

# COMMITTEE ON OPEN GOVERNMENT

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**EXECUTIVE DIRECTOR**  
SHOSHANAH BEWLAY

FOIL AO 19837

January 18, 2023

By Electronic Mail only to: [mnolan@liherald.com](mailto:mnolan@liherald.com)

Mark Nolan  
Long Island Herald

*The Committee on Open Government is authorized to issue advisory opinions. The ensuing advisory opinion is based solely upon the information presented in your correspondence unless otherwise indicated.*

Mr. Nolan:

The Committee on Open Government (Committee) has received your request for an advisory opinion regarding the manner in which Nassau County (County) responded to your Freedom of Information Law (FOIL) request for a cybersecurity contract.

In response to your request and subsequent appeal, the County denied access to the cybersecurity contract pursuant to FOIL § 87(2)(i), which allows agencies to withhold records which “if disclosed, would jeopardize the capacity of an agency or an entity that has shared information with an agency to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures.” See also [FOIL-AO-17236](#). FOIL exemptions are not absolute, however, and consistent with the intent that public records be disclosed, the exemptions should be construed *narrowly* such that any information that may be disclosed is disclosed; in other words, blanket denials of access are inconsistent with the intent of FOIL and thus are disfavored. See [FOIL-AO-16659](#); *Gould v. New York City Police Department*, 89 N.Y.2d 267, 275 (1996).

Here, the County may withhold only those portions of the cybersecurity contract which if disclosed could enable a person to adversely impact an agency’s electronic information systems. Further, the County must provide an explanation of how disclosure of all of the withheld information would cause the harms contemplated in the cited section of the law. We agree with the County that certain information contained in the contract – such as information technology (IT) schematics or blueprints, operational, pricing or systems methodologies, or the types of IT monitoring or remediation the County is purchasing – which if disclosed could jeopardize the security of IT systems and assets, may be properly withheld as exempt pursuant to the cited FOIL exemption. However, in our view, it is not clear how the disclosure of other information contained within the contract – such as the name of the selected vendor or value of the executed contract – would enable a person to adversely impact an agency’s electronic information or IT systems. It is our opinion that – as described above – a blanket denial of access is inappropriate and unless the County can demonstrate that disclosure of this and other information contained within the contract would jeopardize the security of IT assets, FOIL requires that the County disclose it.

Mark Nolan  
January 18, 2023  
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Thank you for your inquiry.

*/s/ Shoshanah Bewlay*

Shoshanah Bewlay  
Executive Director

cc: Gregory Kalnitsky (GKalnitsky@nassaucountyny.gov)