



New York Coalition



For Open Government, Inc.



September 1, 2022

Kathy Hochul
Governor, State of New York

Re: Please issue an executive order requiring NYS agencies to annually update their transparency plans

Dear Governor Hochul,

We welcomed your September 2021 [directive](#) to state agencies and authorities to develop and release transparency plans. State agency transparency plans are sound public policy and effective management tools for continuously improving agency compliance with the Freedom of Information Law (FOIL), Open Meetings Law (OML), and open data mandates. **With the anniversary of this directive soon approaching, we ask that you issue an Executive Order requiring agencies to publish annual updates of their transparency plans and provide measures that allow the public to track their progress.**

We appreciate the effort that some state bodies put into [their plans](#). For instance, the [Department of Environmental Conservation](#) and the [Metropolitan Transportation Authority](#) plans included metrics and deadlines, and addressed compliance with the transparency mandates highlighted in your directive. Unfortunately, because the directive gave discretion to agencies to develop their own plans, some plans were incomplete. For example, the [State Board of Elections' "plan"](#) was only a single page.

(See Reinvent Albany’s [Opening New York 2022: Rating 70 State Agency Transparency Plans.](#))

Your [Executive Chamber transparency plan](#) pledged to “create a single portal housing all of the deliverables and timelines for those deliverables to ensure that no constituent has to read all of the reports to understand the work.” However, to date, no such portal has been established.

In order to ensure that the transparency plans are a useful tool to you, the State Legislature and the public, we ask that you:

1. **Mandate via Executive Order *annual* transparency plan updates**, which will be published online by the Governor’s office and: (1) identify specific actions agencies will undertake in the coming year, and (2) assess progress made on prior years’ plans. Ideally, this process should be codified in statute in future years, eliminating the need for discretionary executive orders.
2. **Require annual transparency plan updates to include a checklist showing how well agencies comply with transparency mandates like the Freedom of Information Law (FOIL) and the [Open Data Executive Order 95 of 2013](#).** At a minimum, plans should be required to assess:
 - a. **FOIL compliance** by including:
 - i. data on annual FOIL caseloads (See [FOIL caseloads reported in the October 2021 plans](#));
 - ii. metrics on open, closed and pending FOIL cases and the number of days related to each status; and
 - iii. data on types of FOIL requesters and categories of requests.
 - b. **Open Data compliance**, including number of datasets published on <http://data.ny.gov>, total number of publishable datasets maintained by the agency, proposed schedules for release of data, including plans for publishing commonly FOILED data, and plans for automating and increasing data disclosure; and
 - c. **Open Meetings Law (OML) compliance**, including whether agencies are conducting hybrid or in-person meetings, as allowed under [recent changes to OML](#).
3. **Publish the top three deliverables** from each agency transparency plan and progress made to date, as pledged in your [Executive Chamber transparency plan](#).
4. **Improve a key commitment in your Executive Chamber plan by having the Division of the Budget (DOB) publish *complete* discretionary or “MOU” [lump sum and capital appropriations](#) including:**

- a. Grants approved by DOB prior to September 2021;
 - b. Names of individual legislative sponsors;
 - c. All items in the [DASNY grants report](#), which is currently only available in PDF format (not machine readable); and
 - d. Addresses of grantees
5. **Publish the “public facing performance website”** identified in [DOB's transparency plan](#) to inform lawmakers, administrators, and the public on “the State’s progress toward providing services to meet New Yorkers’ needs.”

Thank you for proposing the agency transparency plans. We hope you build on this good idea and create a tool to create sustainable improvements to agency transparency.

Should you have any questions or wish to discuss our recommendations, please contact Rachael Fauss, Senior Research Analyst, at rachael@reinventalbany.org.

Sincerely,

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