



September 4, 2019

VIA E-MAIL

Mr. Frederick A. Lurie

Attorney At Law

Email: f.lurielaw@outlook.com

RE: 19-FOIA-215 Info - Prairie Crossing Warming Station Project PO0025244

Dear Mr. Lurie:

Metra's FOIA Department ("FOIA Department") is responding to your request for information pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* ("FOIA").

I. Background

On July 30, 2019, the FOIA Department received the following request from you on behalf of your client, "K.B. Electric Service, Inc., a subcontractor who was engaged by the general contractor to perform work on the referenced Project and has not been paid in accordance with the parties' subcontract:

1. All contracts with Accel Construction Services Group, LLC; and
2. All pay applications and lien waivers submitted by, and evidence of payments to or on behalf of, Accel Construction Services Group, LLC; and
3. All notices of default and demands or notices to cure directed to Accel Construction Services Group, LLC, Inc.; and
4. All payment bonds submitted by Accel Construction Services Group, LLC and any other contractor."

("Request"). Your Request is granted in part and denied in part.

I spoke to you on August 21 to ask for clarification concerning item no. 1 of your Request. Specifically, I asked if you were seeking Accel contracts specifically pertaining to the Prairie Crossing Warming Station. You confirmed that you were only seeking records for this particular project. I then sent you an email summarizing our conversation.

II. Responsive Documents

Metra is providing you with the following records in response to your Request (organized in corresponding order to your numbered requests above):

1. Contract No. PO0025244;
2. Pay applications, lien waivers; and a spreadsheet containing evidence of payments to Accel;

3. After a diligent search of Metra's records, the FOIA Department has been unable to locate any records responsive to this portion of your Request; and
4. Performance / Labor and Material Payment Bonds No. 106860293.

(“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 Aruj Chaudhry has determined that the following portions of the Responsive Documents are exempt from disclosure under certain provisions of FOIA:

1. The unique identifiers (professional license number), personal financial information (bank account numbers, tax identification number), passwords and other access codes, and home addresses are redacted because they are exempted from disclosure under Section 7(1)(b) of FOIA, which exempts “private information.” “Private information” means 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, personal email addresses and home addresses. 5 ILCS 140/2(c-5).
2. Insurance information referenced in the Responsive Documents is redacted under Section 7(1)(s) of FOIA which authorizes units of government to withhold “[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 Aruj Chaudhry, all information regarding insurance within the Responsive Document has been redacted.
3. A note contained within the Responsive Documents has been redacted under Section 7(1)(f) of FOIA which states records that are, “[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated . . . [.]” are exempt from disclosure. 5 ILCS 140/7(1)(f). The above-referenced note contains a recommendation pertaining to certain actions and as such, Attorney Aruj Chaudhry has determined its redaction is appropriate under FOIA.

IV. Right of Review

A person whose request to inspect or copy a public record that was treated by the public body as a request for a commercial purpose under Section 3.1 of FOIA may file a request for review with the Public Access Counselor (“PAC”) of the Illinois Attorney General’s Office for the limited purpose of reviewing whether the public body properly determined that the request was made for a commercial purpose. 5 ILCS 140/9.5(b). You can file your Request for Review with the PAC by writing to:

Mr. Frederick A. Lurie
19-FOIA-215 Info - Prairie Crossing Warming Station
Page 3 of 3

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.

Sincerely,



Kathleen E. Haton
Freedom of Information Officer
foia@metrarr.com
FOIA Hotline #312-663-3642

Attachments