



STATE OF NEW YORK  
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December 12, 2019

Ms. Elena Sassower  
Center for Judicial Accountability, Inc.  
PO Box 8101  
White Plains, NY 10602

Re: FOIL Request #2019-0544

Dear Ms. Elena Sassower,

This is in reply to your Freedom of Information Law (FOIL) (Public Officers Law [POL], Article 6) request to the Office of the State Comptroller (OSC) dated October 2, 2019, seeking records relating to the independent audit of OSC. Attached are all releasable records pertaining to such contract.

FOIL authorizes an agency to withhold records or portions thereof that, if disclosed, would constitute an unwarranted invasion of personal privacy (POL §§87(2)(b), 89(2)). POL §89(2) defines seven circumstances that constitute unwarranted invasions of personal privacy. This section also states that unwarranted invasions of personal privacy are not limited to those seven defined circumstances. Where records do not fall under the seven enumerated circumstances, the agency must balance the privacy interests at stake against the public interest in disclosure of the information (*New York Times v City of NY Fire Dept.* 4 NY3d 477, 485 [2005]). The records retrieved in response to your request include the home addresses of certain individuals. OSC has determined that disclosure of such home addresses would constitute an unwarranted invasion of personal privacy and, therefore, such addresses have been redacted.

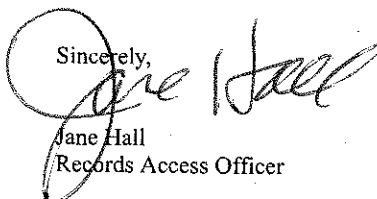
In addition, the records retrieved in response to your request include federal employer tax identification numbers. FOIL authorizes an agency to withhold records or portions thereof which, if disclosed, would jeopardize the capacity of an agency or an entity that has shared information with the agency to guarantee the security of its information technology assets (POL §87(2)(i)). Although such numbers are sometimes shared under limited circumstances, they are redacted from these records in an abundance of caution.

Finally, POL §87(2)(d) 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. Records within the cost, administrative and technical proposals contain proprietary information, such as pricing, which could

injure the competitive position in the marketplace of Toski & Co., CPAS, P.C. if made public and are, accordingly, withheld.

In the event that you do not agree with our determination, pursuant to sections 87(2) and 89(2), to deny access to portions of 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, 14<sup>th</sup> Floor, Albany, New York 12236.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Hall", is written over the typed name and title.

Jane Hall  
Records Access Officer