



April 24, 2019

VIA E-MAIL

Mr. William V. Saracco
Attorney at Law

RE: 19-FOIA-104 CRRC Sifang America Proposal

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 April 5, 2019, we received your request for the complete proposal submitted by or on behalf of CRRC Sifang America, including any affiliate or agent of CRRC Sifang America, in response to the RFP issued by Metra in April 2017 for 75 new gallery rail cars with an option to purchase additional units; including all materials submitted by or on behalf of CRRC Sifang America including, but not limited to, price forms, qualifications, and technical submissions, plus any letters submitted by or on behalf of CRRC Sifang America to Metra during the RFP Process (“Request”).

Metra’s Procurement Department advises the procurement process for the above-referenced procurement was discontinued by the using department prior to an award being made; subsequently, the bid was cancelled. As such, your Request is denied.

II. Denial

Your Request is denied inasmuch as it seeks information regarding an RFP that was not awarded. 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 re-bidding for this procurement shortly.

III. 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 denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this denial letter when filing a Request for Review with the PAC.

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

If we can be of further assistance to you, please do not hesitate to contact us.

Sincerely,



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