



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

September 24, 2025

Via electronic mail



RE: FOIA Request for Review – 2025 PAC 88226

Dear [REDACTED]:

This determination is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2024)). For the reasons explained below, the Public Access Bureau has determined that this Request for Review is unfounded.

On July 3, 2025, you emailed a FOIA request to four attorneys employed by a private law firm seeking copies of records regarding the payment and compensation of those attorneys, as well as compensation of the law firm's partners, in connection with the attorneys' work on behalf of Madison County (County). On July 18, 2025, the Madison County State's Attorney's Office (State's Attorney's Office) responded that the records you requested are not public records under FOIA. On July 27, 2025, you submitted the above-referenced Request for Review contesting the State's Attorney's Office's response.

On August 11, 2025, a Supervising Attorney in the Public Access Bureau contacted an Assistant State's Attorney by telephone to clarify the relationship between the attorneys at the private law firm and the State's Attorney's Office. The Assistant State's Attorney explained that the State's Attorney's Office does not maintain records regarding the compensation of individual attorneys or partners at the private law firm, nor does it compensate individual attorneys at the firm. Rather, the firm submits invoices to the County for work performed, and the County pays the firm from its tort fund. The State's Attorney's Office provided a copy of redacted invoices that it had provided to you in response to a previous FOIA request. The invoices document the hours each attorney worked on specific issues for the County and the charge for that work, as well as a narrative explaining the work performed.

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FOIA provides that "all records in the custody or possession of a public body" are presumed to be open to inspection or copying. 5 ILCS 140/1.2 (West 2024). Your FOIA request and Request for Review indicate that you are not seeking records in the possession of the State's Attorney's Office, but instead, records in the possession of a private law firm with several attorneys who perform work for Madison County from time to time on an as-needed basis. You assert that any such records that exist are subject to disclosure by the State's Attorney's Office under section 7(2) of FOIA.¹ That section provides:

A public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body, **and that directly relates to the governmental function** and is not otherwise exempt under this Act, shall be considered a public record of the public body, for purposes of this Act. (Emphasis added.)


Under this provision, public records in the possession of a contractor that directly relate to a governmental function that the contractor has contracted to perform for the public body are considered to be records of the public body. *See* Ill. Att'y Gen. Pub. Acc. Op. No 13-018, issued December 3, 2013.

FOIA does not define the term "directly relates." The Illinois Appellate Court has recognized that this modifier significantly limits the scope of section 7(2) of FOIA: "This requirement makes clear the legislature's intention that the general public may not access all of a third party's records merely because it has contracted with a public body to perform a governmental function. FOIA is not concerned with private affairs." *Chicago Tribune v. College of DuPage*, 2017 IL App (2d) 160274, ¶ 53. The Public Access Bureau has previously determined that the résumé and employment application of the director of a non-profit corporation that was contracted to perform a governmental function did not "directly relate" to that function. Ill. Att'y Gen. PAC Req. Rev. Ltr. 33802, issued January 29, 2020, at 7 ("The records would reveal nothing about the substance of the government function that [the company] has been contracted to perform. There is no indication that the General Assembly intended section 7(2) to require disclosure of the personnel records of employees of private entities.").

In your Request for Review, you argue that the attorneys' "timekeeping, billing records, and compensation— all reflecting public work— are directly related to" the governmental function of representing the County in court.² You argue that these records, held by the law firm, are similar to a settlement agreement at issue in *Rushton v. Department of Corrections*, 2019 IL 124552.

¹5 ILCS 140/7(2) (West 2024).

²E-mail from ██████████ to Public Access Counselor (July 27, 2025).


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In *Rushton*, the Illinois Supreme Court held that a settlement agreement that a contracted medical provider reached with the estate of a prison inmate who died of cancer directly related to the governmental function of providing medical care to inmates. *Rushton*, 2019 IL 124552, ¶ 41. The court concluded that the "[t]he settlement agreement directly relates to performance of that governmental function. It is the settlement of a claim that [the provider's] inadequate medical care—its alleged *inadequate performance of its governmental function*—led to the death of an inmate. The connection is neither indirect nor tangential." (Emphasis in original.) *Rushton*, 2019 IL 124552, ¶ 31. The court emphasized, however, that the "directly relates" requirement "helps to ensure that parties are only able to access records of private contractors that are truly related to its exercise of a governmental function and not those records that are only incidentally or tangentially related to the contract with the government." *Rushton*, 2019 IL 124552, ¶ 29.

Unlike the settlement agreement at issue in *Rushton*, which directly related to the substantive performance of the governmental function that the provider was contracted to perform, the law firm's internal compensation and timekeeping records are merely tangentially or incidentally related to its work for the County. The invoices that the State's Attorney's Office previously provided to you, which document the substantive work of the law firm's attorneys on behalf of the County and which were submitted to the County for payment with public funds, are the compensation and timekeeping records that directly relate to the governmental function performed by the firm—the provision of legal services on an as-needed basis. In contrast, the records you now seek document the firm's internal recordkeeping and management practices. Records reflecting how a private law firm compensated attorneys who performed legal services for the County pertain to the private affairs of those attorneys and the firm. *City of Champaign v. Madigan*, 2013 IL App (4th) 120662, ¶ 31 ("FOIA is not concerned with an individual's private affairs.").

This letter serves to close this matter. If you have any questions, please contact me at (773) 590-7878 or benjamin.silver@ilag.gov.

Very truly yours,



BENJAMIN J. SILVER
Supervising Attorney
Public Access Bureau

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cc: *Via electronic mail*
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