



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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ATTORNEY GENERAL

May 3, 2011

Ms. Shelia Chernis
Freedom of Information Act Officer
Illinois Department of Commerce and Economic Opportunity
Shelia.chernis@illinois.gov

Ms. Mary Lynn Zajdel
marylynn@dzse.com

RE: FOIA Pre-Authorization Request - 2010 PAC 7108

Dear Ms. Chernis and Ms. Zajdel:

We have received and reviewed the written notice from the Illinois Department of Commerce and Economic Opportunity (Department) of its intention to withhold certain information as exempt from disclosure under Section 7(1)(f) of the Freedom of Information Act (FOIA), 5 ILCS 140/1 *et seq.*, as amended.

In summary, on April 12, 2010, Ms. Mary Lynn Zajdel submitted a FOIA request to the Department seeking copies of information relating to the Edge tax credit program submitted on behalf of Navistar, Inc.

On April 26, 2010, the Department sought our Office's approval to withhold certain draft documents pursuant to Section 7(1)(f) of FOIA (5 ILCS 140/7(1)(f)), which exempts from inspection and copying "preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies 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." Specifically, the Department seeks to withhold drafts of a proposed legislative amendment.

Determinations

The Department's request for approval of its decision to withhold information pursuant to Section 7(1)(f) is approved.

The Section 7(1)(f) exemption is intended to encourage government officials to openly and frankly discuss matters of governmental concern in order to make informed policy decisions. *Harwood v. McDonough*, 344 Ill.App.3d 242, 248, 799 N.E.2d 859, 864 (1st Dist. 2003).

Upon review of the documents, we have determined that they consist of drafts of a proposed amendment to a House Bill that has never been adopted.

Additionally, there is no evidence that the drafts have been publicly cited and identified by the head of the Department. 5 ILCS 140/7(1)(f).

Accordingly, the Department has met its initial burden and may withhold the drafts pursuant to Section 7(1)(f) of FOIA. Should you have any questions, please contact me at (312) 814-5383. This correspondence shall serve to close this matter.

Sincerely,



Matthew C. Rogina
Assistant Public Access Counselor

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