



STATE OF INDIANA

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July 17, 2008

Anna Peay
Advance Tactics Security, Inc.
2505 Bloyd Avenue
Indianapolis, Indiana 46218

Re: Formal Complaint 08-FC-162; Alleged Violation of the Access to Public Records Act by the City of Indianapolis

Dear Ms. Peay:

This advisory opinion is in response to your formal complaint alleging the City of Indianapolis ("City") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by taking an unreasonable amount of time to provide you access to records. The City's response to the complaint is enclosed for your reference. It is my opinion the City took an unreasonable amount of time to produce the requested records. The City has indicated the records are now available for you.

BACKGROUND

You allege that on a monthly basis since January 2008 you have been requesting copies of records related to the City's Request for Proposals 07-6712. You allege the City has promised the requested records but has not yet produced them. You filed this complaint on June 27, 2008, alleging the City has taken an unreasonable amount of time to produce the records.

The City responded to the complaint by letter dated July 14 from Chief Deputy Corporation Counsel and City of Indianapolis Public Access Counselor Samantha Karn. Ms. Karn explains that two City departments are responsible for maintaining the records and worked together to collect the requested records. Ms. Karn contends the City responded to the request within the seven days required by the APRA and did provide you with a copy of the RFP document. Ms. Karn contends that because the process to retrieve the additional documents you requested involved two separate departments, the coordinated effort was more involved but concedes the process was more time intensive than necessary.

The City indicates the two departments have now submitted the records to the Office of Corporation Counsel for review, and the office has reviewed the records. The records are now available for you.

ANALYSIS

The public policy of the APRA states, "(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." I.C. § 5-14-3-1. The City is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the City during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §§ 5-14-3-3(a), 5-14-3-9(c). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b).

A response could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. There are no prescribed timeframes when the records must be produced by a public agency. A public agency is required to regulate any material interference with the regular discharge of the functions or duties of the public agency or public employees. I.C. § 5-14-3-7(a). However, section 7 does not operate to deny to any person the rights secured by section 3 of the Access to Public Records Act. I.C. § 5-14-3-7(c). Public access counselors have stated that records must be produced within a reasonable period of time, based on the facts and circumstances. Consideration of the nature of the requests (whether they are broad or narrow), how old the records are, and whether the records must be reviewed and edited to delete nondisclosable material are necessary to determine whether the agency has produced records within a reasonable timeframe.

Here, the City initially responded to the request within seven days, which is appropriate under the APRA. The issue here is whether the City took more than a reasonable amount of time to produce the records. The Office of Corporation Counsel indicates that while the process was more involved than is standard because it involved two separate departments, the process was more time intensive than necessary. Based on this response, I agree the City departments took an unreasonable amount of time to produce the records which you initially requested in January 2008.

The City has now made the records available and has indicated you may pick up the records from the Purchasing Department on the fifteenth floor of the City-County Building.

CONCLUSION

For the foregoing reasons, it is my opinion the City took an unreasonable amount of time to produce the requested records. The City has indicated the records are now available for you.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Samantha Karn, Office of Corporation Counsel