

State Records Committee

Gina Proctor

346 S. Rio Grande

Salt Lake City, UT 84101

Gina Proctor

Hello, I would like you to consider this my official appeal of a records denial I received from Nathan Schwebach on behalf of Brian Steed of the Department of Natural Resources, on December 5, 2019. My original GRAMA from October 29, 2019 sought unredacted expenditure reports from the organization Big Game Forever.

In the Agency's Dec. 5 response it was argued that these reports were protected by a Claim of Business Confidentiality "indicating that the names of subcontractors her uses in his lobbying efforts qualify as a trade secret or commercial information that satisfy the requirements of U.C.A. 63G-2-305(1) and/or (2) and 63G-2-309. For the reasons outlined below, I intend to honor that claim."

The agency noted that Ryan Benson of Big Game Forever provided no written rationale to support business confidentiality beside making a blanket statement that the organization has "claimed" such information is "central to his success in fulfilling his contractual obligations."

The Agency also contends that the identify of subcontractors classifies as a trade secret, that derives independent economic value from not being generally known, and also that disclosure of this information could result in "unfair competitive injury." Both such arguments are weak attempts to hide information that should be available to the public.

The Trade Secret Argument

In the Agency's response letter it is argued that the organization needs to protect its lobbying efforts by withholding the names of subcontractors.

And yet the Agency then attempts to say that lobbying is a trade secret. How can it be that a profession that is actually required to abide numerous state and federal public disclosures is hampered by disclosing subcontractors? Especially one also involved in supposedly scientific research.

All major research foundations out there have to disclose funding sources, and yet that they do identify themselves as working on research, even research funded by special interests does not hurt them commercially. As common sense dictates, *they want their names attached to their work*, as a means of not only standing behind what they've done but also as a way of advertising themselves to other potential employers. Having their name be a secret would actually be a detriment to their commercial interests—not the other way around.

Its common with other government records that subcontractors and their pay are presumed to be public information. It's common and easy to in fact request records from other pass through entities fulfilling state contracts and see all their subcontractors and what they've been paid.

Competitive Injury

The idea that the names of subcontractors would cause competitive injury is also ludicrous. For one thing, the expenditure reports seem to identify subcontractors not by total payments they got but by the hours they worked. How could the identity alone of subcontractors cause a competitive injury if specific money is not attached to the hours they worked?

Even if expenditures are linked with subcontractors, the defense of competitive injury also bring up another question—how often is the state going to be contracting for wolf de-listing? As the law states one party to a “competitive injury” claim is the person submitting the proposal. But again how could the names of subcontractors and amounts paid cause competitive injury when this is clearly a one-time project.

If Big Game Forever decides to seek another government contract to delist some different species, how are they to be injured by disclosing expenditures and contractors on this separate and distinct project?

The state, likewise would not be competitively injured, since its common in other situations for contract organizations to provide as public record information about subcontractors and how much they're paid. It's also reasonable to argue that the identification of a subcontractor does not on its face reveal the subcontractor's proprietary trade secrets.

Public's Right to Know

Lastly the public has a right to know how these funds are expended. The state has a compelling interest to know how wolf populations might affect livestock and other state interests. If all this money simply went to one lobbyist then that information would be easy to discern. But if the money is redirected to a variety of parties involved in outreach, science and education, there is a risk of waste of resources that can only be remedied by allowing the public a thorough understanding of how their public dollars are being spent on this public project.

Thank you for your consideration.

Eric S. Peterson

