



STATE OF INDIANA

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January 6, 2011

Ms. Iva Gasaway
Via email: iva_gasaway@hotmail.com

Re: Informal Inquiry 10-INF-51: Scott County Commissioners

Dear Ms. Gasaway:

This is in response to your informal inquiry regarding the Scott County Commissioners' ("Commissioners") treatment of insurance quotes through its Insurance Committee ("Committee"). Pursuant to Ind. Code § 5-14-4-10(5), I issue the following opinion in response to your inquiry. My opinion is based on applicable provisions of the Access to Public Records Act ("APRA"). I have enclosed the Commissioners' response for your reference.

In your inquiry, you state that the Commissioners received employees' group health insurance quotes through the Committee on October 15, 2010. The Committee reviewed the quotes and made recommendations to the Commissioners regarding the quotes. The Commissioners took the Committee's recommendation under advisement during their October 18th meeting, but postponed their final decision until their October 25th meeting. On October 25th, the Scott County Auditor ("Auditor") sent an email stating that a new deadline for insurance quotes was October 28th. As of October 28th, the Commissioners had received all quotes and given copies of the quotes to one of the companies that submitted a quote. You further claim that one commissioner sent one company another company's quote via facsimile, and that the commissioner "ask[ed] this other company if they [sic] can meet these prices and if he can get these same prices then that quote is going to be given to another agent with another company to turn in to the commissioners as their quote."

In response to your complaint Scott County Auditor Teresa Vannarsdall acknowledges that the Commissioners accepted quotes submitted to them at their October 18th meeting. The Commissioners did not make a decision at that meeting. In the Commissioners' opinions, the quotes were then public information. In an effort to make sure that all agents had the same opportunity to review the quotes, they were all released to the public. No other agents were allowed to submit quotes beyond those that had already done so. The agents who had already submitted quotes were permitted to revise and lower their existing quotes in an effort to reduce the county's expenses. The Commissioners permitted final revisions to be submitted until November 8th.

Initially, I note that my analysis is confined to the issues presented that pertain to access to public records. I have no statutory authority to offer an opinion regarding the propriety of the Commissioners' procedures or substantive decisions. *See* I.C. § 5-14-4-10.

The question presented here is whether the Commissioners acted appropriately by releasing the health insurance quotes after the closing of the first bid period and before making its final decision regarding which company's quote would receive the contract. Government procurement is covered by Ind. Code § 5-22 *et seq.* Nothing before me indicates that the Commissioners acted inappropriately, although I note that it is unclear what procedures the Commissioners employed to procure the health insurance contract. Ind. Code § 5-22-9-4 states that proposals must be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation, but Ind. Code § 5-22-9 applies only to State executive department requests for proposals and not to acquisitions by county commissioners. No other information before me indicates that the Commissioners acted inappropriately by releasing the quotes.

If I can be of additional assistance, please do not hesitate to contact me.

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive, slightly slanted style.

Andrew J. Kossack
Public Access Counselor

cc: Teresa Vannarsdall