



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

December 15, 2010

Joelle McGinnis
Freedom of Information Officer
Illinois Tollway
2700 Ogden Avenue
Downers Grove, Illinois 60515

Re: Pre-Authorization Request – 2010 PAC 11234

Dear Ms. McGinnis:

We have received and reviewed the written notice from the Illinois Tollway (Tollway) of its intention to deny disclosure of a certain records as exempt from disclosure under Section 7(1)(f) of the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et seq.*, as amended.

Nancy Draper submitted of FOIA request to the Tollway on November 17, 2010 seeking, in part, the following information regarding the THA – Transition Management and Performance Audit, Bid # THA – 10-0151:

1. Scoring Matrix (Points awarded to each responsive bidder, with line item detail, and scoring by each rater on the evaluation team);
2. Comments regarding scoring, and comparative evaluation of responsive bidders...

In its written notice, the Tollway asserted that the records responsive to this portion of the request "...include opinions and recommendations of individual evaluators used to assist the Tollway in forming a decision as to an award..." and are thus exempt from disclosure under Section 7(1)(f) of FOIA.

Section 7(1)(f) of FOIA (5 ILCS 140/7(1)(f)) exempts from disclosure records that constitute "[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 shall not be exempt when the record is publicly cited and identified by the head of the public body."

Determination

The Tollway's application of the exemption found in Section 7(1)(f) of FOIA to deny disclosure of scoring/evaluation documents pertaining to proposals received in response to Bid # THA - 10-0151 is approved. We have reviewed the responsive records provided by the Tollway and have determined that they contain the opinions and recommendations of individual evaluators. These evaluation documents are a tool used to numerically evaluate proposals in an effort to formulate a final action. Therefore, the Tollway has met its initial burden of demonstrating that the scoring/evaluation documents responsive to Ms. Draper's FOIA request are exempt from disclosure under Section 7(1)(f) of FOIA.


Accordingly, the Tollway's issuance of a partial denial letter denying disclosure of the scoring/evaluation documents regarding Bid # THA - 10-0151 was appropriate.

If you have any questions, please feel free to contact me at (312) 814-1003 or joleary@atg.state.il.us. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By


Jessica O'Leary
Assistant Attorney General

cc: Nancy Draper
Manager Government Initiatives
CGN & Associates
Two Mid American Plaza, Suite 915
Oakbrook Terrace, Illinois 60181