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OPENING

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2024:

Rating 66 Agency Transparency Plans

**Reinvent  
Albany.**

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## Summary










Reinvent Albany cheered Governor Hochul's [September 2021 directive](#) requiring agencies to submit transparency plans to her office for publishing to the public. We like the idea and on March 22, 2022 published a report reviewing the plans, [Opening New York 2022](#). We followed that with a September 2022 group letter [asking the Governor](#) to issue an Executive Order mandating annual state agency transparency plans.

We are disappointed that the 2024 plans appearing on the Governor's website are generally incomplete and underwhelming. Most agencies provided less detail than in 2021, and more than half did not describe how they comply with all three fundamental transparency mandates: FOIL, OML, or Open Data [Executive Order 95 of 2013](#).

In the first quarter of 2024, 66 state agencies [provided transparency plans to Governor Hochul](#) describing their efforts since 2021, and in 2024. Ironically, the Executive Chamber is one of the six agencies that has not yet published a 2024 transparency plan.

We put together some stats summarizing the 2024 state agency transparency plans:

- 1. Total agencies completing 2024 transparency plans: 66**
- 2. Agencies providing plans in 2021, but not 2024 (as of 5/28/24): 6**
  - Executive Chamber
  - City University of New York
  - Division of the Budget
  - Governor's Office of Storm Recovery
  - Office of the Inspector General
  - Office of Renewable Energy Siting
- 1. Agencies reporting FOIL stats plummeted from 2021 (22 or 31%) to 2024 (6 or 9%)**
- 3. Overall completeness of transparency plans: % of agencies addressing issues, 2021 vs. 2024**

Issue	2021	2024
Machine Readability	96%	 100%
Pledged Improvements	97%	 100%
Website/Social Media	100%	 98%
FOIL	94%	 65%
Open Meetings	83%	 49%
Reporting Requirements	71%	 48%
Open Data	69%	 39%
Project Sunlight	66%	 32%
Records Retention	54%	 23%

## Recommendations

In September 2022, watchdog groups [asked the Governor](#) to issue an Executive Order mandating annual transparency plans. The groups asked for checklists for compliance with current transparency mandates, including data on FOIL caseloads and response times, and compliance with Executive Order 95 of 2013 and the Open Meetings Law.

Unfortunately, the 2024 transparency plans did not result in the collection of data allowing the public or Governor's office to rate agencies' performance. Standardized FOIL metrics – requests received, response times, backlogs, etc. – would show how well state agencies are meeting this 50-year old transparency requirement. Public records request reporting is currently done for federal agencies via the [Department of Justice](#), and for a limited number of state and local agencies in [Washington State](#).

Additionally, we are still waiting for the Executive Chamber's 2024 transparency plan. It's unclear whether the Executive Chamber still intends to create a dashboard of how transparency plan commitments were achieved by agencies. In particular, we are disappointed that the [discretionary funds database](#) created by the Division of the Budget – which is also missing a 2024 transparency plan – hasn't been updated since July 19, 2023. This item was an Executive Chamber 2021 transparency plan priority.

Regardless of any improvements to the transparency plan process, the Legislature should pass, and the Governor sign, the following three bills:

- 1. FOIL Reporting – [S8671-A/A9621-A \(Hoylman-Sigal/McDonald\)](#)** would require state and local bodies subject to report data about their FOIL process to the Committee on Open Government (COOG), which would publish data on its website and via [data.ny.gov](#). State agencies would report full FOIL logs, and local agencies would report annual totals of requests received and closed. COOG must make recommendations for expanding local reporting by Jan 1, 2027. Passage of this bill would make New York a national leader on public records request reporting.
- 2. Open Data for Debarment Lists – [S9398 \(Ramos\)](#)** would require the Department of Labor (DOL), Workers Compensation Board (WCB), and Office of General Services to publish lists of debarred companies and individuals as open data. The current [DOL "list"](#) of people and companies debarred by the WCB is nearly useless due to a restricted, balky search form.
- 3. Open Meetings Law Improvements – [A10266 \(Simone\)](#)** would require agencies to hold hybrid meetings, ensuring in-person and remote access for the public and members of public bodies, and close loopholes that result in less public notice for meetings and delayed access to the materials up for discussion.

## Transparency Plans Less Complete in All Substantive Areas

The Governor's [2021 memo](#) asked – though did not mandate – state agencies to describe plans to improve transparency in nine areas:

1. How information is made available on agencies' websites and social media
2. Timely preparation of legally mandated reporting, and making it public
3. Ensuring use of the [Project Sunlight database](#) of lobby and procurement meetings
4. Improving FOIL response times, reducing backlogs, and proactive records release
5. Complying with Executive Order 95 of 2013, requiring publishing of open data
6. Posting documents for open meetings
7. Reducing or eliminating costs for providing data or records
8. Updating records retention policies, and ensuring transfer to the State Archives
9. Increasing agency participation in community meetings, and public participation in decision-making

Based on Reinvent Albany's review of the 2024 plans, we have deduced that the template used by agencies only asked them to describe two things:

1. Deliverables achieved since 2021
2. Initiatives to be implemented in 2024

We think it is likely that the minimal template for the transparency plans resulted in them being much less detailed. Unfortunately, this means that the 2024 transparency plans missed an important opportunity to rate agencies' performance and gather data.

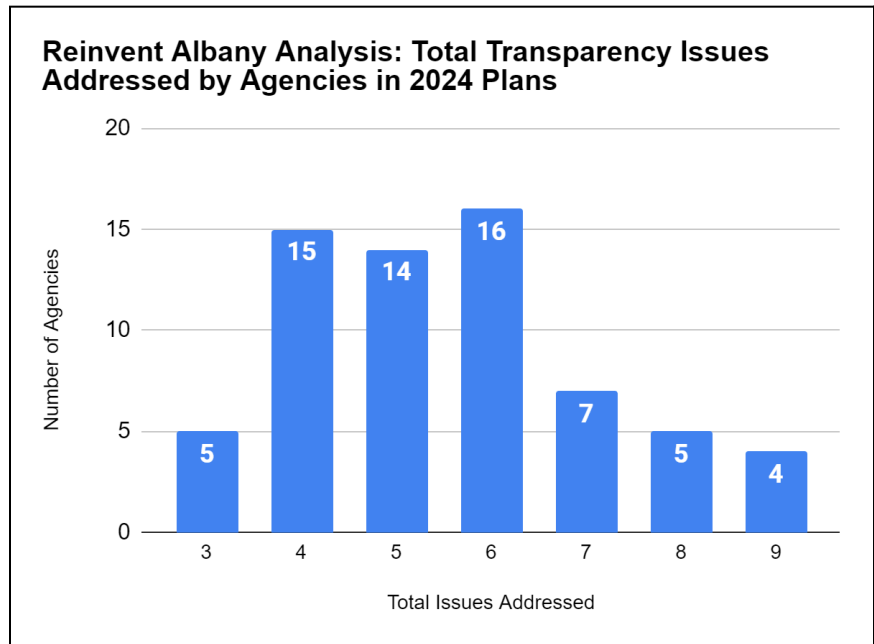
### Overall Completeness of Plans

In seven out of nine core transparency categories tracked by Reinvent Albany, fewer agencies provided information about their efforts in their 2024 compared to 2021 plans. (See Reinvent Albany's 2022 report on the transparency plans, [Opening NY 2022](#).) For example, in their 2021 transparency plans, 94% of agencies discussed their Freedom of Information Law process or plans to improve it, while in 2024, only 65% of agencies addressed FOIL. Given that the Freedom of Information Law is a core transparency requirement in New York State, this should have been a top area for agencies to address in their plans.

The only two areas that saw improvement were related to their format, not substance. All of the 2024 plans were published in a machine-readable format, meaning that they were searchable. (In 2021, some agency plans were published as scanned PDF image files, though some were later corrected.) All agencies' 2024 plans listed specific initiatives for implementation that year. This is an improvement over the 2021 plans, where most, but not all, agencies listed specific actions they planned to take to increase transparency (97%). The list of specific initiatives to accomplish in 2024 was a welcome

improvement, but without specific guidance, some agencies only covered areas that they were doing well on, while failing to provide information about how they are meeting other transparency mandates.

Despite agencies having discretion over what transparency areas to cover, some provided complete plans that addressed every area tracked by Reinvent Albany, including the [Board of Elections](#). This is a welcome improvement from their [1-page “plan”](#) in 2021.



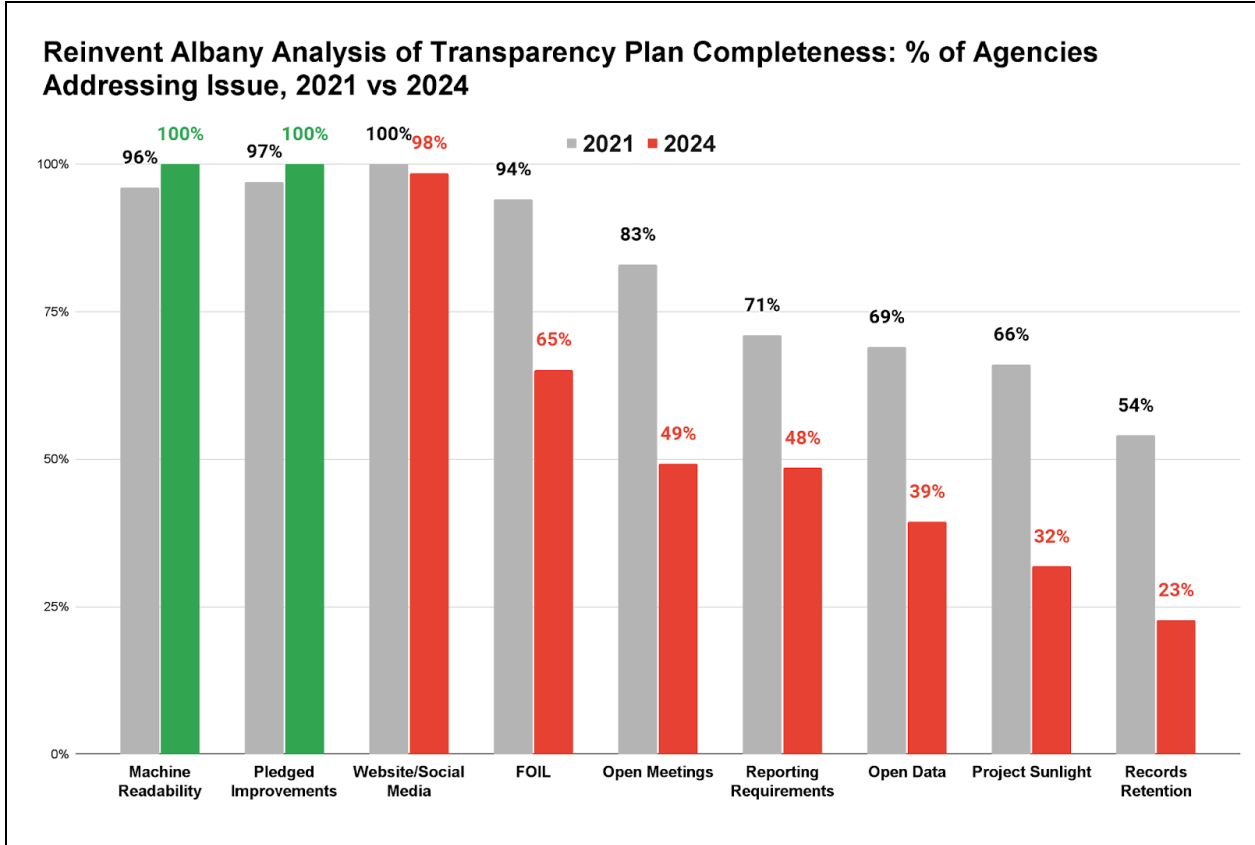
Many agencies, however, provided incomplete plans that did not address major transparency areas like FOIL or open data compliance, instead only describing how they plan to use their websites to share information.

👍 **Agencies addressing the most issues (9)**

- [Board of Elections \(BOE\)](#)
- [Department of Health \(DOH\)](#)
- [Governor’s Office of Employee Relations \(GOER\)](#)
- [Hudson River Valley Greenway \(HRVG\)](#)

👎 **Agencies addressing the fewest issues (3)**

- [Council on Children and Families](#)
- [Council on Developmental Disabilities \(CDD\)](#)
- [Division of Human Rights \(DHR\)](#)
- [Hudson River Black River Regulating District \(HRBRRD\)](#)
- [Office of Children & Family Services \(OCFS\)](#)



The most covered substantive policy area was the use of agencies’ websites or social media to share information with the public. Websites or social media were discussed by 98% of agencies in their plans. Perplexingly, one agency, the Department of Financial Services (DFS), failed to mention its website or social media in its [2024 transparency plan](#).

More concerning was the failure of many agencies to discuss compliance with core transparency laws and requirements, such as the Freedom of Information Law (covered by 65% of agencies), Open Meetings Law (only 49% of agencies), the Open Data Executive Order 95 of 2013 (only 39% of agencies), and Project Sunlight (32% of agencies). In all of these areas, agencies provided less detail about their efforts than they did in 2021.

**Reporting on 2021 Deliverables**

Many agencies linked their 2024 with their 2021 commitments, doing a good job describing what they have accomplished. The [Department for the Aging](#), in particular, provided a lot of detail about what they accomplished since 2021. Other agencies, however, reported on activities that were disconnected from the 2021 plans. The Department of Transportation, for example, did not report on FOIL, open data,

mandating reporting, records retention, or Project Sunlight in their [2024 plan](#), instead emphasizing their use of their website and creation of a [new podcast](#). The [Environmental Facilities Corporation \(EFC\)](#) copied and pasted much of the content provided in 2021, making the plan longer while not providing much detail about new 2024 initiatives.

## **FOIL Highlights and Caseloads**

Of the 43 agencies discussing the Freedom of Information Law (FOIL) in their reports (65% of agencies), many noted their recent transition to using GovQA to receive and process requests. Our recent report, [Listening to FOIL 2024: Lessons from Six NYS Agencies](#), however, found a number of problems with the deployment of GovQA by state agencies.

One FOIL highlight was the [Office of Information Technology Services's transparency plan](#), which had a detailed discussion of how they use FOIL to identify records for proactive release. Other ITS FOIL initiatives included:

- Documents requested via FOIL regarding uses of Artificial Intelligence will be shared on the ITS website, where the established criterion is met.
- ITS reviews each response to FOIL requests to determine whether it is a common request or of particular interest to the public. When this criterion is met, the responsive documents are posted on the ITS website at the following address: <https://its.ny.gov/foil>.
  - The ITS FOIL website states that contracts are its most frequently requested documents, and has a list of 20 published contracts, including: [IBM End User Support](#) and [T000685 Excelsior Pass](#).

The Thruway Authority was the only agency we found that publishes a list of FOIL requests it has received on its website, as noted in its [2024 transparency plan](#). A [PDF file](#) is linked from its [FOIL website](#). However, the PDF only includes the date of the request and brief description of the subject of the request. A more detailed and informative FOIL log should include information about who is requesting records and processing times, at a minimum.

In 2024, far fewer agencies reported FOIL caseloads than in 2021; only six agencies provided data on the number of FOIL requests received. In 2021, 22 agencies reported their FOIL caseloads. The data provided was inconsistent in both 2021 and 2024, however, which required Reinvent Albany to do the math to determine approximate annual caseloads. A table of FOIL caseloads reporting in 2024 is on the next page.



<b>Reinvent Albany Analysis of Agencies' FOIL Reporting 2024 Transparency Plans</b>			
<b>Agency</b>	<b>Year/Date Range</b>	<b>FOIL Requests Reported in 2024 Transparency Plan</b>	<b>Approx. Annual FOIL Requests</b>
Department of Health	Unknown	500-600 per month	6,600
Workers Compensation Board	2021-2024	1,798 FOIL requests received between September 1, 2021, and January 5, 2024	800
Public Service Commission	2021-2024	Since January 2021, the DPS has received 622 FOILs	200
Division of State Police	2021-2024	85,000	28,000
Department of Taxation and Finance	2023	917	917
Department of Environmental Conservation	2021-2023	2021: 17,000 2022: 16,000 2023: 14,500	14,500

**Open Data Highlights and Misses**

Only 39% of state agencies included discussion of open data – their compliance with Executive Order 95 of 2013 specifically – in their 2024 transparency plans, down from 69% in 2021.

Discouragingly, some agencies released data that is only available on their websites and not provided on the state’s open data portal, [data.ny.gov](http://data.ny.gov) (see the [Department of Civil Services’ plan](#) that links to a PDF of enrollment “data” and the [Office for People Developmental Disabilities’s plan](#) which lists a number of datasets, none of which are on the open data portal). Because these plans don’t actually address how the agencies are complying with EO 95, we did not list them as addressing open data.

Some agencies phoned it in on open data, however, simply acknowledging the state’s open data mandates. The [Division of Homeland Security & Emergency Services](#)

[transparency plan](#) said only this: “DHSES currently provides data to be included in Open Data NY.”

Some highlights on agencies’ discussion of open data included the [Metropolitan Transportation Authority’s 2024 plan](#), which heavily focused on implementation of open data mandates. The MTA’s deliverables and upcoming initiatives on open data are summarized below:

- Published MTA Open Data Catalog as a [dataset on data.ny.gov](#)
- Created [MTA Performance Metrics site](#), which centralizes performance metrics, and pulls from [data.ny.gov](#) datasets
- Produced MTA Committee meeting books in open data format
- Assigned staff member as Data Coordinator
- Will publish operating budget and congestion pricing data as open data in 2024

While the MTA had by far the most comprehensive update on open data efforts among agencies, unfortunately it did not discuss a number of other transparency areas: FOIL, open meetings, reporting requirements, records retention, or Project Sunlight.

### **Other Inclusions of Note**

Two new agencies submitted transparency plans in 2024, which did not provide them in 2021:

- [Council on Developmental Disabilities \(CDD\)](#)
- [Niagara Frontier Transportation Authority \(NFTA\)](#)

A number of agencies described new efforts to post reports, contracts, and other records of significant value which we hope sets a precedent for other agencies, or reversed harmful policies:

- [New York State Insurance Fund](#) is now publishing its [investment policy statements](#).
- [Hudson River Black River Regulating District \(HRBRRD\)](#) published its [collective bargaining agreement with CSEA](#).
- [Long Island Power Authority \(LIPA\)](#) has a [new ethics reporting platform](#).
- [Roosevelt Island Corporation](#) reversed a “policy of non-engagement with local island media... and has begun working to re-engage with local island media as of January 2024.”