



# STATE OF INDIANA

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February 27, 2014

Ms. Michelle Anderson  
C/o Indiana Arts Commission  
100 N. Senate Ave., Room N505  
Indianapolis, IN 46204

*Re: Informal Inquiry 14-INF-05; Grantee Information*

Dear Ms. Anderson:

This is in response to your informal inquiry regarding a request to the Indiana Arts Commission ("IAC") for lists of current and former grantees and their addresses. Pursuant to Ind. Code § 5-14-4-10(5), I issue the following informal opinion in response to your inquiry. My opinion is based on applicable provisions of the Access to Public Records Act ("APRA"), Ind. Code § 5-14-1.5-1 *et seq.* and Ind. Code § 6-1.1-35 *et seq.*

## **BACKGROUND**

In your inquiry, you state you have received requests for lists of current and former grantees and their postal and email addresses. Your online grants system houses the information; however, you only use it for informal tracking purposes. The personal information is voluntarily given during the grant application process. Your inquiry is whether you are required to release this information.

## **ANALYSIS**

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 Indiana Arts Commission 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 IAC's 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).

Ind. Code § 5-14-3-2(n) defines public records as any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

The Indiana Arts Commission, created by Ind. Code § 4-23-2-1, has the authority to receive and distribute funds in the form of grants to promote the arts in Indiana. Generally, the Access to Public Records Act does not prohibit the disclosure of personal identification obtained by an agency other than in narrow circumstances. Some examples would include social security numbers and confidential financial information.

Ind. Code § 5-14-3-3(f) states the following:

a public agency is not required to create or provide copies of lists of names and addresses (including electronic mail account addresses) unless the public agency is required to publish such lists and disseminate them to the public under a statute.

However, if a public agency has created a list of names and addresses (*excluding* electronic mail account addresses) it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law.

Emphasis added.

You have indicated the IAC has an internal tracking system with grantee data housed within the system. It is unclear if the IAC has an actual list or if the software used can easily generate a list of grantee data. I am not aware of any administrative rule or statute which compels the IAC to maintain or publish such a list.

Therefore, if a list of grantee names and physical addresses exists and is maintained by the IAC, it must be disclosed. The legislature has clearly excluded email addresses from the requirement in the second part of Ind. Code § 5-14-3-3(f) therefore grantee email addresses would not be required to be disclosed.

Please do not hesitate to contact me with any other questions.

Best Regards,

A handwritten signature in black ink, appearing to be the initials 'JH' with a stylized flourish underneath.

Luke H. Britt  
Public Access Counselor