



November 2, 2016

VIA E-MAIL

Mr. Eric Rader
Proposal Analyst
Wabtec Passenger Transit
Email: erader@Wabtec.com

RE: 16-FOIA-223 Nippon Sharyo Contract

Dear Mr. Rader:

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

I. Background

On September 6, 2016, we received your request for a copy of the Sumitomo/Nippon Sharyo contract regarding the Metra Highliner procurement, including price sheets (“Request”). Your Request is granted in part and denied in part.

II. Responsive Documents

In response to your Request, Metra’s Procurement Department is providing you with the following records for Metra’s contract with Sumitomo Corporation of America, in conjunction with its car builder partner, Nippon Sharyo, Ltd.:

1. A complete copy of RFP No. 16870 for EMUs for the Metra Electric Line;
2. Notice of Award to Sumitomo Corporation of America dated 9/13/2010;
3. A complete copy of Contract No. K03995;
4. Nippon Sharyo’s IFBs and purchase orders;
5. Change orders 1 - 4;
6. Addenda to Exhibit 1-P;
7. Exhibit 1-A Revised 9/10/2010;
8. Exhibit 1-H QC Plan to Exhibit 1; and
9. Exhibit 1-M-01042-Rev. E

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

1. Private information contained within the Responsive Documents is exempt under Section 7(1)(b) of FOIA. "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 (tax numbers), passwords or other access codes, medical records, home or personal telephone numbers, and personal e-mail addresses," as well as home address, and personal license plates. 5 ILCS 140/2(c-5).
2. Certain drawings containing drafts, and proposed extensions within the Responsive Documents, are exempt from disclosure under Section 7(1)(k) of FOIA. Under Section 7(1)(k) of FOIA, "Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security." 5 ILCS 140/7(1)(k). As such, the redaction of these drawings is appropriate under FOIA.
3. Section 7(1)(s) of FOIA 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 Jamie Harrmann, all information regarding insurance within the Responsive Documents has been redacted.

IV. Right of Review

A person whose request to inspect or copy a public record 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:

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
FOIA Hotline #312-663-3642

Attachments