

Re: CPRA request (FDBID.2017.02.21.a)

From: [REDACTED]
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.02.21.a)
Date: Thursday, April 13, 2017 12:30 PM
Size: 8 KB

Hi Rena,

Thanks for your response. UPC's opinion is not controlling, nor even relevant, as far as I can see. CPRA at section 6253.3 says so explicitly. The BID is required to base its analysis on the public benefit to be gained by releasing the information. Can you at least tell me what public interest you suppose you're protecting by not releasing their hourly rates?

Thanks,
[REDACTED]

On Thu, Apr 13, 2017, at 12:15 PM, Rena Leddy wrote:

[REDACTED]

I did think about it, however, Urban Place Consulting has confirmed that it considers its hourly rate for services as proprietary information and derives a financial benefit from that rate not being public. As I have indicated, the amount the BID pays to Urban Consulting has not and would not be withheld.

Rena

-----Original Message-----

From: [REDACTED]
Sent: Wednesday, April 12, 2017 5:36 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.02.21.a)

Thanks, Rena.

Will you please reconsider the completely implausible claim that your consultants' hourly rates are trade secrets? I won't quibble with you over the issue of how much time they spend on what, although I think your claim that that's secret is an ultimately unsupportable overreach. But I think there is absolutely no way to defend a claim that how much Steve Gibson charges for his time and the time of his employees is a trade secret or otherwise exempt from disclosure. UPC must, e.g., release this information to potential clients before they sign a contract, otherwise how would they know if they could afford to sign up? Or if they were going to be cheated if they did sign up. This is something which just isn't done with exempt proprietary information.

Furthermore, if any of the information provided to the FDBID by UPC were actually proprietary and/or a trade secret, one would expect to see a clause in the contract forbidding clients from releasing this information. It's not as if the contract's drafters weren't cognizant of confidentiality, as there's a lot of language in there prohibiting UPC from releasing FDBID's secrets. This, along with the fact that there is exactly no language forbidding FDBID from releasing UPC's information, also supports my claim that these hourly rates cannot possibly be exempt from release.

Finally, with respect to your cursory argument about weighing public benefits, it is ultimately unconvincing. It's my understanding that a BID's refusal to release contract details exactly like this one to stakeholders and others is precisely what led California Courts to rule that BIDs are subject to CPRA. The public has a huge interest in knowing how public funds are being spent, and if local agencies are allowed to keep the hourly rates of their consultants secret all manner of impropriety and/or the appearance of impropriety may be expected to ensue. The public benefit in releasing precisely this information is so