

April 26, 2016

VIA E-MAIL

Ms. Jodi R. Frailey
Compliance Monitor
Indiana, Illinois, and Iowa Foundation
for Fair Contracting
Email: JFrailey@iiffc.org

RE: 16-FOIA-093 Info - IFB #97345

Dear Ms. Frailey:

We are in receipt of your request for information pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* (“FOIA”).

I. Background

On April 11, 2016, we received your request for the following regarding Metra’s Renovation of Mount Prospect Station:

1. Bid tabulations for the Metra - Renovation of Mount Prospect Station (Cook County) Metra IFB #97345;
2. Bid specifications to include: the engineer’s estimates and scope of work;
3. A copy of Outlook/GMA JV’s full bid packet to include: a copy of their Bid Security, Bid Bond, certificate of insurance, sworn acknowledgement, sworn work history statement, certification of apprenticeship, and proposal with cost break down;
4. A list of sub-contractors that were approved to perform work on this project, and for what specific work;
5. A copy of the signed contract; and
6. A project start date

(“Request”). Your Request is granted in part and denied in part.

We sent you an email on April 13, advising that our Procurement Department sought clarification of the term “sworn acknowledgment,” as referred to in item #3 of your Request. To date, you have not responded to our inquiry.

II. Responsive Documents

In response to your Request, Metra’s Procurement Department is providing you with the following:

1. A bid tabulation sheet for IFB #97345;
2. A copy of Engineering’s Independent Cost Estimate. *Please refer to Exhibit R in Contract #K60470 for Scope of Work;*

3. A copy of the Outlook / GMA Joint Venture Agreement, including:

- A copy of the Bid Security; *See Bid Bond.*
 - Bid Bond, with Acknowledgement of Corporate Surety and Power of Attorney;
 - Certificate of insurance; – *After performing a diligent search of Metra’s records, we have been unable to locate any records responsive to your Request for a Certificate of Insurance. Procurement advises this document is due to Metra on April 29, 2016.*
 - Sworn Acknowledgement; – *After performing a diligent search of Metra’s records, we have been unable to locate any records responsive to your Request for a sworn acknowledgement. Per our April 13 email to you, Procurement sought clarification of this item and to date, you have not responded.*
 - Sworn work history statement; – *See Exhibit Y of Contract #K60470.*
 - Certification of Apprenticeship; - *After performing a diligent search of Metra’s records, we have been unable to locate any records responsive to your Request for a Certification of Apprenticeship. Procurement advises that such a Certification would only be received by Metra when/if Labor Compliance received a certified payroll indicating an apprentice was used on the project.*
 - Proposal with cost break down; – *The proposal was a lump sum, therefore no cost breakdown exists.*
4. A list of sub-contractors that were approved to perform work on this project, and for what specific work; – *After performing a diligent search of Metra’s records, we have been unable to locate any records responsive to your Request for a list of sub-contractors. Procurement advises no subcontractor information is available unless it is submitted with the DBE subcontractor forms due on May 1, 2016.*
5. A copy of the executed Contract #K60470; and
6. The project start date – *After performing a diligent search of Metra’s records, we have been unable to locate any records responsive to your Request for a project start date. Procurement advises the period of performance begins with the Notice of Award dated April 1, 2016, but the actual work cannot start until a Notice to Proceed has been issued*

(“Responsive Documents”).

III. Partial Denial

While FOIA requires public bodies to provide access to public records generally, FOIA also authorizes units of government to withhold certain information. Therefore, Attorney Thomas Stuebner has determined that the following portions of the Responsive Documents are exempt from disclosure under certain provisions of FOIA:

1. The personal financial information (tax identification number) of the party mentioned in the Responsive Documents are being redacted because they are exempt from disclosure under Section 7(1)(b) of FOIA, which exempts “private information.” “Private information” is

defined as unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home addresses and personal license plates which are specifically mentioned within the definition of "private information" found in Section 2(c-5) of FOIA. (5 ILCS 140/2(c-5)).

2. Insurance information contained within the Responsive Documents is being redacted because it is exempt from disclosure under Section 7(1)(s) of FOIA, which exempts "[a]ny and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool Insurance or self-insurance (including any intergovernmental risk management association or self-insurance pool) claims, loss or risk management information, records, data, advice or communications." 5 ILCS 140/7(1)(s). Accordingly, per Attorney Thomas Stuebner, all information regarding insurance within the Responsive Documents has been redacted.

IV. Right of Review

You have the right to have the partial denial of your Request reviewed by the Public Access Counselor ("PAC") of the Illinois Attorney General's Office. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC by writing to:

Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, Illinois 62706
Fax: 217-782-1396
E-mail: publicaccess@atg.state.il.us.

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this partial denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this partial denial letter when filing a Request for Review with the PAC.

You also have the right to seek judicial review of your partial denial by filing a lawsuit in the circuit court. 5 ILCS 140/11.

If I can be of further assistance to you, please do not hesitate to contact me.

Sincerely,



Kathleen E. Haton
Freedom of Information Officer
FOIA@metrarr.com

Attachments