



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 5, 2011

Ms. Linda J. Klett, Deputy FOIA Officer
Forest Preserve District of DuPage County
33580 Naperville Road
Wheaton, IL 60189-8761

RE: FOIA Pre-Authorization Request - 2011 PAC 14591

Dear Ms. Klett:

We have received and reviewed the written notice from the Forest Preserve District of DuPage County (District) of its intention to deny disclosure of certain information pursuant to section 7(1)(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(f) (West 2010)). Specifically, on May 19, 2011, [REDACTED] requested certain records related to the Fleet Maintenance Building. The District seeks to redact three preliminary drafts of an amendment to its contract with Knight E/A Inc., and related records of correspondence.

Section 7(1)(f) of FOIA exempts from inspection and copying "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body." The section 7(1)(f) exemption applies to "inter- and intra-agency predecisional and deliberative material." *Harwood v. McDonough*, 344 Ill. App. 3d 242, 247 (1st Dist. 2003). The exemption is "intended to protect the communications process and encourage frank and open discussion among agency employees before a final decision is made." *Harwood*, 344 Ill. App. 3d at 248.

DETERMINATION

The District's assertion of the section 7(1)(f) exemption to withhold the drafts and related correspondence is **approved**. We have reviewed un-redacted copies of the correspondence and drafts, dated February 9, 2010, April 8, 2011, and May 2, 2011. The drafts consist of proposed contract amendments with cost estimates for services by Knight E/A, Inc.,

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and its sub-consultants. Such draft proposals and related correspondence are pre-decisional in nature, and there is no indication that the records have been cited by the director of the District. Accordingly, we conclude that the District has sustained its initial burden of demonstrating that these records are exempt from disclosure under section 7(1)(f).

The District's pre-authorization request also sought to withhold a fourth draft of an amendment to the contract, dated June 9, 2011. However, the District clarified in response to our further inquiry that it is no longer seeking to withhold this draft under section 7(1)(f) because it has since been approved by the District's Board of Commissioners and disclosed to the public in open session meeting agendas. Therefore, the District may issue a partial denial letter and disclose the June 9, 2011, draft that received final approval together with other records responsive to [REDACTED] request, if it has not already done so.

If you have any questions, please contact me at (312) 814-6756. This correspondence shall serve to close this matter.

Very truly yours,

[REDACTED]

STEVE SILVERMAN
Assistant Attorney General
Public Access Bureau

14591 preauth al 7(1)(f) prelim draft county

.cc:

[REDACTED]