



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

Lisa Madigan
ATTORNEY GENERAL

April 21, 2010

Ms. Robin Kaler
Public Record Officer
University of Illinois
507 E. Green, Suite 313
Champaign, IL 61820

RE: FOIA Pre-approval Request – 2010 PAC 6830

Dear Ms. Kaler:

On April 14, 2010, we received from the University of Illinois a written request for approval of its intent to assert the Section 7(1)(f) exemption in response to a Freedom of Information Act (FOIA) request dated March 27, 2010 from [REDACTED] with [REDACTED]. The request sought “[a] copy of the original awarded vendor’s bid form your last awarded bid...for gasoline and diesel” and “[t]wo (2) invoices from each month of your current contract... of each gasoline and diesel.” The University has indicated its intent to redact from the requested records, an internal note dated March 10, 2009 between the purchasing department and the fleet operations manager with regard to the bid, as exempt under Section 7(1)(f).

Section 7(1)(f) of the Freedom of Information Act allows withholding of:

[p]reliminary drafts, notes, recommendations, memoranda or other documents 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. 5 ILCS 140/7(1)(f).

Based on our review of this information, we have determined that it is appropriate for the University to redact under Section 7(1)(f) the internal communication in question. The information provided indicates that the internal note requests input as to the bid from the individual responsible for purchasing fuel for the University.

The Illinois Appellate Court in *Harwood v. McDonough*, 344 Ill. App. 3d 242 (1st Dist. 2003), ruled that “as a matter of public policy, section 7(1)(f) exempts from disclosure predecisional

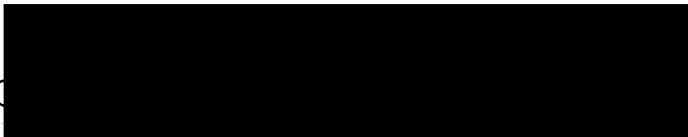
materials used by a public body in its deliberative process.” *Id.* at 247. In considering the matter, the *Harwood* court adopted the defendant’s argument that the word “preliminary” does not refer to the “posture of the particular document sought to be disclosed” but rather to “predecisional intra-agency communications.” *Id.* at 247-248. The court noted that no previous Illinois caselaw interpreted the use of the word preliminary and, as such, stated that it was helpful to look to cases interpreting the parallel language of the Federal Freedom of Information Act. The court determined that the exemption is intended to protect “predecisional, deliberative communications that are part of an agency’s decision-making process.” *Id.* at 248 (quoting *Parmalee v. Camparone*, No. 93 C 7362, 1998 WL 704181 (N.D. Ill October 1, 1998)). The document in question in the University’s Pre-Approval Request falls within the scope of the exemption. The note appears to be part of the University’s decisionmaking process in relation to fuel purchases. As such, the records are exempt from disclosure under Section 7(1)(f).

If you have any questions, please feel free to contact me at (217) 785-7438. This letter shall serve to close this file.

Sincerely,

Cara Smith
Public Access Counselor

By:



Amanda M. Lundeen
Assistant Public Access Counselor

cc:

