



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

**PUBLIC ACCESS COUNSELOR  
LUKE H. BRITT**

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)234-0906  
Fax: (317)233-3091  
1-800-228-6013  
[www.IN.gov/pac](http://www.IN.gov/pac)

February 17, 2016

Mr. William Shelton  
17696 Horizon Way  
Lawrenceburg, Indiana 47025

*Re: Formal Complaint 16-FC-06; Alleged Violation of the Access to Public Records Act by the Lawrenceburg Municipal Utilities*

Dear Mr. Shelton:

This advisory opinion is in response to your formal complaint alleging the Lawrenceburg Municipal Utilities (“Utilities”) and Mr. Olin Clawson, Director violated the Access to Public Records Act (“APRA”), Ind. Code § 5-14-3-1 et. seq. The City has responded via Mr. Delmar Weldon, Esq. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on January 7, 2016.

## **BACKGROUND**

Your complaint dated January 7, 2016 alleges the Lawrenceburg Municipal Utilities violated the Access to Public Records Act by improperly denying your request.

You requested copies of Director Clawson’s emails. You are seeking emails from October 2014 to the present which include any of twelve search terms. Your request was denied originally as lacking reasonable particularity. You attempted to refine your request and received another denial. You contend the denial was improper because you refined your request.

## **ANALYSIS**

The public policy of the APRA states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” See Ind. Code § 5-14-3-1. The Lawrenceburg Municipal Utility is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Utility’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

Under the APRA, all requests must be reasonably particular in order for the public agency to locate, retrieve and produce records responsive to the request. *See* Ind. Code § 5-14-3-3(a). Reasonable particularity is not defined under the APRA, but if an agency cannot determine what records are sought then the request is deemed to lack reasonable particularity.

This Office has previously issued opinions related to reasonable particularity with emails. In *Informal Opinion 15-INF-26*, I stated that requests for emails should have “a named sender, recipient, date range (preferably six months or less) and a set of key words” to meet reasonable particularity. A concise subject matter description could also substitute for key words. While a data range which is broader than six (6) months is not grounds for denial, a lack of a named sender or recipient or search terms does show a request lacks reasonable particularity. Requests lacking these items can turn into a voluminous information dump and be a burden for both the requestor and the public agency. *See also Jent v. Fort Wayne Police Dept.*, 973 N.E.2d 30 (Ind. Ct. App. 2012), and *Anderson v. Huntington County Bd. of Com'rs.*, 983 N.E.2d 613 (Ind. Ct. App. 2013).

Here, you have provided a date range and a set of search terms. However, you have not provided identified parties and instead want all of Director Clawson’s emails that fit your criteria. Therefore, your request lacks reasonable particularity.

However, merely because your request lacks reasonable particularity is not grounds itself for a denial. It is my sincere hope the public agency works with you to refine your request. In this case, you lack two (2) distinct identified parties. It is possible you do not know the names of individuals Director Clawson corresponded with. If that is the case, it is my hope the Utilities will provide you with some suggested names which will allow you to refine your search and obtain the documents you are requesting.

### CONCLUSION

Based on the forgoing, it is the Opinion of the Public Access Counselor the Lawrenceburg Municipal Utilities has not violated the Access to Public Records Act.

Regards,

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

Luke H. Britt  
Public Access Counselor

Cc: Mr. Delmar Wheldon III, Esq.