



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

December 20, 2010

Donna M. Leonard
Executive Counsel
Office of the Secretary of State
dleonard@ilsos.net

RE: FOIA Pre-Authorization Request - 2010 PAC 8552
FOIA Pre-Authorization Request - 2010 PAC 9198

Dear Ms. Leonard:

We have received and reviewed two written notices from the Office of the Secretary of State of its intention to deny disclosure of certain information pursuant to Section 7(1)(f) of the Freedom of Information Act (FOIA).

Specifically, on July 9, 2010, Terry Trueblood and Jerry Lieb, on behalf of the Fraternal Order of Police Lodge 95, submitted a FOIA request to the SOS seeking the 2009 audit reports issued to the SOS by the Inspector General. Similarly, on August 14, 2010, [REDACTED] submitted a FOIA request seeking identical information.

On August 12, 2010, the SOS submitted a Pre-Authorization Request to our Office and sought our approval to withhold the audit reports sought by the FOP. Specifically, the SOS asserted that the reports are exempt from disclosure 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."

On August 17, 2010, the SOS submitted a similar Pre-Authorization Request with regard to [REDACTED]'s request. On September 1, 2010, this Office initiated further review of the matter and indicated that we would review the reports at issue.

Determination

The Office's use of the exemption in Section 7(1)(f) with regard to the audit reports 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. See *N.L.R.B. v. Sears*, 421 U.S. 132 (1975), *Hoffman v. Ill. Dept. of Corrections*, 158 Ill.App.3d 473, 511 N.E.2d 759 (1st Dist. 1987).

This Office has reviewed the reports at issue and determined that the audit reports contain opinions and recommendations by the IG to the SOS with the intention of formulating a course of action with regard to several matters addressed in the reports.

Additionally, there is no evidence that this information has been publicly cited and identified by the head of the public body. 5 ILCS 140/7(1)(f).


Based on this analysis, the SOS has met its initial burden of demonstrating that the audit reports are exempt from disclosure under Section 7(1)(f) of FOIA.

Should you have any questions, please feel free to contact me at (312) 814-5383. This correspondence shall serve to close this matter.


Sincerely,

Cara Smith
Public Access Counselor

By:


Matthew C. Rogina
Assistant Public Access Counselor

cc:


Terry Trueblood
omni@mchsi.com

8552 pre-auth 7(1)(f) prelim draft sa
9198 pre-auth 7(1)(f) prelim draft sa