



June 12, 2019

**VIA EMAIL**

Mr. William V. Saracco  
[REDACTED]

RE: 19-FOIA-144 Progress Rail Response for Locomotive Purchase and Remanufacturing

Dear Mr. Saracco:

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 May 30, 2019, we received your request for the complete proposal and bid materials submitted by or on behalf of Progress Rail in response to the RFP issued by Metra in or around 2017 for the remanufacture of 15 locomotives with options to buy up to 27 additional locomotives, which was ultimately awarded by Metra to Progress Rail in or around February 2019. This includes all proposal and bid materials submitted by or on behalf of Progress Rail including, but not limited to, price forms, qualifications, and technical submissions, plus any letters or other communications submitted by or on behalf of Progress Rail to Metra during the RFP Process (“Request”).

Metra’s Procurement department advises that the contract for the above-referenced RFP has not been executed. As such, your Request is denied.

**II. Denial**

Your Request is denied inasmuch as it seeks information regarding an RFP for which the contract has not yet been executed. Section 7(1)(h) of FOIA authorizes units of government to withhold:

“Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contract or agreement with the body until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.” 5 ILCS 140/7(1)(h).

The documents sought in the Request pertain to information that, if released, would frustrate the procurement process and could give an advantage to any person proposing to enter into a contract or agreement with Metra. Attorney Keith Pardonnet has determined that denial of your Request is proper under Section 7(1)(h) of FOIA because the denied records, “[s]hall be exempt until an award or final selection is made.”

*Please note Metra anticipates executing this contract by August 2019.*

**III. 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](mailto: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,



Angela K. Ollie  
Freedom of Information Officer  
[FOIA@metrarr.com](mailto:FOIA@metrarr.com)  
FOIA Hotline #312-663-3642