. It is further found that the requests at issue in this case did not specifically request any records related to the scoring or assessment of the proposals submitted to Launc[H]artford and Metro Hartford Alliance.

36. It is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by withholding the unrelated and non-responsive records described in paragraphs 34 and 35, above.

37. With respect to the complainant’s contention that he should have been provided a reconciliation of the Launc[H]artford Digital Health Accelerator program along with funds to be returned and the report for the third quarter of 2023 for Launc[H]artford Digital Health Accelerator program, it is found that, based upon the credible testimony of the respondents’ witnesses and other record evidence, such records had not yet been created at the time of the complainant’s requests described in paragraphs 2.b., 6 and 8, above.

38. In accordance with the FOI Act’s definition of a “public record,” a requestor has the right to receive records “prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218,” which means plainly that the record must actually exist. See §1-200(5), G.S. Records that do not exist cannot be “maintained or kept on file” by a public agency. See §1-210(a), G.S.; Robert J. Symmes v. Charles Marino, Democratic Registrar of Voters, City of West Haven, Docket #FIC 2008-564 (March 25, 2009)(record that did not exist at the time of request was not maintained or kept on file by respondent).

39. It is concluded that the respondents had no legal obligation “to provide the complainant with records not yet in existence at the time of [his] request.” See, e.g., Stephen Whitaker v. Boris Hutorin, Dir., Dep’t of Infor. Tech., Town of Greenwich, Docket #FIC 2005-332 (June 28, 2006); Rita M. Pacheco v. Parks and Rec. Comm’n, City of Torrington, Docket #FIC 1996-221 (Jan. 8, 1997).

40. It is therefore also concluded that the respondents did not violate the FOI Act for failing to provide the complainant with the reconciliation of the Launc[H]artford Digital Health



Accelerator program along with funds to be returned and the report for the third quarter of 2023 for Launc[H]artford Digital Health Accelerator program, described in paragraph 37, above, that did not exist at the time of his requests described in paragraphs 2.b., 6 and 8, above.

41. With respect to the remaining records the complainant claims the respondents should have provided to him, such as the missing agendas, minutes and voting records for 2017, January 2018 and 2021 through 2023 and certain financial records, the Executive Director of CTNext (the “Executive Director”) testified at the September 20, 2023 hearing, and it is found, that he tasked CTNext’s Director of Entrepreneurial Ecosystems (the “Director”) to conduct the search for responsive records and to work with the Information Technology Department CTNext (“IT Department”) to conduct a search of the CTNext’s computer system for responsive records using key words outlined in the complainant’s requests described in paragraphs 2, 6 and 8, above. The Executive Director testified, and it is found, that the IT Department conducted a search of all electronic files housed on the CTNext computer servers, including the files of individuals who are no longer employed at CTNext. He also testified, and it is found, that the respondents located responsive records, which were subsequently provided to the complainant.

42. At the September 20, 2023 hearing, the Executive Director testified, and it is found, that the respondents also contacted Launc[H]artford and Metro Hartford Alliance, and requested that they search for all records in their possession responsive to the requests described in paragraphs 2, 6 and 8, above. It is found that Launc[H]artford and Metro Hartford Alliance conducted such search and provided responsive records to the respondents, which were then provided to the complainant.

43. It is found that, in response to a September 21, 2023 order by the hearing officer<sup>8</sup>, the Director conducted an additional search of the files of the former CTNext staff member involved in the Launc[H]artford program and who served as the CTNext Observer at the Board meetings. It is found that, as a result of such search, the Director located documents that, based upon their best information and belief, were records stored in the Dropbox links referenced in the agendas and meeting minutes of the Board. It is further found that, on October 6, 2023, the Director sent a detailed email to the Director of Launc[H]artford (“Launch Director”), requesting that Launc[H]artford and Metro Hartford Alliance conduct an additional search for records in response to the September 21, 2023 order as well as certain records that the respondents were able to identify but could not locate in their own files. It is found that Launc[H]artford and Metro Hartford Alliance conducted such searches and provided responsive records to the respondents. In addition, the Director testified at the hearing, and averred in his affidavit, and it is found, that the Launch Director highlighted on a list prepared by the respondents certain specific records she searched for but was unable to locate.

44. It is found that, as a result of these additional searches the respondents, on November 10, 2023, provided the complainant with 857 additional records, the majority of which were records stored within the Dropbox links referenced in the Board meeting agendas and minutes, which, as found in paragraph 35, above, are not responsive to the complainants’ requests, but the respondents nonetheless provided such records to the complainant.

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<sup>8</sup> Pursuant to the order of the hearing officer, the respondents submitted an affidavit, which has been admitted into evidence and marked as Respondents’ Exhibit B: Affidavit of Michael Harris.

45. It is also found that the respondents withheld 46 records (consisting of 845 pages), which they contended are not responsive to the complainant's requests at issue in this matter, and are otherwise exempt from disclosure pursuant to §§1-210(b)(5) and 32-244(a), G.S.

46. On February 9, 2024, the respondents submitted the withheld records described in paragraph 45, above, to the Commission for an in camera inspection, along with an in camera index ("in camera records"). On the in camera index, the respondents claimed that certain portions of the in camera records are exempt from disclosure under §1-210(b)(5), G.S.<sup>9</sup>

47. Based upon a review of the in camera records as well as the testimony and documentary evidence presented in this case, it is found that the in camera records were records stored within the Dropbox files described in paragraph 35, above. As found in paragraph 35, above, the in camera records are not responsive to the complainant's requests at issue in this case and therefore the respondents were not required to provide such records to the complainant.

48. Based upon the facts and circumstances of this case and the respondents' credible testimony, it is found that the respondents conducted reasonably thorough searches for records responsive to the requests described in paragraphs 2, 6 and 8, above. It is found that they provided the complainant with copies of all responsive records that they maintained or received from Launc[H]artford and Metro Hartford Alliance.

49. At the hearing and in his brief, the complainant argued that the respondents have failed to prove that the in camera records are exempt from disclosure.<sup>10</sup> Because the in camera records are not responsive to the complainant's requests, the Commission need not address the issue of whether the in camera records are exempt from disclosure pursuant to §1-210(b)(5), G.S. Nonetheless, the Commission will do so for the sake of administrative economy, in the event that the complainant might seek to request copies of these records in the future.

50. Section 1-210(b)(5), G.S., provides that a public agency is not required to disclose:

(A) Trade secrets, which for purposes of the Freedom of Information Act, are defined as information, including formulas, patterns, compilations, programs, devices, methods, techniques, processes, drawings, cost data, customer lists, film or television scripts or detailed production budgets that (i) derive independent

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<sup>9</sup> On the in camera index the respondents did not claim an exemption from disclosure for several records. The Commission encourages the respondents to voluntarily provide such records to the complainant, if they have not done so already.

<sup>10</sup> The complainant repeatedly asserted that CTNext "has no sovereign immunity and as a venture capital arm and investment advisor is subject to compliance with Federal SEC statutes and its fiduciary obligations." The complainant also argued that, because UCONN, Trinity College and Goodwin University were involved in certain Launc[H]artford programs, that the respondents must produce all records because these universities are subject to federal statutes including "Civil Rights Statutes of Title VI/Title IX." It is found that such claims relating to the respondents' obligations and duties under such federal statutes are outside the Commission's jurisdiction and the scope of the complaint at issue in this case. Additionally, it is found that such claims were vague and not adequately briefed; the complainant has failed to cite any specific Federal statute that preempts the exemptions to disclosure set forth in §§1-210(b)(5) and 32-244(a), G.S.

economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use, and (ii) are the subject of efforts that are reasonable under the circumstances to maintain secrecy; and

(B) Commercial or financial information given in confidence, not required by statute....

51. Section 32-244(a), G.S., “Applicability of Freedom of Information Act to data and other information re financial assistance,” provides, in relevant part:

- (a) All data and other information received by ... Connecticut Innovations, Incorporated ... from any person in connection with an application for, or the provision of, financial assistance, which consists of the following, shall be deemed, for purposes of a public records request pursuant to the Freedom of Information Act, as defined in section 1-200, made to ... Connecticut Innovations, Incorporated ... to be information described in subdivision (5) of subsection (b) of section 1-210: (1) Actual trade secrets or information that a person intends to become a trade secret, (2) material that a person intends to patent, (3) patented material, (4) marketing or business plans, (5) plans for new products or services, (6) reports of customer orders or sales or other documents that would disclose names and addresses of customers or potential customers, (7) information concerning the financial condition or personal affairs of any individual, (8) financial statements or projections, (9) sales or earnings forecasts, (10) capital or strategic plans, (11) information regarding research and development, (12) tax returns, or (13) other commercial, credit or financial information with respect to the financial condition or business operations of an applicant for or recipient of financial assistance which is of a type not customarily made available to the public. (Emphasis added.)

52. It is found that the language of §32-244(a), G.S., by its express terms, refers to information received by CI from any person in connection with an application for, or the provision of, financial assistance.

53. As found in paragraph 13, above, CTNext is a subsidiary of CI, pursuant to §32-11e, G.S.

54. It is found that the General Assembly has designated CTNext a successor authority to CI with respect to certain responsibilities and powers that the General Assembly had originally delegated to CI, including, for example, providing “financial aid for the establishment, maintenance and operation of incubator facilities.” See, §§32-39(22), (28), and (40) and 32-39f(a)(4), G. S.

55. It is found that, as a subsidiary of CI, CTNext retains “all the privileges, immunities, tax exemptions and other exemptions of [CI].” (Emphasis added.) See §32-11e(c), G.S.

56. The Commission takes administrative notice of the legislative history of House Bill 5684 (hereinafter “HB 5684”) of the 2000 Regular Session of the Connecticut General Assembly, which ultimately included the language contained in §32-244(a), G.S. It is found that the testimony before the Government Administration and Elections Committee on HB 5684 indicates a desire to protect the proprietary information of private entities doing business with, or applying for assistance from, public agencies. See, Connecticut General Assembly Joint Standing Committee on Government Administration and Elections, Public Hearing, February 28, 2000, pages 28-36 and 50-63.

57. It is therefore concluded that §32-244(a), G.S., equally applies to information received by CTNext from any person in connection with an application for, or the provision of, financial assistance.

58. Connecticut appellate case law has not defined “commercial or financial information,” as used in §§32-244(a) and 1-210(b)(5), G.S. However, the similar provision in the federal FOI Act exempts “commercial or financial information obtained from a person and privileged or confidential.” 5 U.S.C. §552 (b)(4). “Although our Freedom of Information Act does not derive from any model act or the federal Freedom of Information Act, other similar acts, because they are in pari materia, are interpretatively helpful, especially in understanding the necessary accommodation of the competing interests involved.” Wilson v. Freedom of Inform. Comm’n, 181 Conn. 324, 333 (1980); Dept. of Public Utilities v. Freedom of Inform. Comm’n, Superior Court, judicial district of New Britain, Docket #CV99-0498510 (Jan. 12, 2001).

59. “Commercial” information, as it is used in the federal FOI Act, 5 U.S.C. §552, has been construed broadly to mean any information related to business or trade. See COMPTTEL v. F.C.C., 910 F. Supp. 2d 100, 115 (D.D.C. 2012) (“COMPTTEL”); Hitkansut LLC v. United States, 111 Fed. Cl. 228, 236 (2013) (“Hitkansut”); Watkins v. U.S. Bureau of Customs and Border Protection, 643 F.3d 1189, 1194 (9th Cir. 2011) (intimate aspects of an importer’s business such as supply chains and fluctuations of demand for merchandise contained commercial information); Public Citizen Health Research Group v. FDA, 704 F.2d 1280, 1290 (D.C. Cir. 1983); James Craven et al. v. Governor, State of Connecticut et al., Docket #FIC2011-152, (March 14, 2012) (finding that a company’s name is related to the company’s business or trade and concluding, therefore, that the names of the employers referenced by the Governor in an address constitute commercial information). The term commercial information, as used in the federal FOI Act, not only includes information that relates to income-producing aspects of a business or information that reveals basic commercial operations; it also “reaches more broadly and applies (among other situations) when the provider of the information has a commercial interest in the information submitted to the agency.” Baker & Hostetler LLP v. U.S. Dept. of Commerce, 473 F.3d 312, 319 (D.C. Cir. 2006); COMPTTEL, 910 F. Supp. 2d at 115; Hitkansut, 111 Fed. Cl. at 236. In short, “commercial” includes anything pertaining, or relating, to or dealing with commerce that serves a commercial function or is of a commercial nature. See American Airlines, Inc. v. National Mediation Bd., 588 F.2d 863, 870 (2d Cir. 1978); Public Citizen v. United States Dept. of Health and Human Servs., 2014 WL 4388062, \*207-08 (D.D.C.

2014). The term "financial information" includes commercial financial information, such as records that reveal basic commercial operations, or relate to the income-producing aspects of a business, as well as personal financial information. See, Washington Post Co. v. U.S. Dept. of Health and Human Services, 690 F.2d 252, 266 (D.C. Cir. 1982).

60. At the February 9, 2024 hearing in this matter, the Director testified, and it is found, that the in camera records relate to proposals that were submitted to Launc[H]artford and Metro Hartford Alliance in conjunction with applications seeking financial assistance from CTNext for new and innovative initiatives and projects. The Director testified, and it is found, that Launc[H]artford and Metro Hartford Alliance members, who were experienced entrepreneurs, industry leaders and other individuals involved in the entrepreneur ecosystem, solicited, vetted, scored, and provided frank assessments of project proposals submitted to Launc[H]artford and Metro Hartford Alliance, which sought financial assistance from CTNext.

61. It is found that the in camera records relate to the proposed business projects, project budget information, as well as, scoring and ranking and frank critiques and assessments of the funding proposals by members of Launc[H]artford and Metro Hartford Alliance.

62. Based upon the credible testimony of the Director, it is found that without the confidentiality of these proposals and their evaluations, there would be a chilling effect on the willingness of partners to submit novel program concepts to potentially negative public assessment and likely would result in a reduction in the quality and usefulness of the scoring and comments. Additionally, it is found that, the confidentiality of the participation and of the scoring and frank assessments of the proposals is vital for the program to function at its highest levels and results in a much higher quality of feedback, and better proposals before they are submitted to CTNext for funding.

63. The Director further testified, and it is found, that the project proposals related to emerging technologies or new initiatives and that applicants seeking financial assistance from CTNext understood that their proposals would remain confidential. Based upon the Director's credible testimony, it is found that the applicants likely would not have submitted such proposals if they believed their financial information and commercial plans would be shared publicly. Additionally, based upon the respondents' testimony, it is found that the Board's discussions of the valuation of the proposals seeking financial assistance from CTNext were held in private, nonpublic meetings.<sup>11</sup>

64. Based upon the Director's credible testimony, as well as a careful review of the in camera records, it is found that the withheld records constitute data and other information received by CTNext by any person in connection with applications for, or the provision of, financial assistance.

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<sup>11</sup> Additionally, paragraph 2(g) of the Agreement, provides in relevant part that:

[a]ny materials furnished to the CTNext Observer and the discussions and presentations in connection with or at any meeting shall be considered confidential information, and CTNext and the CTNext Observer shall not disclose such materials and discussions to any third party except as required bylaw or legal process or other than in confidence to their respective advisors, attorneys and accountants.

65. Based upon a careful review of the in camera records and the evidence presented at the hearings, it is found that the in camera records consist of marketing or business plans, plans for new products or services, financial information that would disclose the financial condition or personal affairs of individuals, financial statements and projections, sales and earnings forecasts, capital or strategic plans, information regarding research and development, as well as other commercial, credit or financial information with respect to the financial condition or business operations of an applicant for or recipient of financial assistance that is of a type not customarily made available to the public.

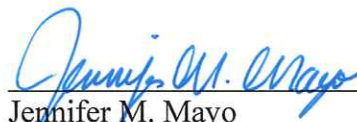
66. Based upon the foregoing, it is found that the in camera records are exempt from disclosure pursuant to §§1-210(b)(5) and 32-244, G.S.

67. Accordingly, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by withholding the in camera records from the complainant.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of May 8, 2024.

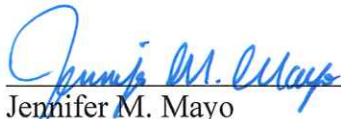
  
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Jennifer M. Mayo  
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

**SUPRIYO CHATTERJEE**, 29 Randal Avenue, West Hartford, CT 06110

**EXECUTIVE DIRECTOR, CTNEXT; AND CTNEXT**, c/o Attorney Christopher J. Cahill, Shipman & Goodwin LLP, One Constitution Plaza, Hartford, CT 06103



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Jennifer M. Mayo  
Acting Clerk of the Commission