



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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April 22, 2016

Mr. John Zody
Indiana Democratic Party
115 W. Washington St., Ste. 1165 S
Indianapolis, IN 46204

Re: Formal Complaint 16-FC-55; Alleged Violation of the Access to Public Records Act by the Office of the Governor

Dear Mr. Zody:

This advisory opinion is in response to your formal complaint alleging the Office of the Governor (“Governor”) violated the Access to Public Records Act (“APRA”), Ind. Code § 5-14-3-1 et. seq. The Governor has responded via Mr. Mark G. Ahearn, Esq. The Governor’s 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 March 14, 2016.

BACKGROUND

Your complaint dated February 1, 2016, alleges the Office of the Governor has not responded to your request for production of documents in a timely manner.

On July 6, 2015, you submitted a public records request to the Governor for all communication and documents between the Indiana Economic Development Corporation, third-party vendor Porter Novelli, and the Governor’s Administration. Your request was acknowledged that same day.

On February 29, 2016, the Indiana Economic Development Corporation (“IEDC”) provided you with 1100 documents pursuant to your request. This was confirmed by a courier receipt provided to this Office by the Governor and is hereby attached for your reference.

Your primary complaint is the timeliness of this production and the amount of days it took to provide you with the requested documents.

DISCUSSION

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 Office of the Governor 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 Governor’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).

This matter has been previously addressed in *Opinion of the Public Access Counselor 16-FC-15* which is attached and incorporated by reference. It involved a similar – if not identical – request for documents by the Indianapolis Star and subsequent production by the IEDC. The timeline is likewise similar. In the meantime, the documents appear to have been provided to you by the IEDC and thus renders any further discussion moot.

Based upon the previous Opinion, both the IEDC and the Office of the Governor are aware of my recommendations on the matter of timeliness for voluminous requests. It is my hope the guidance was well-received and will be put into practice pursuant to any future requests.

Please do not hesitate to contact me with any questions you may have.

Regards,

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

Luke H. Britt
Public Access Counselor

Cc: Mr. Mark G. Ahearn, Esq.