



Metropolitan Transportation Authority

State of New York

Via email: liam.blank@gmail.com

April 22, 2026

Liam Blank
The City Club of New York



Re: Freedom of Information Law ("FOIL") Appeal Response re:
MTA FOIL Request #R009324-062325

Dear Liam Blank:

I am writing in response to your FOIL appeal, dated March 24, 2026 and received by the MTA's FOIL Appeals Office on April 8, 2026, regarding your FOIL request #R009324-062325, which alleges a constructive denial. Your FOIL request seeks various records related to the Penn Station Transformation project. Specifically, you requested:

- "A. Evolution of Through-Running Assessment: All records documenting changing rationales for rejecting through-running alternatives, including early constructability/cost analyses, the complete WSP "Doubling Trans-Hudson Train Capacity at Penn Station" feasibility study with all drafts and supporting materials, and 2023-2024 records establishing operational performance criteria.*
- B. Meeting Records: All agendas, materials, and correspondence for Station Working Advisory Group (SWAG) meetings (September 17, October 8, October 29, November 19, 2024; January 16, 2025) and related project meetings involving key personnel.*
- C. Alternative Analysis: Records documenting analysis of "Limited Track and Platform Reconfiguration" concept and internal assessments of external proposals from ReThinkNYC and Tri-State Transportation Campaign.*
- D. WSP Contracts: Complete contracts and statements of work for the April 2021 WSP "White Paper: Through-Running" and October 2024 feasibility study."*

Your FOIL appeal challenges both the amount of time required by the MTA FOIL Team to respond to your FOIL request and the response timeframes that were provided. In reviewing your appeal, I reviewed the scope and circumstances of your request, as well as the MTA FOIL Team's handling of the request to date. Based on that review, I was informed that several factors have impacted the response timeline. I was further informed that after assessing the nature, scope and complexity of your request, the MTA FOIL Team continues to process, review and analyze portions of the records sought in your delineated request. Specifically, the MTA FOIL Team has contacted the appropriate department personnel to determine whether responsive records exist for each part of your request and those department personnel are actively conducting the necessary searches. In addition, the MTA FOIL Team is coordinating aspects of this request with other agencies, which has also contributed to the overall response timeframe.

The agencies of the MTA

MTA New York City Transit
MTA Long Island Rail Road

MTA Metro-North Railroad
MTA Bridges and Tunnels

MTA Construction & Development
MTA Bus Company

The time needed to process a FOIL request depends upon the nature and extent of each request. The court in *Linz v. The Police Department of the City of New York*, Supreme Court, New York County, NYLJ, December 17, 2001, spoke to the reasonableness of FOIL request processing times in holding that, “[t]he determination of whether a period is reasonable must be made on a case by case basis taking into account the volume of documents requested, the time involved in locating the material, and the complexity of the issues involved in determining whether the materials fall within one of the exceptions to disclosure. Such a standard is consistent with some of the language in the opinions submitted by petitioners in this case, of the Committee on Open Government, the agency charged with issuing advisory opinions on FOIL.” In *Matter of Data Tree, LLC v. Romaine*, 9 N.Y.3d 454, 465 (2007), the New York State’ Court of Appeals stated that “there is no specific time period in which the agency must grant access to the records [in response to FOIL requests]. Indeed, the time needed to comply with the request may be dependent on a number of factors, including the volume of the request and the retrieval methods” and that an agency responding to a FOIL request must provide responsive records in a time “which is reasonable in view of the attendant circumstances.” Additionally, the Court in *Save Monroe Ave., Inc. v. New York State Department of Transportation*, 197 A.D.3d 808, 151 N.Y.S.3d 560 (3d Dep’t 2021) held that the assessment of reasonableness includes consideration of the number of FOIL requests received by the agency. Specifically, the Court clarified that an assessment of reasonableness requires consideration of “the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the agency and similar factors,” while noting the large number of FOIL requests received by the agency.

The MTA FOIL Team endeavors to process and complete each request within a reasonable timeframe based on the circumstances presented. It is my understanding that with regard to the present matter, the MTA FOIL Team remains actively engaged in locating, reviewing, and analyzing documents that may be responsive to the remaining portions of your delineated FOIL request in order to determine which records, if any, are in fact responsive. Aside from the time necessary and the complexity involved with the process of locating the subject records and the extensive analysis required for reviewing each record under the NYPOL, it is a considerable factor that the MTA receives thousands of FOIL requests each year, each of which requires the process of locating the requested documents from other departments and, if located, then carefully reviewing and analyzing each potentially responsive document to determine which, if any, are responsive to that particular FOIL request, as well as whether they are exempt in whole or in part under the FOIL statute. See, *Matter of Data Tree v. Romaine*, 9 N.Y.3d 454 (2007); *Matter of New York Times Co. v. City of NY Police Dept.*, 103 A.D.3d 405 (2013). Some of these FOIL requests – similar to the FOIL request in the present matter – ask for what is reasonably anticipated to be a large number of records and/or records of a complex nature, which also require in-depth review and analysis due to the volume and substantive complexity of the records and/or the issues involved. Simply because one FOIL request may ask for fewer records and/or be perceived as less complicated or less time-intensive than others, it is notable that each FOIL request requires the completion of this same location and analysis process, typically performed in the order they are received.

Aside from the above factors, for this FOIL request, I am informed that it requires extensive and significant time and effort to search for, identify, locate, review and analyze potentially responsive records for responsiveness, privilege and any applicable FOIL exemptions, pursuant to New York Public Officers Law §84-90. The detailed and precise nature of these requests targeting specific records, further requires careful and deliberate review and consideration to ensure full compliance with the FOIL statute. Based on the foregoing, I find that the MTA FOIL Team appropriately considered the abovementioned factors – the volume of the request, the difficulty of locating, retrieving and generating records, the

complexity of the subject matter and request, the need to review records to determine the extent to which they must be disclosed, coordination with other agencies, in addition to the large number of requests and overall volume of requests received by the agency – when establishing the response timeframes provided to you. These considerations reasonably informed the MTA FOIL Team’s decision when providing you with the timelines for your request.

Notwithstanding the above, my investigation of the MTA FOIL Team’s recent communication to you reflects that on April 1, 2026, the MTA FOIL Team sent an updated estimated response date of April 30, 2026. After evaluating all of the above circumstances, including the scope and complexity of the request and the efforts required for collection and review of the responsive records, I find that this timeframe is reasonable in view of the attendant circumstances. Accordingly, I am hereby granting your appeal and remanding your FOIL request to the MTA FOIL Team with instructions to continue processing your request, and to produce records on a rolling basis in accordance with NYPOL §84-90, such that the first production will be made by April 30, 2026 and the final production to be completed on or before June 4, 2026.

This completes the MTA's response to your FOIL appeal, and this matter will now be closed.

Sincerely,

Kate DeSanto

Kate DeSanto
Associate Counsel
MTA

cc: Committee on Open Government