



**NEW YORK STATE SENATE  
INVESTIGATIONS AND GOVERNMENT OPERATIONS COMMITTEE**

SENATOR JAMES SKOUFIS, CHAIRMAN • ROOM 815, LEGISLATIVE OFFICE BUILDING, ALBANY, NY 12247

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**VIA U.S. MAIL AND CERTIFIED MAIL**

March 28<sup>th</sup>, 2019

Jerome D. Schad  
Chairman  
Erie County Water Authority  
295 Main St. Rm 350  
Buffalo, NY 14203

Dear Mr. Schad:

The New York State Senate Committee on Investigations and Government Operations is currently investigating compliance with the Public Authorities Reform Act (PARA). The purpose of this letter is to request that you respond to the enclosed Document and Information Requests.

Please provide the following documents, electronically stored information and objects, and permit their inspection, copying, testing, or sampling of the material, as soon as possible, but no later than the 11<sup>th</sup> day of April 2019, or any agreed upon adjourned date or time.

Please deliver production sets to the Investigations and Government Operations Committee in Room 815 of the New York State Legislative Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter provides additional information about responding to the Committee's Requests. As a reminder, under the authority Legislative Law §62-A, the Committee has the authority to issue a subpoena.

Please contact Sara DiBernardo, Esq. at (518) 455-3291, with any questions about this request. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Mazzariello".

Michael Mazzariello, Esq. (SD)  
Chief of Investigations

Enclosures

## Information Request

1. Please provide whether and on what date, if applicable, the Erie County Water Authority has submitted the following information or documents to the Authorities Budget Office for the previous two fiscal years.
  - 1.1. Financial reports including audited financials in accordance with all applicable regulations and following generally accepted accounting principles as defined in subdivision ten of section two of the state finance law, grant and subsidy programs, operating and financial risks, current ratings, if any, of its bonds issued by recognized municipal bond rating agencies and notice of changes in such ratings, and long-term liabilities, including leases and employee benefit plans.
  - 1.2. Mission statement and measurements including its most recent measurement report.
  - 1.3. The projects undertaken by such authority during the past year.
  - 1.4. A listing and description of all real property of such authority having an estimated fair market value in excess of fifteen thousand dollars that the authority acquired or disposed of during such period.
  - 1.5. A copy of the legislation that forms the statutory basis of the authority
  - 1.6. A description of the authority and its board structure, including (i) names of committees and committee members, (ii) lists of board meetings and attendance, (iii) descriptions of major authority units, subsidiaries, and (iv) number of employees.
  - 1.7. A listing of material changes in operations and programs during the reporting year.
  - 1.8. At a minimum, a four-year financial plan, including (i) a current and projected capital budget, and (ii) an operating budget report, including an actual versus estimated budget, with an analysis and measurement of financial and operating performance.
  - 1.9. A description of the total amount of assets, service or both.
  - 1.10. A code of ethics applicable to each officer, director and employee that, at a minimum, included the standards established in section seventy-four of the public officers law.
  - 1.11. Written policies and procedures on personnel including policies protecting employees from retaliation for disclosing information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by an employee or board member of the authority, investments, travel, the acquisition of

real property and the disposition of real and personal property and the procurement of goods and services.

## Responding to Committee Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have laced in the temporary possession, custody, or control of any third party. Requested records, documents, data, or information should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
2. Unless otherwise specified, the time period covered by this request is for the past two fiscal years for each authority.
3. In the event that any entity, organization, or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
5. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
6. Documents produced in electronic format should also be organized, identified, and indexed electronically.
7. Documents produced to the Committee should include an index describing the contents of the production. To the extent that more than one CD, hard drive, memory stick, thumb drive, box, or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the corresponding number in the request to which the documents respond.
10. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.

11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document in response to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject, and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
16. All documents shall be Bates-stamped sequentially and produced sequentially.
17. Upon completion of the document production, you should submit a written certification signed by you or your counsel, stating that (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

## Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intraoffice communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and worksheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms "and" and "or" shall be construed broadly, either conjunctively or disjunctively, to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.

6. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.
7. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
8. The term "employee" means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.
9. The term "company" shall mean any business entity, however formally or informally organized, which has ever existed regardless of its current status.
10. With respect to a corporation, partnership or other business entity (including a sole proprietorship), the term "identify" means to provide its full name, address, and affiliation with the individual and/or company to whom/which this request is addressed.