



**THOMAS P. DiNAPOLI**  
STATE COMPTROLLER

STATE OF NEW YORK  
**OFFICE OF THE STATE COMPTROLLER**  
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January 12, 2016

Ms. Elena Sassower  
Po Box 8101  
White Plains, NY 10602  
elena@judgewatch.org

Re: FOIL Request #2016-554

Dear Mr. Sassower:

Pursuant to your Freedom of Information Law request dated November 28, 2016, seeking information pertaining to the competitive process of procuring an independent certified accountant to audit the Office of the State Comptroller, attached are records responsive to such request. Please note the response of Nawrocki Smith, who withdrew from consideration, is not included in the attached documents.

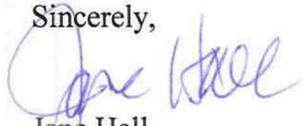
Section 87(2)(d) of FOIL authorizes an agency to withhold records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Based on the foregoing, it has been recognized that competition in business turns on the relative costs and opportunities faced by members of the same industry, and that there is a potential windfall, not contemplated as part of FOIL's principal aim of promoting openness in government, for competitors to whom valuable information is released under FOIL. Portions of the records contained in this release contain proprietary information or trade secrets which could injure Toski's competitive position in the marketplace if made public and are, accordingly, withheld. The portions of the record that are withheld from disclosure include cost proposals, clientele, resumes, methodologies and processes of Toski.

In addition, FOIL authorizes an agency to withhold records or portions thereof that, if disclosed, would constitute an unwarranted invasion of personal privacy (FOIL §§87(2)(b), 89(2)). Section 89(2) defines six circumstances that constitute unwarranted invasions of personal privacy, but states that unwarranted invasions of personal privacy are not limited to those six defined circumstances. In this regard, the records retrieved in response to your request include names, federal identification numbers, client information, subcontractor employees, as well as

certain home addresses. This office has determined that the disclosure of such names and numbers would constitute an unwarranted invasion of personal privacy pursuant to section 89(2)(b) of FOIL. Consequently, such names and numbers have been redacted from the records made available to you.

In the event that you do not agree with our determination, pursuant to sections 87(2) and 89(2), to deny access to the records requested, please be advised that you have the right, within thirty days of the receipt of this letter, to appeal, in writing to: Camille Jobin-Davis; Records Appeals Officer, Office of the State Comptroller, 110 State Street, 14th Floor, Albany, New York 12236.

Sincerely,



Jane Hall

Records Access Officer

JH/KD