



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

December 21, 2010

Illinois State University
Office of the President
Jay R. Groves
Assistant to the President and Public Records Officer
421 Hovey Hall
Campus Box 1000
Normal, IL 61790-1000

Re: Pre-authorization request – 2010 PAC 10320

Dear Mr. Groves:

We have reviewed Illinois State University's (ISU) request for pre-authorization to withhold records requested under the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et seq.*, as amended. High Energy Consulting, Inc., filed a FOIA request for various records regarding a Request for Proposal (RFP) for ISU "Energy Performance Contracting Services #RR042209." ISU agreed to disclose a number of records, including documentation of the final result of the bid process. ISU requested pre-authorization under Section 7(1)(f) (5 ILCS 140/7(1)(f)) to withhold "records of scoring for written RFP responses and oral interview presentations, comments, notes, analysis and questions, weighting of scoring, and assignment of points or values to RFP questions" as well as notes of selection committee members which related to evaluations of energy services companies.

Section 7(1)(f) 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." 5 ILCS 140/7(1)(f).

Determination

The request for pre-approval to withhold records pursuant to Section 7(1)(f) is **approved**. We have reviewed copies of the records which ISU characterized as "tools used to evaluate proposals

in an effort to formulate final action on these proposals.” Those records are preliminary in nature and contain notes, opinions and recommendations regarding the selection of a company to provide ISU with energy services. Additionally, there is no indication that the records have been publicly cited by the head of the public body. Therefore, ISU has met its initial burden of demonstrating that the records are exempt under Section 7(1)(f).

ISU intends to redact additional information from the records pursuant to Section 7(1)(g) (5 ILCS 140/7(1)(g)). We have not analyzed the assertion of that exemption; the assertion of that exemption by ISU is not contingent upon receiving pre-approval from this office.

This letter shall serve to close this file. If you have any questions, please feel free to contact me at 312-814-6756 or ssilverman@atg.state.il.us.

Sincerely,

Cara Smith
Public Access Counselor

By:

A solid black rectangular box redacting the signature of Steve Silverman.

Steve Silverman
Assistant Public Access Counselor

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