



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

August 26, 2011

Ms. Brigett R. Bevan, FOIA Officer  
Chicago Transit Authority  
567 W. Lake Street  
Chicago, Illinois 60661

FOIA Pre-Authorization Request - 2011 PAC 15146

Dear Ms. Bevan:

We have reviewed the written notice from the Chicago Transit Authority (CTA) 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 May 26, 2011, [REDACTED] submitted a FOIA request for various records including CTA's railcar contract with Bombardier Transportation Corporation and all records of correspondence and communications between CTA and Bombardier related to mentor protégé program plans. CTA is seeking to withhold certain records related to mentor protégé program plans under section 7(1)(f).

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.

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### DETERMINATION

CTA's assertion of section 7(1)(f) to withhold the records is **approved**. In response to our further inquiry, CTA explained that its contract with Bombardier provides for supplemental participation for disadvantaged business enterprises (DBE) in addition to Bombardier's commitment to participation for DBEs pursuant to 49 C.F.R. § 26.37. The supplemental DBE participation includes mentor protégé plans that require CTA approval. *See* 49 C.F.R. § 26.35(c). We have reviewed un-redacted copies of the records in question, which consist of emails concerning Bombardier's mentor protégé program plans and a preliminary draft of a mentor protégé program plan. These records are pre-decisional in nature, and CTA has indicated that none of the records have been publicly cited and identified by its director. Accordingly, we conclude that CTA has sustained its initial burden of demonstrating that the records are exempt from disclosure pursuant to section 7(1)(f).

CTA also asserted that additional records are exempt from disclosure pursuant to section 7(1)(g) of FOIA (5 ILCS 140/7(1)(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 section 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 section 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 letter shall serve to close this matter.

Very truly yours,



STEVE SILVERMAN  
Assistant Attorney General  
Public Access Bureau

15146 preauth al 7(1)(f) prelim draft mun

cc:

