



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

February 3, 2011

Ms. Sunny Clark  
Freedom of Information Act Officer  
Central Management Services  
Sunny.Clark@illinois.gov

RE: FOIA Pre-Authorization Request - 2011 PAC-12077

Dear Ms. Clark:

We have received and reviewed the written notice from Central Management Services 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.

Specifically, on January 22, 2011, Mr. [REDACTED] submitted a FOIA request to CMS seeking the "CMS 96 that was done on Neil Rossi for his reinstatement" of August 16, 2009.

On January 24, 2011, CMS submitted a Notice of Intent to Deny with this Office explaining that the document is 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."

**Determinations**

CMS' request for approval of its decision to withhold the information pursuant to Section 7(1)(f) is approved. This Office has reviewed the document that CMS seeks to withhold and we have concluded that the document consists of opinions and recommendations about a particular course of action with regard to a state employee. Accordingly, the document properly falls within the scope of Section 7(1)(f).

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

Based on this analysis, CMS has met its initial burden in demonstrating that the document is exempt from disclosure under Section 7(1)(f) and may withhold the document in question.

We further note that CMS seeks to withhold additional responsive information pursuant to Section 7(1)(q) of FOIA (5 ILCS 140/7(1)(q) which exempts from inspection and copying "test questions, scoring keys and other examination data used to determine the qualifications of an application for a license or employment," and Section 7(1)(a) (5 ILCS 140/7(1)(a)) which exempts from inspection and copying information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law."

Application of Section 7(1)(a) and Section 7(1)(q) does not require prior approval by the Public Access Counselor.

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

Sincerely,



Matthew C. Rogina  
Assistant Public Access Counselor

cc:



*12077 pre-auth at 7(1)(f) prelim sa*