



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 23, 2011

Ms. Sheila Chernis, CPPB
Freedom of Information Officer
Illinois Department of Commerce and Economic Opportunity
500 East Monroe
Springfield, Illinois 62701-1643

RE: FOIA Pre-Authorization Request - 2011 PAC 16082

Dear Ms. Chernis:

We have received the written notice from the Illinois Department of Commerce and Economic Opportunity 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), as amended by Public Acts 97-333, effective August 12, 2011; 97-385, effective August 15, 2011). On July 18, 2011, Kalindi Ramcharan submitted a request for copies of all proposals and evaluation scoring sheets related to Request for Proposal (RFP) #10-000000060942. The Department seeks to redact evaluators' scores and comments on scoring sheets.

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 Department's assertion of section 7(1)(f) to redact evaluators' scores and comments from the RFP scoring sheets is **approved**. These scores and comments express

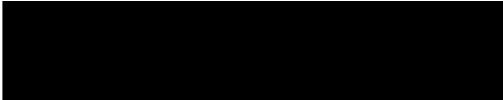
Ms. Sheila Chernis
August 23, 2011
Page 2

opinions and recommendations which were considered by the Department before making a final decision on awarding a contract. Such records are pre-decisional in nature, and there is no indication that the records have been publicly cited by the director of the Department. Accordingly, we conclude that the Department has sustained its initial burden of demonstrating that the evaluators' scores and comments are exempt from disclosure under section 7(1)(f).

The Department indicates that it intends to redact additional information from the records pursuant to sections 7(1)(a) and 7(1)(g) of FOIA (5 ILCS 140/7(1)(a), (g) (West 2010), as amended by Public Acts 97-333, effective August 12, 2011; 97-385, effective August 15, 2011). Because advance approval by the Public Access Counselor is not required for the assertion of exemptions other than sections 7(1)(c) (5 ILCS 140/7(1)(c) (West 2010), as amended by Public Acts 97-333, effective August 12, 2011; 97-385, effective August 15, 2011) and 7(1)(f), we make no determination at this time regarding the applicability of any other exemptions.

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

Very truly yours,



STEVE SILVERMAN
Assistant Attorney General
Public Access Bureau

16082 preauth al 7(1)(f) prelim draft sa

cc: Mrs. Kalindi Ramcharan
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