

September 17, 2012

Mr. Adam Horst
Director, Indiana State Budget Agency
212 State House
Indianapolis, IN 46204

Re: FY14-15 Agency Overview (Transmittal Letter) for the Office of the Public Access Counselor

Dear Mr. Horst:

This letter constitutes the Agency Overview in support of the FY 2014-15 Budget Request for the Office of the Public Access Counselor (the "Office").

Description of Agency Programs and Functions

The Public Access Counselor was appointed in 1998 by executive order of the Governor. The Office was established as a state agency by the General Assembly in 1999. The enabling statute for the agency is Ind. Code 5-14-4. Additional duties of the Office with respect to formal complaints are contained in I.C. 5-14-5. These statutes set forth the duties and responsibilities of the Office, which include providing advice, assistance and legal opinions regarding the state's public access laws to members of the public and to public agencies. The Office may provide advice by telephone, letter or electronic mail. The Office is also charged with the responsibility of providing training and education to those who request it and for preparing educational materials regarding the state's public access laws.

In addition, the law establishing the Office provides a formal complaint procedure which allows a person who believes he has been denied access to a public record or a public meeting in violation of state law to submit a formal complaint. The Office must respond to most complaints within thirty days of receipt, or in priority matters where time is of the essence, within seven days.

The Office has only two positions. The Public Access Counselor is a full-time attorney position. The Office also employs a part-time Administrative Assistant 2. The Counselor is a member of the Oversight Committee on Public Records in addition to his duties as Public Access Counselor.

Accomplishments and Challenges over the Past Two Years

The Office continues to provide a service that benefits many constituencies in Indiana, including local and state public officials and employees who are charged with responsibilities under the public access laws. The Office provides this service with just one full time staff person and one part-time administrative assistant, along with administrative and fiscal support from the Indiana Department of Administration. The Office has seen increasing demand for its services in the following ways:

1. Contacts to the Office

In the latest annual report, covering the time period from July 1, 2011, to June 30, 2012 (posted at www.IN.gov/pac), the total numbers of calls, electronic mail messages and other inquiries to the Office totaled 1,580. As the Office continues to reach out to more public agencies to offer education and training and to issue more formal and informal opinions regarding the public access laws, we expect these contacts to steadily increase.

2. Advisory Opinions and Informal Opinions

The Office issued 297 formal written advisory opinions from July 1, 2011, to June 30, 2012. I believe the number of advisory opinions issued will increase due to a greater awareness by members of the public and the media about the existence of the Office and the complaint process. We expect these numbers to continue to rise each year. Pursuant to I.C. 5-14-5-9, the Office shall issue an advisory opinion not later than thirty days after the complaint is filed. For the first and second quarters of 2012, the Office maintained an average turn-around time of fourteen and seventeen days, respectively.

In addition to advisory opinions in response to formal complaints, the Office issues written informal opinions in response to informal inquiries. The Office issued 63 informal opinions from July 1, 2011, to June 30, 2012. The established turn-around time for those informal opinions is now fourteen days. For the first and second quarters of 2012, the Office maintained an average turn-around time of six and eight days, respectively.

3. Education and Presentations

From July 1, 2011, through June 30, 2012, the Office provided training and presentations for 35 groups around the state as compared to 18 presentations made during the 2011 fiscal year. The Public Access Counselor is required to establish and administer a program to train public officials and educate the public on the rights of the public and the responsibilities of public agencies under the public access laws. *See* § I.C. 5-14-4-10(1). Because of limited personnel and fiscal resources, the Office does not coordinate its own training opportunities but instead accepts invitations from various groups around the state to present materials regarding the public access laws. This allows the Office to train and educate a number of individuals from a variety of backgrounds and areas around the state with limited use of state resources. These groups vary from associations like the Indiana Association of Cities and Towns to the Calumet Area League of Women Voters.

4. Revision of Public Access Handbook and other Educational Materials

Before this year, the *Public Access Handbook* was last revised in April 2008. The Office updated the *Handbook* this year to include all enacted amendments to the Access to Public Records Act (I.C. 5-14-3) and the Open Door Law (I.C. 5-14-1.5) up to and including those made during the 2012 session of the General Assembly. The *Handbook* is a resource utilized by many public officials and the public at large, and the Office receives many requests for the print version of the *Handbook*. The *Handbook* is posted on the Office's website, www.IN.gov/pac, and the Office encourages individuals and agencies to download it from the website at no charge. While there is still strong demand for a paper version of the *Handbook*, the Office budget does not allow printing of bound copies of the *Handbook* (the Office will, of course, print a copy pursuant to a request for access to records and charge the requester \$.10 per page for the copy). In late October, the Office will receive 1,000 copies of the *Handbook* for distribution to individuals and agencies.

In addition to the *Handbook*, the Office has continued to update its website in order to provide readily available information and forms for the public and public agencies to utilize. The Office intends to add new resources to this list in the coming months. Further, the Office prepared numerous articles for presentation at continuing legal education and other seminars in the past year. The Office also prepared slides and handouts for participants at the educational seminars to which we were invited. Because the Office budget will not allow the Office to provide copies of slides and handouts to attendees at all events (some of which number in the hundreds), the Office generally asks the sponsoring organization to provide copies for attendees. The Office also makes all slide presentations available via its website.

5. Public Access Counselor Website

The Office of the Public Access Counselor maintains a website at www.in.gov/pac. The website contains over 2,000 formal advisory opinions issued since 1998. In addition to the resources listed in previous paragraphs, the website contains informal inquiry responses, upcoming and past presentations of the Public Access Counselor, news releases, sample letters and meeting notices, frequently asked questions and other resources.

Organizational Chart

There are two positions in the Office. The Office consists of the Public Access Counselor, who serves as agency head, and one part-time Administrative Assistant. I have served as Public Access Counselor since July 10, 2011. Dale Brewer is the Administrative Assistant and has served in that capacity since July 2012. We also hope to host an unpaid law student intern for the 2012-13 academic year.

Objectives for the Next Biennium

The objectives for the Office for the next biennium include the following:

1. To continue to provide thorough legal interpretation of the public access laws, advise members of the public and public agencies in a timely and professional manner, and raise awareness of the state's public access laws;
2. To create new educational publications, update current publications, and provide quality presentations for organizations seeking the Office's services. This includes developing virtual training tools for use by the public and public officials;
3. To continue to attract unpaid interns to assist the Office with statutory duties; and
4. To provide enhanced content at the Public Access Counselor's website.

Programs to be Reduced, Eliminated, and/or Replaced by Other Programs

None.

Additional Requests for Enhanced Services

None.

Conclusion

The Office continues to reach thousands of constituents and accomplish its goals with modest funding. At this time, we request no additional funding for enhanced services. Because the duties of the public access counselor are specifically outlined in statute, and because we primarily provide customer service rather than programs, we do not find any current programs which we suggest eliminating during the upcoming biennium.

Sincerely,

Joseph B. Hoage
Public Access Counselor