



March 1, 2024

Carmen Maldonado, Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street – 11<sup>th</sup> Floor  
Albany, NY 12236-0001

Re: Audit Final Report – 2020-S-12, Issued 09/29/2023

Dear Ms. Maldonado:

On behalf of the New York State Department of Transportation (NYSDOT) and pursuant to Executive Law §170, I write to provide confirmatory information concerning NYSDOT's 180-day response to OSC's seven recommendations detailed in Audit Report Number 2020-S-12 titled *Compliance With Freedom of Information Law Requirements*.

**NYSDOT Response to Recommendations:**

**OSC Recommendation (1):** Acknowledge and respond to FOIL requests and appeals within the time frames required by law. Grant or deny access to FOIL requests within 5 business days, or if more time is needed, acknowledge receipt of the request in writing, indicating both the reason for the inability to grant the request within 20 business days and the approximate date when the request will be granted or denied.

***NYSDOT Response:*** NYSDOT will continue to respond to FOIL requests and appeals within the time frames set forth in the Public Officers Law and other relevant legal authority. NYSDOT will continue to update FOIL requesters on the status of their FOILs and give an approximate date by which NYSDOT is endeavoring to respond. In addition, after the Audit was conducted, NYSDOT began using GovQA, a program specifically designed to handle FOIL functions. By automating the process of FOIL responses and other communications, including statutorily required acknowledgments and extensions (when necessary), GovQA mitigates the risk of untimely responses due to oversight.

**OSC Recommendation (2):** Monitor the processing of FOIL requests to ensure it is consistent throughout the agency and develop guidance how to calculate or estimate the date certain accurately when additional time is required.

***NYSDOT Response:*** NYSDOT will continue to work with Regional Record Access Officers to ensure that FOIL requirements and processes are consistently

*applied throughout the Department. Since each FOIL request is unique, the time needed to fully provide records varies with each FOIL request. The use of GovQA will aid in consistent application of additional time to respond when required.*

**OSC Recommendation (3):** Provide formal training for main office and regional office employees involved in processing FOIL requests.

***NYSDOT Response:** NYSDOT's Main Office FOIL team has increased the frequency and breadth of training provided to Regional Record Access Officers and will continue to improve training whenever possible.*

**OSC Recommendation (4):** Update the subject matter list to meet the requirements of FOIL and update NYCRR to reflect current addresses for DOT's main and regional offices.

***NYSDOT Response:** NYSDOT has updated the subject matter list. NYSDOT is also in the process of amending the NYCRR to reflect current addresses for offices and otherwise update our FOIL regulations.*

**OSC Recommendation (5):** Work with ITS to develop audit logs for CCM to account for all FOIL requests received.

***NYSDOT Response:** NYSDOT no longer uses CCM for FOIL work. As noted above, NYSDOT began using GovQA, which is designed to handle FOIL functions. GovQA provides for more robust reporting, including auditability.*

**OSC Recommendation (6):** Forward all appeals to COOG upon receipt, as required by FOIL.

***NYSDOT Response:** NYSDOT began forwarding all appeals to COOG upon receipt and will continue to do so.*

**OSC Recommendation (7):** Segregate duties related to processing FOIL requests and reviewing and responding to FOIL appeals.

***NYSDOT Response:** In no instance has NYSDOT's attorney handling a FOIL appeal been in the position of reviewing his or her own work. That arrangement will continue.*

If you have any questions, please contact Kevin Kissane, Audit Liaison at 518-457-8867.

Sincerely,

**Theresa Vottis**

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Theresa Vottis  
Acting Assistant Commissioner  
Administrative Services Division

Cc: Honorable Kathy Hochul, Governor of the State of New York  
Honorable Thomas P. DiNapoli, State Comptroller  
Honorable Andrea Stewart-Cousins, Senate Majority Leader and President Pro  
Tempore  
Honorable Robert G. Ort, Senate Minority Leader  
Honorable Carl E. Heastie, Assembly Speaker  
Honorable Crystal D. Peoples-Stokes, Assembly Majority Leader  
Honorable William A. Barclay, Assembly Minority Leader  
Honorable Liz Krueger, Chair, Senate Finance Committee  
Honorable Thomas F. O'Mara, Ranking Minority Member, Senate Finance  
Committee  
Honorable Helene E. Weinstein, Chair, Assembly Ways and Means Committee  
Honorable Edward P. Ra, Ranking Minority Member, Assembly Ways and Means  
Committee  
Blake G. Washington, Director, Division of the Budget