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## INVESTIGATIONS AND GOVERNMENT OPERATIONS COMMITTEE

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

VIA OVERNIGHT MAIL

May 17, 2019.

Margaret Murphy  
 Erie County Water Authority  
 295 Main Street, Room 350  
 Buffalo, NY 14203

Dear Margaret Murphy:

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

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 28 of June 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 the Committee at (518) 455-3290 or investigations@nysenate.gov, with any questions about this request. Thank you for your attention to this matter.

Sincerely,

 A handwritten signature in black ink, appearing to read "James Skoufis", written over a horizontal line.
 

Senator James Skoufis  
 Chair

Enclosures

### **Information and Document Request**

1. Since January 1, 2016, has any board member or employee of your authority appeared to have or had a conflict of interest with a company or corporation the authority was conducting or planned to conduct business with? Conflicts of interest include but are not limited to personal or financial conflicts.
  - 1.1. Conflicts of interest include but are not limited to projects receiving benefits, grants, loans or bonds, authority procurement or property acquisition or disposition.
  - 1.2. Please provide information specifying any and all conflict(s) of interest since January 1, 2016, and how the authority addressed the conflict(s).
2. Please provide your board structure and the names of the individuals currently presiding in those positions.
3. Does your authority provide training to its board members and staff including but not limited to fiduciary duties and responsibilities?
  - 3.1. Please provide how often your authority provides such trainings.
  - 3.2. Please provide the last date your authority provided such trainings.
  - 3.3. Please provide the signed "Acknowledgement of Fiduciary Duty" forms for each of your authority's board members.
4. Please provide your authority's policies and standards relating to public disclosure of conflicts of interest.
5. Please provide your authority's policies and standards for evaluating potential projects.
  - 5.1. Project evaluation criteria includes but is not limited to how your authority receives bids, accepts bids, and accepts project applications.
6. Has your authority developed a standard application form, pursuant to Part 250.1 of Title 19 of NYCRR?
  - 6.1. If yes, please provide a copy of your authority's standard application form.
  - 6.2. If yes, on what date did you authority develop a standard application form?
  - 6.3. Is your authority's standard application form posted and made publicly accessible on its website? If yes, please provide the hyperlink and the date your authority uploaded the standard application form on its website.

7. Does your authority maintain accurate, complete and up-to-date contact information on your authority's website?
  - 7.1. Please provide your authority's current address and primary point of contact.
  - 7.2. Please provide the most recent date your authority checked for accuracy on its website.
8. Please provide your authority's policies and procedures relating to monitoring and accurately reporting information regarding its economic development projects.
  - 8.1. Does your authority use consistent terminology for each project, including but not limited to project goals and job creation information?
9. Please provide a progressive (step-by-step) instruction detailing how an individual can find your authority's whistleblower policy or procedure on your website from your authority's primary homepage.
  - 9.1. Please provide the applicable hyperlink for each step of the progression.
  - 9.2. Please provide the implementation date your authority uploaded its whistleblower policy or procedure to its website.
10. When filing the annual, procurement, investment, certified financial audit and budget reports in PARIS, does your authority designate a board member or other individual to review the reports for accuracy?
  - 10.1. How and when are these reports presented and approved by the board?
  - 10.2. How does your authority check for the accuracy of project information reported in PARIS?
  - 10.3. For debt and outstanding bonds, including but not limited to conduit debt, how does your authority confirm the accuracy of the information reported in PARIS?
  - 10.4. Is authority staff responsible for submitting this information to PARIS or does your authority contract with an entity or person to file the information?
  - 10.5. If your authority contracts with an entity or person, please specify the qualifications of the entity or person responsible for submitting the information.
  - 10.6. If your authority utilizes an outside firm or business to submit information and data to PARIS, does your authority request all necessary documents to ensure that the information is accurate?

11. Since January 1, 2016, has your authority conducted or hired an outside group to participate in any lobbying activities regarding any planned or potential project or legislation?

11.1. Lobbying activities include but are not limited to actions at the federal, state legislature, state agency, and local municipality level.

11.2. Has your authority hired or contracted with a lobbyist, lobbying firm or government relations firm to represent its interest? If yes, how was the lobbyist or firm compensated?

11.3. Did your authority report its lobbying activities to the New York State Joint Commission on Public Ethics (JCOPE)?

12. How many projects are currently actively receiving financial assistance? Please specify such projects and the type of financial assistance they are receiving.

12.1. Projects also include those that received proceeds from conduit debt issuances as well as those projects that still have outstanding debt.

12.2. How many of the projects include residential housing components, either comprising the total project scope of a portion of the total project?

12.3. What percentage of total projects comprise a residential housing component?

13. Does your authority have a revolving loan fund ("RLF") program or similar program pursuant to the Community Development Block Grant (CDBG) program within the U.S. Department of Housing and Urban Development?

13.1. If yes, please provide the policies and procedures for your authority's RLF program or similar program, including but not limited to criteria regarding eligible applicants, projects and uses of RLF loans.

13.2. Please provide a list of funds issued through your authority's RLF program or similar program since January 1, 2016, including to whom they were issued, and for which projects.

14. Beginning January 1, 2016, please provide a list of any and all tax exemptions your authority issued to entities or individuals and for which projects.

14.1. Exemptions may include but are not limited to mortgage recording, property tax and sales tax exemptions.

14.2. Please provide your authority's policies and procedures for evaluating whether to issue a tax exemption.

15. Beginning January 1, 2016, please provide a list of any and all bonds including conduit debt, loans, and/or grants your authority has issued.

15.1. Please provide who or which entity received bonds as well as for which project.

15.2. Please provide your authority's policies and procedures for evaluating whether to issue a bond, grant or loan.

16. How many debt issuances are currently outstanding, including but not limited to conduit debt?

16.1. What is the value of the outstanding debt, including conduit debt?

16.2. Please provide how much of that outstanding debt was issued to finance new projects.

16.3. Please provide how much of that outstanding debt was issued to refinance or refund existing debt that was previously issued.

16.4. Please provide how much of the currently outstanding debt was issued to finance civic facility projects.

### **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. 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.