



ERIE COUNTY WATER AUTHORITY INTEROFFICE MEMORANDUM

To: Jerome D. Schad, Chair
Mark S. Carney, Vice Chair
Peggy A. LaGree, Treasurer

Cc: Terrence D. McCracken, Secretary
Karen A. Prendergast, Chief Financial Officer
Russell J. Stoll, Chief Operating Officer
Leonard F. Kowalski, Executive Engineer
Jackie Mattina, Associate Attorney

From: Margaret A. Murphy, General Counsel
David C. Mineo, Associate Attorney

Subject: 2020 FOIL Audit

Dated: January 12, 2021

The Erie County Water Authority (the “Authority”), in keeping with its pledge to the public and its customers to operate in an open and transparent manner, has adopted the [Freedom of Information Law: Policy & Procedure for Accessing Public Records](#) (“FOIL Policy”). In accordance with FOIL Policy § 13, the Legal Department conducted an annual FOIL Audit for calendar year 2020.

2020 FOIL REQUESTS

During 2020, the Authority received 41 FOIL requests.¹ Paper files were opened for each FOIL request and duplicated by use of an electronic file. The paper files of all 41 requests were reviewed using the FOIL checklist in use since September 2018. The Legal Department reviewed each paper file twice to verify the date of each request, deadline dates, and the actual initial and final response dates. The Legal Department also has access to the electronic files, which it reviewed if needed to complete the audit.

In reviewing the paper and electronic files, the Legal Department determined one file had information showing non-compliance with the FOIL Policy. A single failure on any one checklist item constitutes a “failed” file. The details on the one “failed” file is listed below:

¹ The Board may want to compare this FOIL Audit with prior audits by clicking on the following hyperlinks: [2016-2017 Audit, dated September 28, 2018](#); [2018 Audit, dated March 17, 2019](#); [2019 Audit, dated March 27, 2020](#).

ONE FAILED FOIL FILE

FOIL 2020-005

Received: January 13, 2020

Requestor: Barb Langenhan, Total Piping Solutions

Request: Bid information for Watermain Material Purchase Contract 2020-2021

Problem: Initial response letter was sent January 21, 2020, one day after the due date. The final response with requested documents was, however, timely sent.

FINDINGS

The Office of the Secretary assigns a FOIL file number to each email sent to foil@ecwa.org. Two emails were later determined to be non-FOIL related correspondence (2020-011 and 2020-038). Of the remaining 39 files, two individuals later withdrew their requests.

The Legal Department found that requested public documents and information were supplied within five business days for 34 of the remaining 37 FOIL requests. When the Office of the Secretary was unable to provide requested documents within five business days, a response letter was sent, acknowledging the request and informing the requestor that the information would be provided within 20 business days. In all cases, the Secretary timely provided all documents and information requested within the statutory deadline period.

The Office of the Secretary did not receive a single FOIL request from any member of the media. Instead, the Secretary responded to any media inquiry without demanding the filing of a FOIL request. Since no one was denied access to any public record, no appeals were filed with the Board of Commissioners.

The Board should commend the Secretary and his staff for a job well done.
