

*Susan Nicholas
is reviewing
this*

December 3, 2014

Freedom of Information Act Request

Dear FOIA Officer:

Please treat this e-mail as a non-commercial Freedom of Information Act request seeking reproductions of public records maintained by 1) this public body or 2) by one or more third parties with whom this public body has contracted to provide services.

Currently, we are conducting research on the debt issuance practices of certain non-state, non-county public bodies in Illinois such as school districts, park districts and municipalities-villages. With the help of several assistants, a sample was taken late last summer of several public bodies in and around Champaign/Urbana and certain neighboring counties. In addition, several state and county agencies, such as the Illinois Department of Revenue, Illinois State Board of Education and county clerks to name a few, were contacted in order to discover if there existed any database (or databases) containing the details of bond issuances by type of public body. Unfortunately, there does not appear to be a central database at either the county level (clerk or treasurer) or at the state level.

One of the goals of last summer's sampling was to discover the manner in which the debt issuance records were likely to be kept by the public bodies. While we were aware of the electronic filing and disclosure requirements of the Municipal Securities Rulemaking Board ("MSRB"), we were not sure of the breadth and depth of Electronically Stored Information (ESI) within the offices of the various public bodies.

To our surprise, most if not all of the debt issuance records we requested dating back to 1985 were already stored as ESI with nearly 100% of those electronic records being stored in the Portable Document Format ("pdf"). The multi-decade assemblage of electronic records is due in large part to the reporting requirements of the MSRB and their Electronic Municipal Market Access ("EMMA") website. (www.emma.msrb.org) Most of the public bodies sampled had previously initiated a structured electronic document archiving and storage protocol for critical financial records such as debt issuances (bonds, debt certificates, TAWs, TANs, etc.), budgets, audits, levies, agendas, minutes, etc. Because of this prior commitment to a structured archiving system, the public records we requested appear to have been easily found as either a pdf file converted directly from the native electronic file format (Word, Excel, PowerPoint, e-mail, etc.) or as scanned paper records (usually those requiring signatures) utilizing a multi-function digital printer("MFP").

With regard to the debt issuance records in particular, our sampling found that for almost two decades the public body issuers of Illinois have received nearly

100% of their closing records as pdf files from either their underwriter/financial advisor or the law firm working with the issuer.

The public records that we seek are those very same closing records which were delivered to you as the issuer typically on a CD-Rom shortly after closing.

FOIA REQUEST

This request is for the following closing records for each debt issuance of this public body since January 1, 1984 through today. Our records show that, on average, a school district will have about 10 issuances spread over that thirty year period of time.

A "debt issuance" is defined as 1) a bond (referendum building bond, fire prevention & safety bond, tort judgment bond, working cash fund bond, funding bond, alternate revenue bond, revenue bond, refunding bond, and other types of long-term debt), 2) a debt certificate, 3) a tax anticipation warrant or note, and 4) other miscellaneous debt instruments.

The "closing records" for each debt issuance are broken down into three sub-categories: 1) the bond transcript files collected and executed before or at the time of closing, 2) the engagement contracts (including attachments and/or exhibits) with professional service providers such as underwriter, financial advisor, rating agency, bond counsel, disclosure counsel, and any other firm who is reimbursed from either the gross proceeds of the issuance or directly by the issuer, and 3) the pre-closing written communication identifying for the various parties the identified list of closing records which will be assembled into the final closing transcript. Of the three listed above, our research has shown that the only records that are likely still to be archived as paper records are the engagement contracts. Therefore, the only records which will need to be scanned into electronic pdf files will be the several contracts which usually are under six or so pages in length.

DELIVERY OF RECORDS

The largest problem that we face is creation of a nested directory protocol to be followed by all public bodies receiving this FOIA request as well as the naming conventions for the various files.

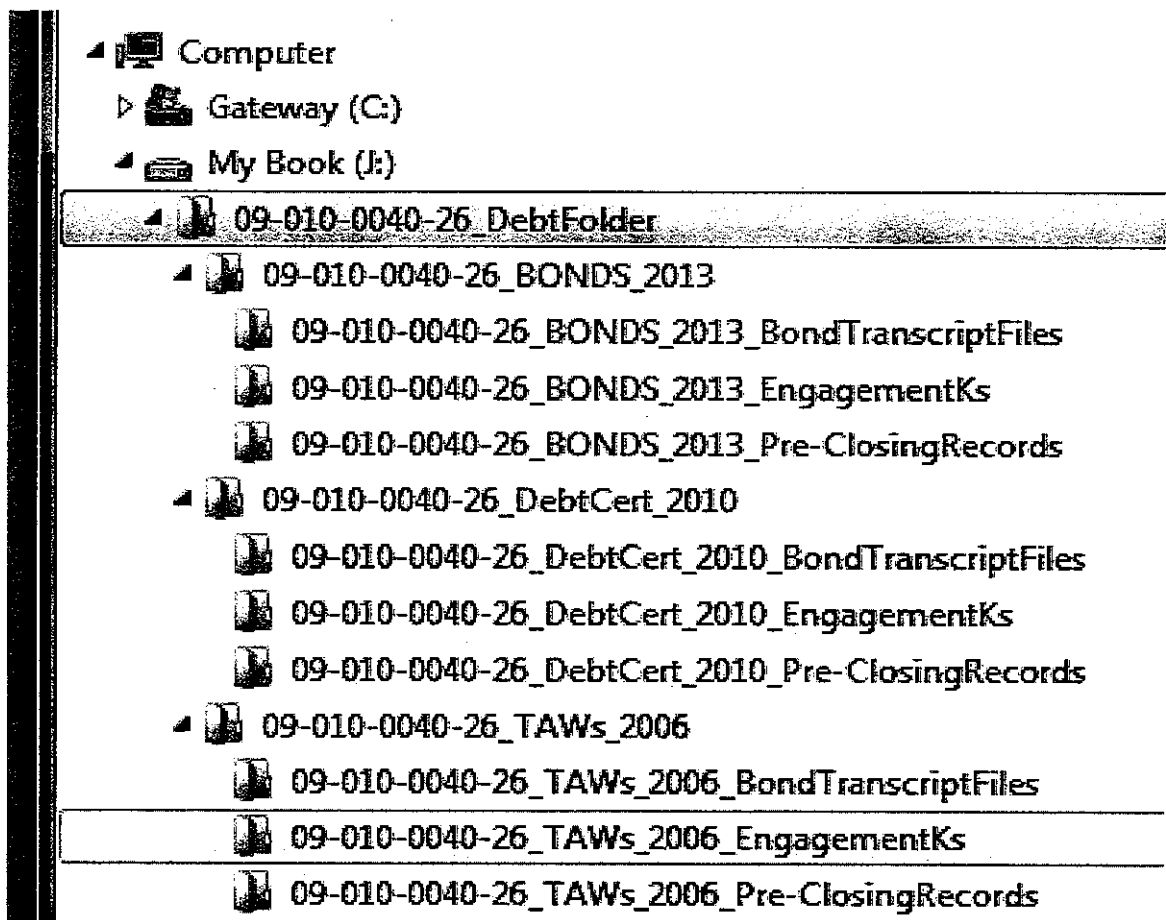
Given the volume of files that we expect to receive, we ask ... nay, beg ... you to please follow the proposed directory hierarchy and file naming conventions.

The suggested directory structure, with its single master file folder, is going to be one of the most important steps in handling the eventual delivery of the requested records. In addition, the suggested file naming convention will save us literally man-weeks of time renaming all of the files which would otherwise arrive

with totally random labeling protocols. In addition, the structure will allow much easier retrieve of the records if the same naming protocol is in place.

SAMPLE OF DIRECTORY HIERARCHY

Below is the suggested directory structure for this request. We have used the local school district (Champaign #4) as the example. In this structure, each folder and each file within a folder begin with the same unique identifier ... the 11-digit ISBE "RCDTS" code assigned to your district. After the RCDTS code, there is one or more descriptors separated by the "underscore" symbol ("_"). Within the "Debt Folder" are folders for each debt issuance with two descriptors: type of debt (BONDS, DebtCert, TAWs, TANs, Other) and calendar year of issuance ("2013"). The number of debt issuances since 1984 will determine the number of the first-tier sub-directories. (In this example, there are only three.) Within each debt issuance folder, there are THREE folders for each of the "closing records" categories described above. The various public records ("pdfs") will go into one of these three second-tier sub-directories.



SAMPLE OF FILE NAMING CONVENTION

09-010-0040-26_BONDS_2013_BondTranscriptFiles 03-Dec-14 8:49 AM Adobe Acrobat Document 20 KB

Above is a sample of the suggested file naming convention. In this example, it is for Champaign 4's 2013 bond transcript file and the RCDTS code is once again the primary identifier followed by the debt type (BOND), calendar year of issuance (2013) and the file contents (BondTranscriptFiles) with each descriptor separated by the "underscore" ("_") symbol. In this above file example, all of the closing records are in this one pdf from the CD-Rom provided by bond counsel shortly after closing. If there are bond closing records signed by the various parties NOT found on the CD-Rom, include them as separate pdf files within this folder. In addition, if the bond transcript was delivered on the CD-Rom in more than one pdf file, please simply add an additional numeric descriptor to the end of each additional file. For example:

09-010-0040-26_BONDS_2013_BondTranscriptFiles_1
09-010-0040-26_BONDS_2013_BondTranscriptFiles_2

For the next folder ("EngagementKs"), the primary filing naming convention is the same with only the two last descriptors being different. For example, for the "engagement contracts" folder the following naming conventions are to be used for the individual records for each contractor. For most issuances, there will be either the "underwriter" or the "financialadvisor" pdf file but not both. There may not be a "GeneralCounsel" agreement. These are the primary contractors, but if there are others please generate their own unique final descriptor.

09-010-0040-26_BONDS_2013_EngagementK_Underwriter
09-010-0040-26_BONDS_2013_EngagementK_FinancialAdvisor
09-010-0040-26_BONDS_2013_EngagementK_BondCounsel
09-010-0040-26_BONDS_2013_EngagementK_GeneralCounsel
09-010-0040-26_BONDS_2013_EngagementK_RatingAgency

Finally, the last folder ("PreClosingRecords"), is for the pre-closing letter usually prepared by bond counsel or the underwriter that identifies all documents needed to be assembled and signed for the closing. This letter will be used as a checklist for the files provided in "BondTranscriptFiles" folder discussed above. Please scan this record(s) as a PDF file or convert the native record (MSWord) into a PDF file.

TIMING OF DELIVERY

Given the nature of this request and the time of year, I suggest that the date of delivery be set for **FRIDAY, JANUARY 9, 2014 or shortly thereafter.** This date should provide adequate time for the collection of the various records (both electronic and paper), the scanning into pdfs of the few that need to be converted into electronic files (pdf), the creation of a master file directory as described above, and finally, the naming of each file in accordance with the filing naming convention outlined above.

METHOD OF DELIVERY

At this point in time, we ask that you assemble the records in the manner described above (directory structure with folders) and await future instructions from us regarding method of delivery. At this point in time, we believe that there are two viable options and two possible options: 1) the files are transferred onto one or more CD-Roms and mailed to us or 2) we create a web presence wherein you may directly log-in and upload the files directly to our server. (This option would reduce the cost and time of CD-Rom production, mailing and several hundred CD-Roms hitting our mailbox.), 3) the files are transferred via e-mail attachment, and 4) you elect to post the file directory including all the sub-directories and files on your web-site for your constituents and you send us a note telling us where to go to download the files.

During our testing last summer, we found that e-mail attachments seemed problematic for some and required too much time in back and forth e-mail correspondence. Given the number of requests we plan on making to the various taxing districts, e-mail delivery appears to have the potential for a significant commitment of resources and time on our part, and therefore, something we would like to avoid if at all possible. That having been said, if you believe that an e-mail transmission can be done with one or more attachments without cutting the pdf files into smaller pieces, please feel free to attempt the delivery **ON OR AFTER** January 5, 2014. (Please note that this e-mail address allows for file transmissions up to 25MB each.)

We believe that making these records available on a permanent and ongoing basis on your website as part of an ongoing effort at financial transparency would be of great benefit to the citizens of Illinois. These records reflect the long-term financial commitments of many people and given the advances in technology it is now time to make them readily available to all and not just to the financial gnomes who are curious enough to ask for them. That choice (and commitment) is, of course, up to your board. We encourage you to have the discussion about adding these records to your website.

FUTURE CORRESPONDENCE

We plan on sending you an e-mail on January 9, 2014, regarding the final method of delivery of the records. We are very hopeful that it will be a direct upload from you to us in a manner similar to what school districts already do with the ISBE.

Please realize that for the next several weeks, many of the assistants working on this project have commitments that will keep them from being here. Following closing behind, of course, are the holidays/vacation. Therefore, please refrain from unnecessary e-mails.

If you do send an e-mail, please start the e-mail SUBJECT LINE with your RCDTS code so that we can sort incoming e-mail by sender. This is very important ... please start the subject line with the 11-digit RCDTS code!

Subject Line Example: "09-010-0040-26_GoodGriefCharlieBrown"

We do understand the unusual nature of this request and do expect there to be written questions from many public bodies. Our plan is to gather and sort the collection of questions, comments and concerns and afterward produce a "response to all" type communication back to you. Please be patient with us. We know that we are asking for a commitment on your part for resources in the delivery of these records. However, please keep in mind there are many of "you" out there and only a few of "us" in this little corner of the World Wide Web.

WAIVER OF FEES

We ask that you waive all fees related to the scanning of the few paper records that will need to be converted into pdf files. Our commitment to the research is our contribution to the citizens of Illinois and our hope is that it be both educational and useful to many. If CD-Roms are utilized for delivery, we do not expect you to waive the fees for the cost of the medium. However, that election is of course yours to make.

Thank you.

Sincerely,

Dr. Vincent Miles
Champaign, Illinois

miles.v@aol.com

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Robbins Schwartz

Recent FOIA Request

December 4, 2014

A number of our School District clients received a request pursuant to the Freedom of Information Act dated December 3, 2014 from Dr. Vincent Miles of Champaign, Illinois. The request asked for financial records related to District debt issues dating back to 1984. Our firm is currently analyzing the request and will issue a recommendation as to an appropriate response. The initial response must be sent on or before December 10th. If your District received this request and would like counseling on an appropriate response, please contact our office. Thank you.

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December 9, 2014

VIA E-MAIL: miles.v@aol.com

Dear Dr. Miles:

This letter confirms our receipt on December 3, 2014, of your FOIA request and serves as the District's initial response thereto. You have asked for the following categories and subcategories of records from January 1, 1984 through the date of your request:

1. The bond transcript file collected and executed before or at the time of closing for each issuance of:
 - a) referendum building bonds;
 - b) fire prevention and safety bonds;
 - c) tort judgment bonds;
 - d) working cash fund bonds;
 - e) funding bonds;
 - f) revenue bonds;
 - g) refunding bonds;
 - h) other types of long-term debts;
 - i) debt certificates;
 - j) tax anticipation warrants;
 - k) tax anticipation notes; and
 - l) other miscellaneous debt instruments.

2. The engagement contracts (including attachments and/or exhibits) with professional service providers such as underwriter, financial advisor, rating agency, bond counsel, disclosure counsel, and any other firm who is reimbursed from either the gross proceeds of the issuance or directly by the issuer for each issuance of:
 - a) referendum building bonds;
 - b) fire prevention and safety bonds;
 - c) tort judgment bonds;
 - d) working cash fund bonds;
 - e) funding bonds;
 - f) revenue bonds;
 - g) refunding bonds;
 - h) other types of long-term debts;
 - i) debt certificates;
 - j) tax anticipation warrants;
 - k) tax anticipation notes; and
 - l) other miscellaneous debt instruments.

3. The pre-closing written communication identifying for the various parties the identified list of closing records which will be assembled into the final closing transcript for each issuance of:

- a) referendum building bonds;
- b) fire prevention and safety bonds;
- c) tort judgment bonds;
- d) working cash fund bonds;
- e) funding bonds;
- f) revenue bonds;
- g) refunding bonds;
- h) other types of long-term debts;
- i) debt certificates;
- j) tax anticipation warrants;
- k) tax anticipation notes; and
- l) other miscellaneous debt instruments.

Although you have not yet specified a “delivery method” for the responsive records, and have asked the District to “await further instructions” in that regard, you have asked that the District at this point in time proceed to assemble the responsive records in a specified manner which involves creating a “nested directory protocol” as well as “naming conventions” for the various files. Pages 3 and 4 of your FOIA Request detail the “Directory Hierarchy” and “File Naming Convention” scheme you have asked the public body to follow.

I. No Obligation Under FOIA to Create a
“Directory Hierarchy” and/or File Naming Convention

At the outset, it must be recognized that the Illinois FOIA does not require a public body to establish or adhere to a “Directory Hierarchy” or a “File Naming Convention” when providing records in response to a FOIA request. The statute does not compel a public agency to create a new record (*see Chicago Tribune Company v. Department of Financial and Professional Regulation*, 2014 IL App (4th), 8 N.E.3d 11), which is what a public body would have to do in order to respond to your request in this manner.

Subject to Parts I. and II. set forth below, to the extent the District has records responsive to your request, those records would only need to be provided in the electronic format in which they are maintained by the District, another specified electronic format (if feasible to do so), or PDFs, if such records are not presently maintained electronically. See FOIA Section 6(a), 5 ILCS 140/6(a). If you do not want to receive the responsive records unless the District provides them in the “Directory Hierarchy” and adhering to the “File Naming Convention” for each category and subcategory which you have specified, please so advise us. The District respectfully declines to comply with the directory structure you have suggested, in light of the significant additional resources which doing so would entail and the lack of any legal obligation to so respond.

II. Your Request Constitutes a “Voluminous Request” under FOIA Section 3.6

A “voluminous request” means a request that: (1) includes more than 5 individual requests for more than 5 different categories of records; or (2) includes a combination of individual requests for more than 5 different categories of records in a period of 20 business days; or (3) requires the compilation of more than 500 letter- or legal-sized pages of public records, unless a single requested record exceeds 500 pages. See 5 ILCS 140(2)(h).

Please be advised that we are treating your request as a “voluminous request” under (1) and (3) above. As restated above on page 1, the request actually comprises 36 individual requests. Included within those requests are more than five different categories of records. Moreover and as an example, if the public body had closing records for even five bond issuances over the subject 30-year period, the compilation of records would almost certainly exceed 500 letter-sized pages, as the contents of each closing record for a bond issue typically exceed 100 pages. Notably, your FOIA request states that on average a public body may have 10 debt issuances over a 30-year period. To the extent this is true, even this arguably low asserted average further supports the “voluminous request” designation, based on the page compilation alone.

As the District is treating your request as a “voluminous request”, FOIA requires that we notify you that:

- you have 10 business days from the date of this letter to specify whether you would like to amend your request so that it is no longer a “voluminous request”;
- if you do not reply within 10 business days, or if the request continues to be a “voluminous request”, the District will respond in accordance with applicable provisions of FOIA, and will assess any fees permitted by FOIA Section 6;
- the District has 5 business days after receipt of your reply or, if no reply, 5 business days from the last day for you to amend your request, to respond;
- the District may request an additional 10 business days to comply with your request;
- you have the right to ask the Illinois Attorney General’s Public Access Counselor (“PAC”)¹ to review the District’s “voluminous request” designation; and
- if you fail to accept or collect any responsive records, the District may still charge you for its response pursuant to FOIA Section 6, and failure to pay will be considered a debt due and owing to the District, which may be collected in accordance with applicable law.

III. The Unduly Burdensome Nature of Your Request

¹ Public Access Bureau, Office of the Attorney General, 500 S. 2nd St., Springfield, IL 62706, publicaccess@atg.state.il.us, (217) 558-0486.

As set forth above, your request spans a period of more than three decades, and contains 36 individual requests for more than five different categories of debt issuance records. Your request would be unduly burdensome to comply with in all of the following respects:

1. The Search Efforts

- a. The same administrators have not been employed by the District during the 30-year period encompassed by your request. Therefore, no single person has working knowledge of each and every debt issuance since 1984, or whether records of each issuance still exist and if so, where they may be found.
- b. District personnel would have to retrieve and review 30 years of board meeting agendas, minutes, and other documents in an attempt to determine conclusively when a "debt issuance", as broadly defined in the request, may have occurred.
- c. Once issuances of debt were identified, the District anticipates that it would have to search archived records in multiple locations, and may need to contact third parties to inquire as to the existence of and retrieve the various types of records you are seeking. We note that the District may no longer have records for each debt issuance over the course of 30 years, if the bonded indebtedness pertaining to that issuance has been retired.
- d. You are also seeking records for undefined "other miscellaneous debt instruments". This broad subcategory could include, but not be limited to, lease purchase agreements for school buses, technology, copiers, and telephone systems. To search for records of these types over a 30-year period would be an insurmountable task.

2. Compiling the Records

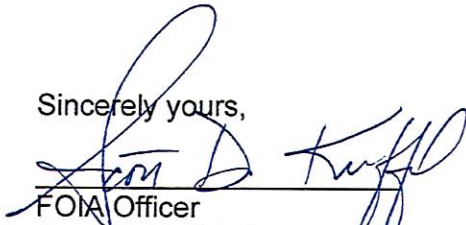
- a. The District anticipates that a majority of responsive records are in paper form, and are not stored electronically. Your FOIA request states that the responsive information for closing records are on CD-ROM. However, CD-ROMs have only been used in the last 10 years or so, possibly even less, and your request spans 20 years before this time. Given that there likely would be 100 pages or more of responsive records for each debt issuance, and likely many multi-page lease agreements, compiling the responsive records would be unduly burdensome.
- b. If you desired electronic copies of the responsive records, and the District only had paper records for all or part of your request, those records would need to be manually scanned to a PDF file, which would take a significant amount of time.
- c. Although the District has no legal obligation to create a "Directory Hierarchy" and/or "File Naming Convention" (see Part I. above), the unduly burdensome character of the request is borne out by the two pages of detailed instructions it provides concerning what would be required for the District to set up this directory structure which, you have indicated, is integral to your capability to put the amassed information you are seeking from numerous public bodies to the purpose you have described.

III. The District's Compliance with Section 3(g) of FOIA

In view of the above, the District believes that compliance with your request would be unduly burdensome for the District, and that the burden on the District outweighs the public interest in the information which you have asked the District to search for, retrieve, and provide. Therefore, in compliance with FOIA Section 3(g), the District is extending to you an opportunity to attempt to clarify and narrow your request to manageable proportions.

If you do not reduce your request to a manageable scope, the District will exercise its right under Section 3(g) of FOIA to deny your request for these records.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Scott D. Kuffel", is written over a horizontal line.

FOIA Officer

Scott D. Kuffel, Superintendent

Geneseo Community Unit School District #228

skuffel@dist228.org

Geneseo Community Unit School District No. 228

648 N CHICAGO ST • GENESEO, ILLINOIS 61254 • (309) 945-0450 • FAX: (309) 945-0445

Mr. Scott D. Kuffel
Superintendent

December 29, 2014

VIA E-MAIL: miles.v@aol.com

Dear Dr. Miles:

This serves as the District's second response to your December 3, 2014 FOIA request. The District's first response was issued on December 9, 2014, and informed you that your request constitutes a "voluminous request" under FOIA¹, and that it is unduly burdensome. You did not notify the District that you would amend your request so that it is no longer a "voluminous request," or that you would narrow the scope of the request to alleviate the undue burden resulting from its current construction. Therefore, unless you significantly narrow the scope of your request within one week hereof, this response shall serve as the District's denial of your request on the grounds that compliance by the District would be unduly burdensome.

As previously noted, your request spans a period of more than three decades, and contains 36 individual requests for more than five different categories of debt issuance records. Your request would be unduly burdensome to comply with in all of the following respects:

1. The Search Efforts

- a. The same administrators have not been employed by the District during the 30-year period encompassed by your request. Therefore, no single person has working knowledge of each and every debt issuance since 1984, or whether records of each issuance still exist and if so, where they may be found.
- b. District personnel would have to retrieve and review 30 years of board meeting agendas, minutes, and other documents in an attempt to determine conclusively when a "debt issuance", as broadly defined in the request, may have occurred.
- c. Once issuances of debt were identified, the District anticipates that it would have to search archived records in multiple locations, and may need to contact third parties to inquire as to the existence of and retrieve the various types of records you are seeking. We note that the District may no longer have records for each debt issuance over the course of 30 years, particularly if the bonded indebtedness pertaining to that issuance has been retired.

¹ The District's first response also notified you that the District has no obligation under FOIA to create a "Directory Hierarchy" and/or File Naming Convention; the District was respectfully declining to comply with the directory structure you were requesting.

Geneseo Community Unit School District No. 228

648 N CHICAGO ST • GENESEO, ILLINOIS 61254 • (309) 945-0450 • FAX: (309) 945-0445

Mr. Scott D. Kuffel
Superintendent

- d. You are also seeking records for undefined “other miscellaneous debt instruments”. This broad subcategory could include, but not be limited to, lease purchase agreements for school buses, technology, copiers, and telephone systems. To search for records of these types over a 30-year period would be an insurmountable task.
2. Compiling the Records
 - a. The District anticipates that a majority of responsive records are in paper form, and are not stored electronically. Your FOIA request states that the responsive information for closing records are on CD-ROM. However, CD-ROMs have only been used in the last 10 years or so, possibly even less, and your request spans 20 years before this time. Given that there likely would be 100 pages or more of responsive records for each debt issuance, and likely many multi-page lease agreements, compiling the responsive records would be unduly burdensome.
 - b. If you desired electronic copies of the responsive records, and the District only had paper records for all or part of your request, those records would need to be manually scanned to a PDF file, which would take a significant amount of time.
 - c. Although the District has no legal obligation to create a “Directory Hierarchy” and/or “File Naming Convention”, as you requested, the unduly burdensome character of the request is borne out by the two pages of detailed instructions it provides concerning what would be required for the District to set up this directory structure which, you have indicated, is integral to your capability to put the amassed information you are seeking from numerous public bodies to the purpose you have described.

In view of the above, the District believes that compliance with your request would be unduly burdensome for the District to comply with, and that the burden on the District outweighs the public interest in the information which you have asked the District to search for, retrieve, and provide. Therefore, in compliance with FOIA Section 3(g), you have one final opportunity to narrow your request to manageable proportions. If you do not provide any response within one week of the date of this letter, or if you do not reduce your request to a manageable scope, as determined by the District, your request is denied as permitted by FOIA Section 3(g).

Sincerely yours,
Scott D. Kuffel
FOIA Officer
648 N Chicago Street
Geneseo, IL 61254
(309)-945-0450