



STATE OF INDIANA

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October 21, 2016

Mr. David Jackman
1908 Sandalwood Drive
Greencastle, Indiana 46135

Re: Formal Complaint 16-FC-232; Alleged Violation of the Access to Public Records Act by Putnam County Convention & Visitors Bureau

Dear Mr. Jackman:

This advisory opinion is in response to your formal complaint alleging Putnam County Convention & Visitors Bureau ("PCCVB") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The Putnam County Convention & Visitors Bureau ("PCCVB") responded to your complaint on September 30, 2016, via Ms. Nancy Mark, Executive Director. Her response is attached for you to review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on September 12, 2016.

BACKGROUND

Your complaint dated September 12, 2016, alleges PCCVB with regards to your public records request has not supplied you with the documents requested within a reasonable period of time.

At an unspecified time in April 2016, you requested a copy of the Conflict of Interest Statement signed by Mr. Rick Patel, President of the PCCVB via telephone communication. Mr. Patel stated you would have it in a few days. You called again on August 25, 2016 speaking with Executive Director, Ms. Nancy Mark; she sent correspondence dated August 26, 2016 informing you the information you requested is in the process of being reviewed and located.

Executive Director Nancy Mark has responded to your complaint. She indicated PCCVB has undergone a transitional period in the last year. From August 25, 2015 until her hire date of June 15, 2016, the office did not have daily staff on hand and the request was not handled properly. Ms. Mark has conducted an extensive search of all records, searching specifically for signed conflict of interest forms. She has attached the one form found and signed by Mr. Patel. The Bureau is claiming many of records are missing or have been destroyed.

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 Indiana Code § 5-14-3-1*. The Putman County Convention & Visitors Bureau is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)*. Accordingly, any person has the right to inspect and copy the PCCVB’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

The APRA does not specify a time for production or inspection of responsive records. To the contrary, it states a request for public records must be fulfilled by a public agency within a reasonable time. *See Indiana Code § 5-14-3-3(b)*. Reasonableness depends on the circumstances, including: size of the public agency, number of pending requests, complexity of the request, and any other operational consideration which may reasonably affect the public records process. In this case, your formal complaint was dated approximately eighteen (18) calendar days after Ms. Mark sent her response to your request for access to public records. Because of the transitional period within the Bureau, Ms. Mark was only able to account for one (1) conflict of interest statement signed by Mr. Patel. *See response included*. Your request did not specify a timeframe of the conflict of interests requested. An important element of a public records request is reasonable particularity, i.e., a standard of specificity identifying a particular document. I encourage you to be mindful of this consideration in the future.

Due to prior complaints to this Office, I am aware that based upon the May 2015 minutes of the Bureau, “Conflict of interest forms were distributed and board members disclosed their conflicts.” Your first request was in April 2016. This ‘transitional period’ has been relied upon by the PCCVB in the past.

In September 2016, the City of Greencastle graciously invited me to speak at a gathering of public officials and interested members of the public and the media. During my presentation, I reiterated best practices and standards for good stewardship of public records requests. Members of the PCCVB were in the audience and my remarks appeared to be well-received. I have been contacted by the PCCVB and others since that time for various questions related to the public access request process. It is my sincere hope my recent presentation, as well as this Opinion, facilitates a resolution to this matter and improved relations in the future between this public agency and public records requestors.

Please do not hesitate to contact me with any questions.

Regards,



Luke H. Britt
Public Access Counselor

Cc: Ms. Nancy Marks