



STATE OF INDIANA

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Via email transmission

June 2, 2017

Ms. Tammy Clark
Clerk-Treasurer
City of Tipton

Re: Informal Inquiry 17-INF-07; Reasonable particularity

Dear Ms. Clark:

This is in response to your informal inquiry regarding a specific request made by an out-of-state requestor and whether it meets the standard of a proper request. Please accept this informal inquiry response as a substitute for a formal advisory opinion.

BACKGROUND

You have received a public records request by an individual living in Virginia who does business and owns a commercial property in Tipton County. The Access to Public Records Act ("APRA") does not prohibit the submission of out-of-state requests, however, your concern is the scope and breadth of the request themselves. I will not repeat each request, but I will summarize below:

1. All claims paid by the City of Tipton and/or the Tipton Municipal Utilities to two engineering firms and the Local Economic Development Organization from 2007 to present.
2. All emails or written communication from 2000 to or from any City of Tipton employee or official regarding several subject matters and between of several individuals.

ANALYSIS

The one obligation on the part of a public access requestor is the responsibility to identify with reasonable particularity the records sought. See Ind. Code § 5-14-5-3. This Office has opined *ad nauseum* on the topic of public agency emails. This requestor is a known quantity to this Office and should be familiar with the concept of reasonable particularity. I have advised him in the past and am glad to do so again. Simply put, however, the requests you submitted for review from him do not come close to approaching any standard of reasonable particularity.



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The pursuit of public records access should be precise and narrowly tailored. That is not to say a request has to identify the record by its exact name. But I have often said that a request should be practical as well as particular. Seeing as how public records retention schedules do not require general email communication to be kept longer than three years, the request stretches the bounds of credibility. If the request was submitted as a discovery request during litigation, a judge would likely deny a motion to compel based on a lack of any tangible specificity. And the standard under the trial rules is generally more generous than the APRA.

Once again, at the risk of undue repetition, a reasonable email request should identify, *per individual message*, a single named sender, a single named recipient, a time frame of six months or less, and a particularized subject matter or set of key words. This standard, developed by this Office, has been adopted by and well-received by Indiana Courts, the General Assembly, attorneys, the public and the press, and well-covered in national and local media for several years.

To be acceptable, the requests should be narrowed down to include these elements. I also suggest limiting requests for specific lanes of communication to four at a time. Multiple requests for emails should not be submitted contemporaneously or simultaneously. By that same token, once a request has been narrowed down to appropriate and reasonable particularity, the production of records should be effectuated efficiently and without undue delay as the information provided is sufficient to provide the documents expeditiously.

Please do not hesitate to contact me with any questions.

Best regards,

A handwritten signature in black ink, appearing to read "L. Britt", written in a cursive style.

Luke H. Britt
Indiana Public Access Counselor