
**Thomas P. DiNapoli
COMPTROLLER**



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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**THOUSAND ISLANDS
BRIDGE AUTHORITY**

**COMPLIANCE WITH
FREEDOM OF
INFORMATON LAW
REQUIREMENTS**

Report 2007-S-49

AUDIT OBJECTIVE

Our objective was to determine whether the Thousand Islands Bridge Authority's (TIBA) efforts to manage and monitor Freedom of Information Law (FOIL) requests result in the timely release of information consistent with FOIL requirements.

AUDIT RESULTS - SUMMARY

FOIL specifies time frames for the processing of record requests received by agencies. Compliance is important because delays in responding equate to a denial of the request and could result in unnecessary appeal proceedings for the agency. TIBA reported receiving two FOIL requests between January 1, 2005 and September 19, 2006. We found TIBA responded promptly to both requests, acting on them the same day they were received, which is well within FOIL guidelines.

We also found that TIBA has adequate policies and procedures in place to process FOIL requests timely. In addition, TIBA maintains a subject matter list of all records in its possession, which is available to the public upon request.

This report, dated August 9, 2007, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

TIBA was created by State statute in 1933 and operates under Article 3, Title 4 of the Public Authorities Law. The Thousand Islands Bridge System, for which TIBA is

responsible, extends from Collins Landing near Alexandria Bay, New York, to Ivy Lea near Gananoque, Ontario, covering a distance of 8.5 miles. The bridge system includes the seventh-busiest U.S./Canadian commercial crossing, used by approximately 500,000 commercial vehicles per year.

Article 6 of the New York State Public Officers Law provides for public access to government records. The statute, generally referred to as the Freedom of Information Law, applies to any State agency, public authority and local government entity, with the exception of the Judiciary and the State Legislature. Under FOIL, each agency, including public authorities, is required to make all eligible records available for public inspection or copying. Such records include, but are not limited to, reports, statements, opinions, folders, files, microfilms, and computer tapes or discs.

TIBA reported receiving two FOIL requests between January 1, 2005 and September 19, 2006. FOIL specifies time frames for the processing of requests received by agencies. If a denied request is appealed, the agency must send copies of the appeal and subsequent determination to the New York State Committee on Open Government. In addition, each agency is required to maintain a reasonably detailed current list by subject matter (subject matter list) of all agency records, whether or not they are available under FOIL.

AUDIT FINDINGS AND RECOMMENDATION

Internal Policies and Procedures

Under FOIL, agencies are required to make all eligible records available for public inspection or copying and to promulgate rules and regulations including: the times and

places such records are available; the persons from whom such records may be obtained; and the fees for copies of records, which generally may not exceed 25 cents per page. We found that TIBA has developed its own written policies and procedures, which are equivalent to the provisions set forth in the FOIL statute.

FOIL also requires agencies to maintain a subject matter list of all records in the possession of the agency, whether or not they are available under FOIL. This list is to be provided to the public upon request. We found TIBA maintains an appropriate subject matter list.

*Compliance with FOIL-Specified Time
Frames*

FOIL specifies time frames for the processing of requests received by agencies. Compliance is important because delays in responding equate to a denial of the request and could result in unnecessary appeal proceedings for the agency.

FOIL requires an agency to grant, deny or acknowledge in writing, within five business days, the receipt of a written request for a record. TIBA reported receiving two FOIL requests during our audit period. We reviewed TIBA's response to each request for compliance with the five-day requirement. We found that TIBA acted on both requests the same day they were received, meeting FOIL requirements. In one case, TIBA responded that it did not have the requested records. In the other case, TIBA provided some of the requested information and indicated that the balance of the requested record did not exist.

Recommendation

Continue efforts to manage FOIL requests in a manner that results in the timely release of information in compliance with FOIL requirements.

AUDIT SCOPE AND METHODOLOGY

We conducted our performance audit in compliance with generally accepted government auditing standards. We audited the efforts by 22 selected public authorities to manage and monitor FOIL requests. This report includes details of our audit of one of these 22 authorities, TIBA, and covers the period January 1, 2005 through September 19, 2006. A complete listing of all 22 reports is included in Exhibit A.

To accomplish our objective at TIBA, we reviewed TIBA's internal policies and procedures pertinent to FOIL to determine their compliance with the law. In addition, we met with TIBA officials to confirm and enhance our understanding of their FOIL request process. We also reviewed the two FOIL requests TIBA reported receiving during our audit period, reviewed the steps TIBA took to process the requests, and evaluated their timeliness. In addition, we reviewed each FOIL request extensively, including the subject matter of the request and the dates each was created, received, acted upon, and resolved.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members

to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The audit was performed pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

REPORTING REQUIREMENTS

Draft copies of this report were provided to TIBA officials for their review and

comments. Their comments were considered in preparing this report, and are included as Appendix A.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Chair of the TIBA shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendation contained herein, and where the recommendation was not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Frank Houston, John Buyce, Christine Rush, Lisa Rooney, Rick Podagrosi, and Kelly Engel.

EXHIBIT A

Reports on Public Authority Compliance with FOIL Requirements

<u>Report Number</u>	<u>Public Authority</u>
2006-S-107	New York State Thruway Authority
2006-S-108	Long Island Power Authority
2006-S-109	MTA/New York City Transit
2006-S-110	Empire State Development Corporation
2007-S-33	Battery Park City Authority
2007-S-34	New York State Bridge Authority
2007-S-35	Central New York Regional Transportation Authority
2007-S-36	Convention Center Operating Corporation, NYC
2007-S-37	Development Authority of the North Country
2007-S-38	Dormitory Authority of the State of New York
2007-S-39	Environmental Facilities Corporation
2007-S-40	Housing Finance Agency
2007-S-41	Hudson River/Black River Regulating District Authority
2007-S-42	New York Power Authority
2007-S-43	Niagara Frontier Transportation Authority
2007-S-44	Ogdensburg Bridge and Port Authority
2007-S-45	Olympic Regional Development Authority
2007-S-46	Port of Oswego Authority
2007-S-47	Rochester-Genesee Regional Transportation Authority
2007-S-48	Roosevelt Island Operating Corporation
2007-S-49	Thousand Islands Bridge Authority
2007-S-50	MTA/Bridges and Tunnels

APPENDIX A - AUDITEE RESPONSE



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EXECUTIVE DIRECTOR

June 25, 2007

Frank J. Houston, Audit Director
Office of the State Comptroller
Division of State Government Accountability
123 William Street - 21st Floor
New York, NY 10038

RE: Audit Report 2007-S-49 FOIL

Dear Mr. Houston:

This letter is to acknowledge receipt of the draft audit report addressing freedom of information requirements (FOIL) to the Authority completed by representatives of your office.

In review of the draft report, we have no additional comments.

On behalf of the Authority Board of Directors and staff, thank you for the professionalism exhibited by your staff and input on the FOIL requirements.

If you have any additional questions, please contact me at your convenience.

Sincerely,

Robert G. Harr, III
Executive Director

RGH/jt
CC: TJBA Members
TJBA Legal Counsel