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Washington Evening Journal
Waterloo-Cedar Falls Courier

December 30, 2015

J. Bruce Harreld, President
University of Iowa
101 Jessup Hall
Iowa City, IA 52242

Dear President Harreld:

I write as the executive director of the Iowa Freedom of Information Council, a 39-year-old coalition of Iowans devoted to open government and government accountability. We want to welcome you to Iowa and to your leadership position at the University of Iowa. As you work toward institutional change and betterment at the university, we think there's no better place to start than with the openness and accountability of the university. This is something your predecessors and their staffs didn't always embrace.

While I hope this letter provides a first step in the dialogue between you and the Iowa Freedom of Information Council, unfortunately our letter has a more immediate purpose:

I write to object to the decision by the University of Iowa to keep from the public polling and focus group research the university commissioned through The Strawn Company. I seek your intervention as the ultimate custodian of the university's public records and ask you to overrule the secrecy decisions made thus far. The decision to hire The Strawn Company predates your selection by the Board of Regents, but you are now in a position to comply with the letter -- as well as the spirit -- of Iowa's open records law by making this information available to the people of Iowa.

I request that you release without further delay the public documents that are at issue in this matter. These include:

- (1) The agreement between the university and The Strawn Company that lays out the details of the 2013 and 2015 polls, including the sample size, the type of interviews and the universe from which the respondents were chosen;
- (2) Questionnaires used by the poll interviewers in 2013 and 2015;
- (3) The summary report and full cross-tabulations prepared for the university by The Strawn Company or its subcontractors at the conclusion of the 2013 poll and whatever summary the contractor has provided thus far from the 2015 poll;
- (4) The agreement between The Strawn Company and the university for the focus groups, including the number and type of participants and the script and/or topics to be covered during the sessions; and
- (5) The report prepared for the university by The Strawn Company or



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its subcontractors at the conclusion of the focus groups.

In your initial weeks in Iowa City, the heritage of open government in Iowa may not have been high on your agenda. You may not yet appreciate fully the motivation that led lawmakers to write the state's open records and open meetings laws (with strong encouragement and help from the Iowa Freedom of Information Council). They acted in the belief that openness and informed discussion are central to effective government in our state --- just as openness and informed discussion are hallmarks of a great university.

A fundamental aspect of Iowa's "sunshine" statutes is their assumption that all government records and government meetings are open to the public unless the case for confidentiality is made in one of the laws' exemptions. When there is ambiguity in the construction or application of these laws, the Legislature made it clear that such ambiguity should be resolved in favor of openness.

The Iowa Supreme Court has been adamant on this point, too, citing, for example, Chapter 22.8(3), which notes that most records are open to public inspection "even though such examination may cause inconvenience or embarrassment to public officials or others."

That's why the Iowa Freedom of Information Council is so disappointed with the secrecy placed around university documents related to work by The Strawn Company and its subcontractors.

The university's general counsel, Carroll Reasoner, offered her rationale for keeping many of these confidential. But we believe she fails to present a justifiable factual or legal case for this secrecy. We believe her rationale does not rise to the level the Legislature envisioned when it wrote the open records law.

Ms. Reasoner asserts that releasing documents pertaining to the research by these University of Iowa contractors would serve no public purpose. Actually, that is the most important argument in favor of releasing the documents related to the work by The Strawn Company and its subcontractors.

The university spent \$320,000 on this research and these outreach efforts. Iowans have a right to see how the university is spending their money --- whether that is their tax money, tuition money of their sons, daughters and grandchildren, or contributions they have made to the University of Iowa Foundation.

Iowans should be allowed to judge for themselves whether this \$320,000 was a worthwhile expenditure. The people of Iowa are



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entitled to know what this research found about the perceived strengths and weaknesses of the university.

Moreover, the exemption from the openness requirement that Ms. Reasoner relied upon was not designed to cover documents produced for the government at public expense. Iowa Code Section 22.7(6) exempts “Reports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose.”

That exemption protects documents generated by private entities that are regulated by a government agency or that must disclose reports to the government where the release by the receiving agencies would advantage the private entities’ competitors without serving any public purpose. See *Northeast Council on Substance Abuse, Inc. v. Dept. of Public Health*, 513 N.W.2d 757 (Iowa 1994); *U.S. West Communications, Inc. v. Office of Consumer Advocate*, 498 N.W.2d 711 (Iowa 1993); and *Craigmont Care Center v. Dept. of Soc. Serv.*, 325 N.W.2d 918 (Iowa Ct. App. 1982).

Public accountability is precisely what the Iowa Legislature had in mind when it wrote the open records law, especially documents generated at public expense that your institution is keeping confidential. If you and the university continue to treat these documents as a secret, you will erode the public trust in the University of Iowa and in your stewardship of the institution.

Therefore, the Iowa Freedom of Information Council asks you to comply with the letter of Chapter 22, as well as the spirit of the open records law. We request that you provide to the council, and to all other requestors, the documents enumerated earlier in this letter.

I look forward to hearing from you by January 15.

Sincerely,

Randy Evans
Executive Director

cc: Gov. Terry E. Branstad
Iowa Board of Regents President Bruce Rastetter
Iowa Public Information Board Executive Director Charles
Smithson