



KATHY HOCHUL
Governor

ALFONSO L. CARNEY, JR.
Chair

REUBEN R. MCDANIEL, III.
President & CEO

MEMORANDUM

TO: Elizabeth Fine, Counsel to the Governor
Karen Persichilli Keogh, Secretary to the Governor

FROM: Reuben McDaniel, President & CEO
R. Nadine Fontaine, General Counsel

DATE: October 20, 2021

RE: DASNY's Transparency Plan

I. Overview

The Dormitory Authority of the State of New York ("DASNY") is a public benefit corporation with governmental functions delegated to it by the State of New York (the "State"). DASNY is authorized to finance, design, construct and rehabilitate facilities for use by various public and private not for profit entities. DASNY's two primary lines of business are debt issuance and construction services. DASNY also devotes significant staff resources to corporate governance and operations, and the administration of grants authorized by the State and payable to a variety of public and private grantees from the proceeds of bonds issued by DASNY. DASNY also issues state-supported debt for various programs under the State's Personal Income Tax Revenue Bond Program and the State Sales Tax Revenue Bond Program. DASNY also offers tax-exempt equipment leasing programs ("TELP") for hospitals, nursing homes and other eligible not-for-profit entities as set forth in the MCFFA Act and DASNY Act.

DASNY is governed by an eleven-member Board, which is comprised of the Director of the Budget of the State, the Commissioner of Education of the State, the Commissioner of Health of the State, the State Comptroller or one member appointed by him or her, five members appointed by the Governor with the advice and consent of the State Senate, one member appointed by the Temporary President of the State Senate and one member appointed by the Speaker of the State Assembly.

DASNY provides significant information to the public regarding its operations, financings, and grant administration on a routine basis. In addition to regular public reporting to comply with oversight by a statutorily appointed Board, DASNY has exhibited its long-standing commitment to providing the public with significant depth of information through its website and in a publicly accessible Annual Report, as well as through substantial information provided annually to the Authorities Budget Office.

II. Review of Agency/Authority's Current Public Engagement

- ***What public meetings and hearings does the agency hold?***
- ***What opportunities exist for the public to participate in agency decision-making?***

Information about DASNY's operations and financings are publicly presented regularly through several forums, all of which are open and accessible to the public. All bonds and notes issued by DASNY must be authorized by DASNY's Board and approved by the New York State Public Authorities Control Board ("PACB").

Consistent with the Open Meetings Law, DASNY uses its website to provide public notice of its Board and Committee Meetings.¹ DASNY board meetings are readily accessible to the public as are all the documentation to support the transactions submitted to the Boards for approval. With the authorization of governmental entities to conduct public meetings “remotely by conference call.”² DASNY currently holds its board meetings remotely and allows for the public to participate. Board materials are publicly posted on the DASNY website and the public is allowed to be present during the meeting and provide public comment. DASNY publishes all meeting minutes, video recording of the meeting, and meeting materials, including any resolutions that are passed, and related documents such as policies and bond transactions approved by the Board.

In addition, prior to obtaining Board and PACB approval, bond issuances are also subject to a public Tax Equity and Fiscal Responsibility Act (“TEFRA”) hearing, which also allows the public to provide comments regarding a particular transaction. A TEFRA hearing is required by the Internal Revenue Service and is held to receive comments from the public or interested parties on matters regarding the issuance of bonds and the location and nature of the project for which the bond funds will be allocated. The notice of the TEFRA hearing is prominently posted on the DASNY website for a period of seven (7) days before the hearing date in accordance with 26 C.F.R. Parts 1 and 5f. TEFRA hearings are also held remotely and accessible to the public and allowed to provide comment³.

When addressing and responding to requests received pursuant to the New York State Freedom of Information Law (“FOIL”), DASNY adheres in all cases to the requirements set forth in its FOIL policy, the FOIL statute, model rules promulgated by the Committee on Open Government, advisory opinions issued by the Committee on Open Government, and any of the Governor’s directives.

FOIL requests are received through the FOIL mailbox directly from the person requesting access to records via the Open FOIL NY Online Form/platform, which is hosted on DASNY’s external website at www.dasny.org. The FOIL mailbox is monitored continuously throughout the day for new requests and follow-up. DASNY also accepts FOIL requests that are sent via regular mail or other written form (facsimile or delivered in person to the Albany office). All FOIL requests are acknowledged within five days of receipt and follow-up completed within the stated timeframe. Additionally, an internal log is maintained of all FOIL requests received, which enables DASNY to track all FOIL requests, further ensuring that we respond to FOIL requests in a timely manner.

- ***What information does the agency make available on its website and in social media?***

DASNY routinely provides significant data for the NY Open Data platform and is actively engaged in identifying new datasets for public disclosure in compliance with Executive Order 95. In line with Governor Hochul’s commitment to transparency, DASNY will annually survey agency leadership and bureau directors for additional datasets that may be posted. DASNY uses its public website to make available its corporate reports, such as its annual economic impact reports and financial reports.

In addition to the board materials identified above, visitors to DASNY’s website are able to access a large number of documents/records. For example, with respect to cost/budget-related materials, which are generally of interest to the public, DASNY maintains approximately 10 years of spending data on its website, including but not limited to the following: Annual Reports; Audited Financial Statements; Annual Bond Sale Reports; TELP Annual Reports; Operating Budgets; Annual Investment Reports; Annual Procurement Reports; Bond Issue Ratings Reports; Interest Rate Exchange Agreements; New Construction Projects; New Financing Projects; Reports on Compliance with Investment Guidelines; Schedule of Bonds and Notes Outstanding; and Schedule of Debt Issuances. Also, DASNY’s Grants unit posts reports relating

¹ The link is at https://www.dasny.org/about-us/corporate-info/board/committees-subsidiaries/board-meetings?field_board_meeting_type_target_id=45

² In accordance with recently enacted legislation allowing which authorized governmental entities to conduct public meetings “remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding.” c. 417, L. 2021 (part E).

³ The IRS has issued Revenue Procedure 2021-39 extending the time period for which telephonic hearings are permitted under Revenue Procedure 2020-21 until March 31, 2022.

to approved grant projects, including the State and Municipal Facilities (SAM) Program, Nonprofit Infrastructure Capital Investment (NICIP) Program, and the Higher Education Capital Match (HECap) Program.

- ***What are the information requests most commonly sought from the agency?***

Information regarding the various grant programs administered by DASNY is most frequently requested. DASNY currently administers the following economic development grant programs:

1. Community Enhancement Facilities Assistance Program (CEFAP)
2. Strategic Investment Program (SIP)
3. Community Capital Assistance Program (CCAP)
4. Rebuilding the Empire State through Opportunities in Regional Economies (RESTORE)
5. Generating Employment Through New York Science (Gen*NY*sis)
6. New York Economic Development Program (NYEDP)
7. New York Economic Development Capital Program (NYEDCP)
8. New York State Technology and Development Program (NYSTAD)
9. New York State Regional Economic Development Program (NYS RED)
10. New York State Capital Assistance Program (NYS CAP)
11. New York State Economic Development Assistance Program (NYSEDAP)
12. State and Municipal Facilities Program (SAM)
13. Nonprofit Infrastructure Capital Investment Program (NICIP)

- ***What are the areas of greatest public interest in the agency's work?***

Information requests regarding the State and Municipal Facilities (SAM) Program, which are grants that are either Senate, Assembly or Executive sponsored to fund capital projects throughout the state.

- ***What access does the public have to engaging with the agency leadership?***

The public does have the opportunity to attend the monthly board meetings, which are regularly attended by DASNY's leadership.

- ***What does the agency do to solicit input from the public?***

DASNY prominently posts notices of all of its hearings and board meetings on the website. The public is welcome to attend. The website also posts contact information for RFP and Bid Opportunities, Media Inquiries, Public Finance & Portfolio Monitoring, Accounts Payable / Insurance, Hotlines and Program Support, and DASNY's communications officers and also allows for submission of general email inquiries.

[Contact Us | DASNY](#)

III. Proposed Plan to Expand Transparency and Expected Timeline

What plans does your agency have to improve transparency with respect to expanding information you make available to the public, filing timely reports with the legislature, complying with Project Sunlight, timely compliance with FOIL, compliance with Open Data NY, reducing costs for and easing access to for agency data and records, expanding agency participation in public and community events and increasing access to and public participation in meetings, hearings, and decision-making? This section can include information on the processes and policies your agency/authority has identified for improved transparency and public accountability.

We reviewed DASNY's practices and procedures in an effort to identify any areas where current practices could be improved. In doing so, we identified the following areas where, if enhanced, could increase transparency and access to DASNY records.

1. Making Additional Information Available on the DASNY Website

While DASNY does have an expansive number of documents are posted on its website, there may be available records that are not currently posted on DASNY's website. Therefore, in order to determine whether there are additional documents/records that could be posted and made available to the public, the FOIL unit will coordinate with the various divisions within DASNY, including Managing Directors and FOIL liaisons, to review documents/records that are currently posted for each division on the www.dasny.org site. This will enable us to assess those records/documents that are currently available and determine if additional documents/records can be posted and made available within the parameters of FOIL.

With respect to Grant Administration, DASNY currently posts on its website a list of all SAM Grants that have completed DASNY review or review by another State entity, where noted, and forwarded for final approval by the Senate, Assembly, and/or Executive, as well as a list of all NICIP awardees. To increase transparency and facilitate access to the public, DASNY will expand that list to include a list of all reviewed and approved Economic Development Grant Programs as listed above.

2. Reducing or Eliminating Costs Associated with Providing Records

Both FOIL and DASNY's policy allow for the charging of fees. Nonetheless, DASNY rarely charges fees for the production of records. Fees are waived unless the documents requested are voluminous. In order to ensure that the practice of waving fees is consistently administered in a uniform manner, DASNY will establish a threshold number of pages for which a fee will be charged and only charge fees when a response is expected to meet or exceed that threshold number. Accordingly, we will update DASNY's FOIL policy to reflect these practices.

3. FOIL Subject Matter List

Whenever responsive information/documents can be located on DASNY's website, we provide the person requesting access to the information with a link, in lieu of providing the physical documents. Some improvements that we will explore in this area include the following:

- DASNY is required to maintain a *Subject Matter List* on its website that depicts the current list of records, by subject matter, which are maintained by DASNY. We will work with our technology team to explore the feasibility of including a link/note near the *Current Subject Matter List* that automatically directs an individual to posted records. For example, include language such as "please note, many of the records in the list below are posted on this website in our *Annual Reports* section." The words *Annual Reports* would be a link that takes the person to list of reports as per the above.
- If the inclusion of language proves to be too cumbersome, we will explore linking the records that appear in the *Current Subject Matter List* that are posted on the website directly to the record, which will be evident when the cursor hovers over a particular entry.

4. Information Retrieval Method

Whenever practicable or reasonable, DASNY shall continue to design its information retrieval methods in a manner that permits the segregation of records that may be withheld, and retrieval of records that would be available, in order to provide maximum public access.

5. FOIL Request Link

DASNY shall endeavor to display the *FOIL Request* link more prominently on the website, thereby making it more visible to the public and easier to access.

- ***What is the timeline for implementation of those plans?***

Those proposals that do not require updates to technology, we anticipate implementation to be complete within the next six months as changes to certain DASNY policies and procedures may require board approval.

- ***What resources will you use to implement your plan?***

DASNY will be able to implement the above recommended changes within existing resources.

IV. Measures of Success and Long-term Monitoring

In this section, you can explain how your agency/authority intends to monitor and assess the changes implemented, including any metrics you will use, to ensure that your initiatives are serving to increase transparency and expanding opportunities for public access to information and participation in government meetings and decision-making.

With respect to FOIL, we track the number of requests and the response time to ensure that, absent the identification of any extenuating circumstances (such as a response requiring the release of voluminous records or significant redaction), responses should be completed within thirty (30) days of initial acknowledgment. We will also track whether FOIL requests are reduced as we continue to post additional material on the website and improve website access.

If there is an inquiry from a constituent on a particular matter, we also endeavor to respond to such inquiry no longer than (10) business days.