

Department of State

Compliance With Executive Order 95 (Open Data)

Report 2019-S-16 | April 2020

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objectives

To determine whether the Department of State (Department) is complying with Executive Order 95 (EO 95), including providing, in a timely manner, publishable State data to the Office of Information Technology Services (ITS) under EO 95, and whether data posted under EO 95 is reliable and easily usable. The audit covered the period between February 1, 2013 and October 16, 2019.

About the Program

State government entities possess large amounts of valuable information on subjects such as health, business, public safety, parks and recreation, labor, and transportation. EO 95, issued March 11, 2013, established an Open Data Website ([Open Data](#)) for the collection and public dissemination of publishable State data maintained by covered State entities (generally, those headed by individuals appointed by the Executive). Open Data should provide ongoing “one-stop” access to publishable State data and make such data freely available in accessible formats for public use. As of December 2019, there were over 4,600 data items on Open Data.

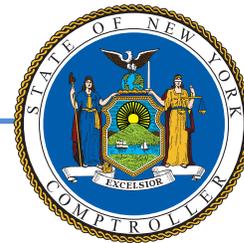
The Department serves as the official compiler of State agency rules and regulations and provides a variety of services related to areas such as licensing, uniform commercial code, and consumer protection. As of December 6, 2019, the Department had published 18 data items on Open Data.

Key Findings

The Department has generally complied with the requirements of EO 95, incorporating compliance with EO 95 into its core business functions. The Department also continues to identify new data sets to add to Open Data. However, the Department did not identify the total population of publishable State data that it maintains. Therefore, there is limited assurance the Department provided a complete catalogue or accompanying schedules for making the data public, as required. Additionally, we found some problems with the usability of some of the Department’s data sets on Open Data.

Key Recommendations

- As soon as practicable, submit to ITS and make publicly available a complete catalogue and schedule of publishable State data for addition to Open Data.
- Work with ITS to enhance the quality and utility of publishable State data by improving Department data accessibility, as well as consistency, where permitted under applicable law.



Office of the New York State Comptroller Division of State Government Accountability

April 8, 2020

Ms. Rossana Rosado
Secretary of State
Department of State
99 Washington Avenue, 11th Floor
Albany, NY 12231

Dear Ms. Rosado:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Compliance With Executive Order 95 (Open Data)*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

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Glossary of Terms

| Term | Description | Identifier |
|-------------|-------------------------------------------|-------------------|
| DWG | Data Working Group | <i>Key Term</i> |
| Department | Department of State | <i>Auditee</i> |
| EO 95 | Executive Order 95 | <i>Key Term</i> |
| Handbook | Open Data Handbook | <i>Key Term</i> |
| ITS | Office of Information Technology Services | <i>Agency</i> |
| Open Data | Open Data Website (data.ny.gov) | <i>Key Term</i> |

Background

State government entities possess large amounts of valuable information on subjects such as health, business, public safety, parks and recreation, labor, and transportation. Executive Order 95 (EO 95), issued March 11, 2013, established an Open Data Website ([Open Data](#)) for the collection and public dissemination of publishable State data maintained by covered State entities (generally, those headed by individuals appointed by the Executive).

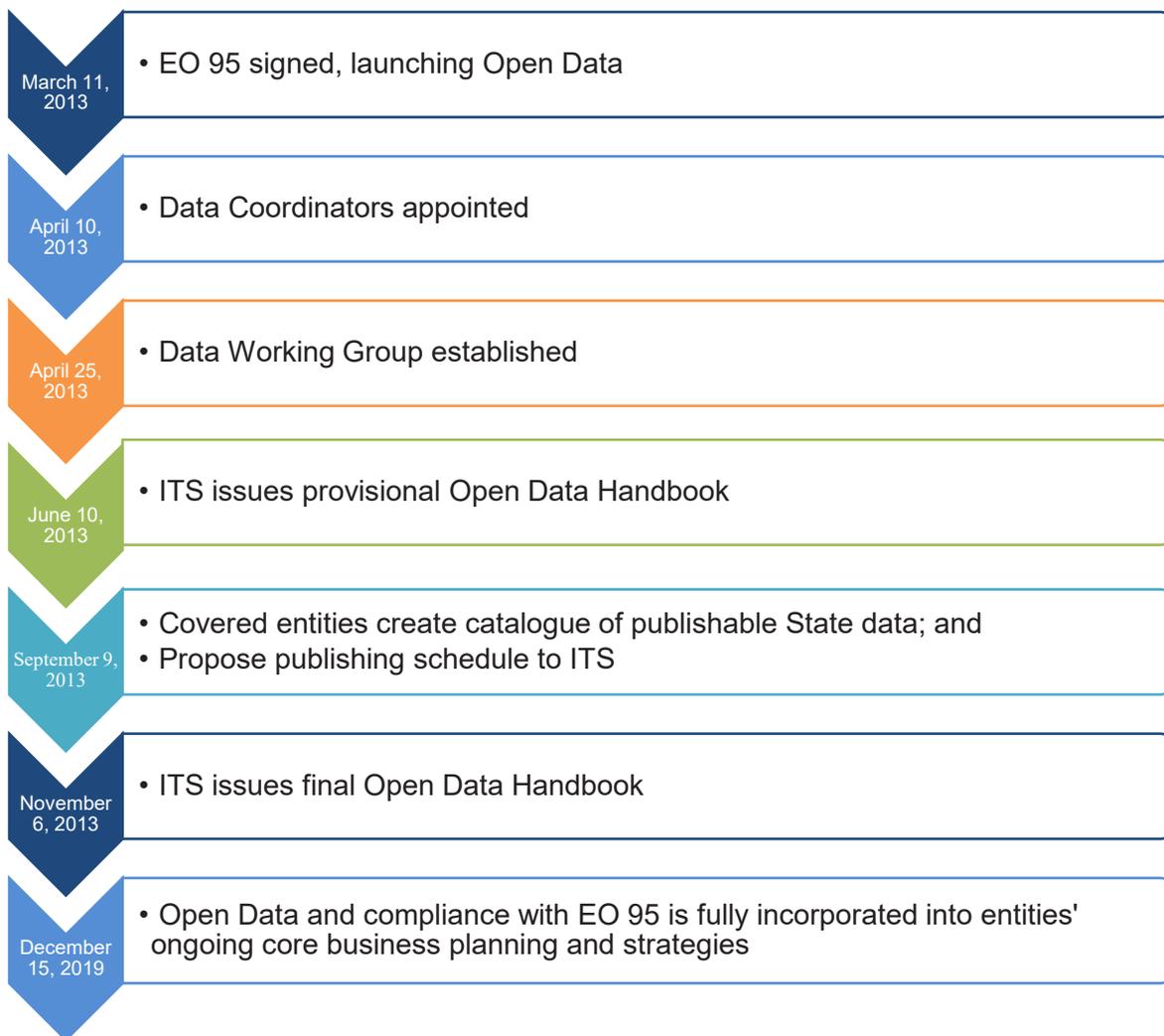
Open Data should provide ongoing “one-stop” access to publishable State data and make such data freely available in accessible formats for public use. Publishable State data should include comprehensive metadata and documentation to help maximize citizens’ understanding, and the public should be able to easily access the data using common software applications. Further, EO 95 states that ensuring the quality and consistency of data is essential to Open Data’s value and utility, defining quality information as appropriate, current, complete, accurate, accessible, and provided on a timely basis.

EO 95 requires each covered State entity to designate a Data Coordinator responsible for EO 95 compliance. The Data Coordinator must have authority equal to that of a Deputy Commissioner or the head of a division or department within the entity and must also have knowledge of data and resources in use by the entity. The Office of Information Technology Services (ITS) maintains Open Data in consultation with the Executive’s Office and a Data Working Group (DWG), which is composed of representatives from ITS, the Department of State, and the Office of General Services and up to 12 Data Coordinators representing a cross-section of covered State entities. Each covered State entity was required, within 180 days of the issuance of EO 95, to provide ITS with a catalogue of its publishable State data, along with a proposed schedule for making the data available on Open Data. The catalogue and schedule were also to be made publicly available.

Within 90 days of the issuance of EO 95, ITS was required to develop a provisional Open Data Handbook (Handbook). The final Handbook, issued on November 6, 2013, sets a schedule for initial and ongoing publication of data for covered State entities, and includes guidance such as a timeline for implementing EO 95 requirements, Data Coordinator and DWG responsibilities, information on topics such as cataloguing and prioritizing data, and standardization and update requirements. Each covered State entity is required to create schedules and prioritize data publication in accordance with guidelines set forth in the Handbook, which directs agencies to identify high-value, high-quality, and complete data sets when creating the catalogue. ITS also issued several other guides to provide additional technical guidance related to formatting, data preparation, data refresh, and submission requirements included in the Handbook. The DWG initially met to provide

guidance to agencies on implementation of EO 95 but has not met since August 2015.

EO 95 implementation was phased in beginning in March 2013, with covered entities required to be in full compliance by December 2019. The following is a high-level timeline for EO 95 implementation:



As of December 2019, there were over 4,600 data items on Open Data.

Established in 1778, the Department of State (Department) is the oldest department in State government. The Department serves as the official compiler of State agency rules and regulations as well as the publisher of information on the State Constitution, the Great Seal of New York, and other official State documents. The Department also provides a variety of services related to areas such as licensing, uniform commercial code, consumer protection, and the New York State Athletic Commission. The Department

published its first data set to Open Data on February 14, 2013, and had 18 data items on Open Data as of December 6, 2019. The Department's data is typically updated anywhere from daily to monthly, depending on the type of data.

Audit Findings and Recommendations

Open Data creates transparency across all levels of government and gives the public user-friendly access to vast quantities of State information. Making data publicly available can reduce costs, improve government efficiency, and inspire collaboration with the private sector. Furthermore, Open Data promotes the development of useful “apps” and encourages researchers and watchdog groups to make suggestions for improving government and life in New York. These goals are most easily achieved when covered State entities make as much high-value publishable State data as practicable available in a timely manner.

The Department has generally complied with the requirements of EO 95, appointing a qualified Data Coordinator and incorporating compliance with EO 95 into its core business functions. The Department also continues to identify new data sets to add to Open Data. However, there is limited assurance the Department created a complete catalogue of publishable State data that it maintains or accompanying schedules for making the data public. The Department maintains potentially publishable State data that have not been added to Open Data. Additionally, we found problems with the usability of some of the Department’s data sets published on Open Data.

Compliance With EO 95

The Department has generally complied with EO 95 requirements. Within the required time frame, the Department appointed a qualified Data Coordinator, who began incorporating compliance with EO 95 into the Department’s ongoing core business functions and Lean initiatives, which are designed to improve processes and streamline government services. However, the Department did not identify the total population of publishable State data that it maintains. Therefore, there is limited assurance the Department provided a complete catalogue or accompanying schedules for making the data public, as required.

Department officials submitted an initial catalogue and schedule consisting of three data sets on August 19, 2013. The Department published two of its initial data sets, but the third could not be added because some of the formatting did not meet ITS requirements. The Department did not submit subsequent schedules to ITS, and the original schedule was not made publicly available. While the Data Coordinator maintains a list of the Department’s identified publishable State data, data in the process of being added to Open Data, and potential data sets to publish in the future, these lists have not been made publicly available, and the Department has not yet identified a complete population of its publishable State data to evaluate for addition to Open Data. However, officials continue to identify and publish new

data sets. As of December 6, 2019, the Department had added 16 additional data items to Open Data and another 4 were pending approval for publishing.

During our audit, Department officials identified and created a list of potentially publishable State data maintained by the Department totaling 117 data sets. While not all these data sets may be publishable under EO 95, our review of the list identified additional potentially publishable data sets, not previously identified, evaluated by the Department for value, or added to Open Data, and, therefore, not easily accessible by the public. For example, some data such as various licenses and information regarding delinquent child support records, home inspections, and private investigators is searchable on the Department's website, but not published in an easily accessible format on Open Data.

Department officials stated that the initial catalogue and schedule submitted to ITS and the currently published data sets on Open Data satisfied EO 95 requirements. While EO 95 does not explicitly require covered entities, such as the Department, to add all publishable State data, based on the intent of EO 95 – to “enhance access to government data and make government in New York State more transparent” – they should make every effort to make as much publishable State data, determined to be of high value, publicly available.

Data Reliability and Usability

We selected 4 of 14 of the Department's publishable State data items available as of June 2019 on Open Data to test for reliability and usability. The four data sets included: Active Real Estate Salespersons and Brokers; Active Corporations: Beginning 1800; Active Appearance Enhancement and Barber Business and Area Renter Licensees; and Local Government Efficiency Program Grants: Beginning 2005. We found the data to be reliable, as it was both complete and accurate. However, we found some usability problems with each of the data sets.

The Active Corporations data was difficult to open due to the large size of the data file. While Department officials stated they have not received any complaints about the data set or its usability, we needed advanced analytical software to analyze the data, as common software could not read the complete file. Department officials also noted that, to increase usability, they created a data lens page for the Active Corporations data, which includes different visualizations, such as bar and line graphs, to facilitate understanding. However, while the data lens is valuable in helping the public visualize the data, it does not assist them in downloading the entire data set so it can be adapted for their specific purpose.

In addition, each of the four data sets we reviewed contained formatting inconsistencies. For example:

- We found inconsistent structuring of addresses and cities. In one instance, a field contained 12 different spelling variations for the same city. In some cases, these variations occurred because the Department is required by New York Business Corporation Law to file and index corporate certificates and other instruments delivered to the Department for filing, and the Department records contain data as submitted on the certificates in its index, including any incorrect spellings.
- We also identified blank and incomplete fields. For example, in one data set, we found 138 records did not have an entry for “license holder name.”

Data should be delivered in a highly usable form that can be adapted to the end user’s needs. Inconsistencies and omissions reduce the data’s usefulness and make it difficult to analyze (e.g., for performing matches, summarizing) without taking further steps.

Recommendations

1. As soon as practicable, submit to ITS and make publicly available a complete catalogue and schedule of publishable State data for addition to Open Data.
2. Work with ITS to enhance the quality and utility of publishable State data by improving Department data accessibility, as well as consistency, where permitted under applicable law.

Audit Scope, Objectives, and Methodology

The objectives of our audit were to determine: whether the Department is complying with EO 95, including providing, in a timely manner, publishable State data to ITS under EO 95; and whether data posted under EO 95 is reliable and easily usable. The audit covered the period between February 1, 2013 and October 16, 2019.

We became familiar with, and assessed the adequacy of, internal controls related to our audit objectives. We reviewed EO 95 and all relevant handbooks and guides related to enforcing EO 95's scheduled provisions for publishable State data. We met with Department officials to gain an understanding of their role in publishing data sets. We also examined the Department's internal controls and assessed their adequacy as they related to our audit objectives and assessed the reliability of the data published by the Department. We found data to be reliable for the purposes of our audit objectives.

To assess the data reliability, we completed various tests for a judgmental sample of 4 of 14 data items published on Open Data as of June 2019 and reviewed the general system controls for those four data sets. We selected our sample based on data sets with most views, oldest and newest, and one other risk factor. The results of our sample were not intended to and cannot be projected across the population as a whole.

Statutory Requirements

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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.

Reporting Requirements

We provided a draft copy of this report to Department officials for their review and comment. We considered their comments in preparing this final report and they are attached in their entirety to the end of this report. Although Department officials disagreed with the recommendations, certain actions that they asserted are or will be performed are in line with the overall intent of the report's recommendations. Our rejoinders to certain Department comments are included in the report's State Comptroller's comments.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Secretary of State 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 recommendations contained herein, and where recommendations were not implemented, the reasons why.

Agency Comments

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February 6, 2020

Mr. Brian Reilly
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street - 11th Floor
Albany, NY 12236-0001

Re: Draft Audit Report 2019-S-16

Dear Mr. Reilly:

The Department of State (DOS) has reviewed the Office of the State Comptroller's (OSC) draft audit report 2019-S-16, entitled "Compliance with Executive Order 95." We are pleased that your audit found that we are in compliance with the Executive Order 95 (EO 95).

Our responses to the recommendations are as follows:

Recommendation 1: As soon as practicable, submit to ITS and make publicly available a complete catalogue and schedule of publishable State data for addition to Open Data.

DOS Response: We disagree with this recommendation. As OSC concluded in their report, DOS generally complies with the requirements set forth in EO 95 and continues to work with ITS to add new data sets to Open Data that are useful and of value to the public. Also, as noted in the report, DOS has incorporated compliance with EO 95 into our core business functions. Our publishable state data catalogue is found on the Open Data website. The DOS Data Coordinator will continue to work with ITS to potentially add new data sets to the Open Data catalogue as DOS programs change and evolve and data systems are upgraded or created.

[Comment 1](#)

Recommendation 2: Work with ITS to enhance the quality and utility of publishable State data by improving Department data accessibility, as well as consistency, where permitted under applicable law.

DOS Response: We disagree with the premise of the recommendation. We continually work with ITS on posting and refreshing our data on Open Data. The data posted to Open Data meets all the guidelines in the Open Data Handbook. As OSC concluded in their report, the data was found to be complete, accurate, and reliable. The Open Data website provides users with contact information for users to contact if they are encountering any issues. The Active Corporations data set referenced in the report was first published to Open Data in 2013. In the past 7 years, DOS has not received any complaints about the data size or usability of datasets.

[Comment 2](#)

Respectfully,


Rossana Rosado
Secretary of State



Department
of State

State Comptroller's Comments

1. Although the Department has published some high-quality data, as the total population of high-value publishable State data it maintains was not identified, there is limited assurance all high-value data has been posted to Open Data. Additionally, while the Department is adding new data to Open Data, a schedule of when additional data sets will be posted has not been made public.
2. Data should be delivered in a highly usable form that can be adapted to the end user's needs and is readily available to most users. We needed advanced analytical software to extract and use some of the Department's data posted to Open Data. Relying on complaints to determine whether data is usable is not proactive and places the burden on the public to inform the Department of usability issues with its data.

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