

# Office of General Services

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## Compliance With Executive Order 95 (Open Data)

Report 2019-S-39 | April 2020

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

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Division of State Government Accountability



# Audit Highlights

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## Objectives

To determine whether the Office of General Services (OGS) 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 covers the period between March 11, 2013 and December 6, 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 January 2020, there were over 4,600 data items on Open Data.

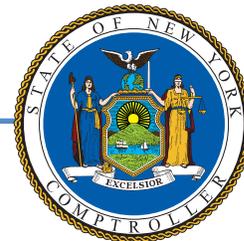
OGS provides critical services to State agencies, including managing and leasing real property; designing and building facilities; and contracting for goods, services, and technology. As of January 28, 2020, OGS had published six data items on Open Data.

## Key Findings

OGS has taken steps to meet the requirements of EO 95; however, certain aspects of the order have not been fully addressed. There is limited assurance OGS has created a complete catalogue of the publishable State data that it maintains or accompanying schedules for making that data public, as required by EO 95. OGS maintains potentially high-value publishable State data it has not added to Open Data. OGS has not incorporated compliance with EO 95 into its core business functions: there are no processes to identify new high-value data sets to publish on Open Data (most recent data was added in 2016), and OGS has not consistently updated data already posted to Open Data. However, we found the data OGS has posted to Open Data to be usable and easily accessible, with no formatting issues.

## 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.
- Develop procedures for:
  - Incorporating compliance with EO 95 into OGS’ core business practices; and
  - Ensuring accurate, complete, and timely updates to data posted on Open Data.



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

April 8, 2020

Ms. RoAnn M. Destito  
Commissioner  
Office of General Services  
Corning Tower, 41st Floor  
Albany, NY 12242

Dear Commissioner Destito:

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

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<b>Term</b>	<b>Description</b>	<b>Identifier</b>
DWG	Data Working Group	<i>Key Term</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>
OGS	Office of General Services	<i>Auditee</i>
Open Data	Open Data Website (data.ny.gov)	<i>Key Term</i>

# Background

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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.

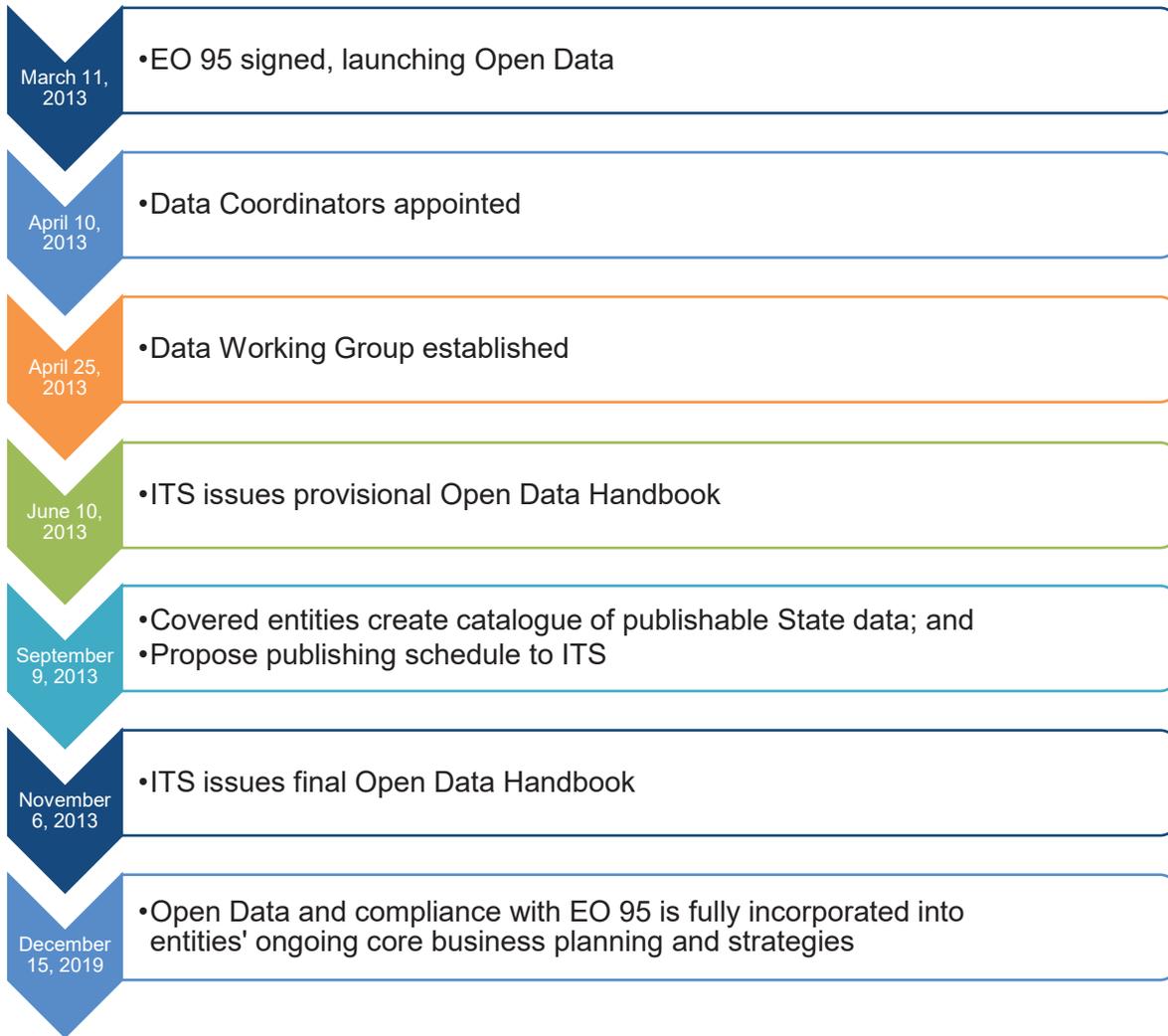
EO 95 requires each covered State entity to designate a Data Coordinator responsible for EO 95 compliance. The Data Coordinator must have authority equal to that of a Deputy Commissioner or the head of a division or department within the entity and must also have knowledge of data and resources in use 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 (OGS) 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

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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 January 2020, there were over 4,600 data items on Open Data.

Established in 1960, OGS provides essential support services to State government operations. Its mission is to manage and lease real property; design and build facilities; contract for goods, services, and technology; and deliver a broad scope of critical services for State agencies. OGS published its first data item to Open Data on June 24, 2014 and has published six data items as of January 28, 2020. OGS' data is typically updated anywhere from quarterly to annually, depending on the type of data.

# Audit Findings and Recommendations

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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 and improve government efficiency. 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.

OGS has taken steps to meet the requirements of EO 95; however, certain aspects of EO 95 have not been fully addressed. There is limited assurance OGS has created a complete catalogue of the publishable State data that it maintains or accompanying schedules for making that data public. OGS maintains potentially high-value publishable State data it has not added to Open Data. OGS has not incorporated compliance with EO 95 into its core business functions: there are no processes to identify new high-value data sets to publish on Open Data (most recent data was added in 2016), and OGS has not consistently updated some of the data already posted to Open Data. We reviewed two of the data sets OGS has published to Open Data and found they were usable and easily accessible; however, a lack of supporting documentation and some data entry errors limited the conclusions we could make regarding the data's reliability.

## Compliance With EO 95

While OGS has taken steps to meet the requirements of EO 95, it has not fully addressed all aspects of the order. OGS has not identified the total population of publishable State data that it maintains. Therefore, there is limited assurance OGS has provided a complete catalogue or the accompanying schedules for making that data public, as required. In September 2013, OGS officials submitted an initial catalogue and schedule consisting of 11 data sets, and published 4 of them; the remaining 7 were not published because OGS determined the data was confidential, another State entity had posted the same data, the data was no longer available, or the data was not considered high value. OGS submitted an additional schedule in 2016; however, it did not include any new data sets. Neither schedule was made publicly available. As of January 28, 2020, OGS had published six data items (four data sets, one chart, and one filtered view) to Open Data. OGS officials stated they are planning to submit one additional data set for publication; however, there is no timeline for when this will occur.

During our audit, OGS officials identified and created a list of potentially publishable State data maintained by OGS, totaling 35 data sets. While not all of the data sets may be publishable under EO 95, our review of the list identified potentially publishable data sets not previously identified, evaluated

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by OGS for value, or added to Open Data. For example, OGS maintains a database that tracks waived fees for use of the Empire State Plaza Convention Center’s rooms and services, yet this potentially high-value data is not available on Open Data.

OGS officials stated that the initial catalogue and schedule submitted to ITS and the currently published data sets on Open Data satisfy EO 95 requirements. While EO 95 does not explicitly require covered entities 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” – OGS should make every effort to make as much high-value publishable State data as possible publicly available.

OGS has also not fully incorporated EO 95 compliance into its core business functions. OGS has not developed policies and procedures to identify new high-value publishable data sets and could not provide support that it had conducted a survey to identify all the high-value publishable data it maintains. OGS officials stated that, in 2016, ITS instructed the agency to focus on high-value data sets. However, without identifying the population of publishable State data it maintains, there is limited assurance OGS has sufficiently considered the value of its data and published all high-value data to Open Data.

Within the time frame established in EO 95, OGS designated a Data Coordinator, the Deputy Commissioner and Counsel, who met the qualifications outlined in EO 95. However, the Data Coordinator delegated all responsibilities and duties to the Associate Counsel. While the Handbook allows an assistant to aid the Data Coordinator in executing duties under EO 95, there is limited support that the Associate Counsel has the necessary knowledge of data and agency resources to meet the requirements of EO 95.

## **Data Reliability and Usability**

We selected two of the six OGS data items available as of August 2019 on Open Data to test for reliability and usability. The two data sets included: Master Contract Value Added Resellers Report (Master Contract) and Recycled Commodities and Waste Streams: Beginning 2008 (Recycled Commodities). We found the data to be usable and easily accessible, with no formatting issues. However, we found some minor data reliability issues with each of the data sets.

For the Master Contract data, we reviewed a sample of 46 source documents and found 21 instances (46 percent) of information on Open Data that differed from the source documents, making the data unreliable. These issues were

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caused by some description fields being entered incorrectly by OGS staff before the data was uploaded to Open Data. OGS officials stated that, to address this issue, they have since implemented an internal test of the Master Contract update file prior to submission and upload to Open Data.

We selected five records from the Recycled Commodities data and reviewed the source documents, which consist of various receipts. OGS could provide only a portion of the requested receipts. One record was removed from our review, due to the difficulty, according to OGS, of gathering the receipts for that record. For the remaining four records, we were able to verify two and found them to be reliable. However, OGS could not provide us with all the receipts for the remaining two records. Therefore, we could not conclude if the Recycled Commodities data was reliable. Additionally, the Recycled Commodities data had not been updated in over three years, from January 25, 2016 to July 25, 2019. OGS officials stated that this was due to employee turnover in the division that handles the data, and the agency has since updated the data set. In order for data to be useful, it must be accurate and timely; limitations to either reduce the value of the data. Therefore, OGS should take steps to ensure its data is regularly updated.

## 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. Develop procedures for:
  - Incorporating compliance with EO 95 into OGS' core business practices; and
  - Ensuring accurate, complete, and timely updates to data posted on Open Data.
3. Designate a Data Coordinator or assistant to the Data Coordinator who has the necessary knowledge of the data and resources used by OGS to be actively involved in overseeing and executing requirements of EO 95.

# Audit Scope, Objectives, and Methodology

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The objectives of our audit were to determine whether OGS 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 covers the period between March 11, 2013 and December 6, 2019.

To accomplish our audit objectives, 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 schedule provisions for publishable State data. We met with OGS officials to gain an understanding of their role in publishing data sets.

To assess data reliability, we completed various tests on a judgmental sample of two of the six data items published by OGS on Open Data as of August 2019. We judgmentally selected our sample based on the risk of the data set not being updated and selected the data set with field names that appeared to be in the wrong place. We selected a random sample of 46 of 7,402 records from the Master Contract data set and a random sample of 5 of 200 records from the Recycled Commodities data set to determine if they were reliable. The results of our sample were not intended to and cannot be projected across the population as a whole. We found some instances of information within the data sets that could not be relied on or for which we could not determine reliability. The impact of these findings was included in the body of this report.

# Statutory Requirements

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## 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 OGS 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 it. Although OGS officials disagreed with most of the recommendations, certain actions that they asserted are being taken or will be performed are in line with the overall intent of the report's recommendations. Our replies to certain OGS 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 Commissioner of the Office of General Services 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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Office of  
General Services

ANDREW M. CUOMO  
Governor

ROANN M. DESTITO  
Commissioner

March 13, 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: Audit Draft Report - 2019-S-39, Issued 02/14/2020

Dear Mr. Reilly:

The Office of General Services (“OGS”) has reviewed the Office of the State Comptroller’s (“OSC”) above-referenced draft report relating to Audit Report 2019-S-39, titled “Compliance with Executive Order 95 (Open Data).” OGS’s position is that we are in compliance with Executive Order 95 (“EO 95”), and any disagreements with the audit findings or recommendations will be discussed below.

OGS’s responses to the audit recommendations:

OSC 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.*

OGS Response: We disagree with the premise of this recommendation. In accordance with the ITS Open Data Handbook, the business units at OGS were asked to provide publishable, high quality, “high value” datasets. High value data is defined by the ITS Open Data Handbook as data that can be “used to increase the agency’s accountability and responsiveness, improve public knowledge of the agency and its operations, further the mission of the agency, create economic opportunity, or respond to a need or demand identified after public consultation”.

Moreover, EO 95 provides that data is not publishable State data if making it available on Open Data would, among other things, impose an undue financial, operational, or administrative burden on the agency. The 11 proposed datasets were those that OGS determined met the threshold set forth in EO 95 and the Open Data Handbook. Two of those datasets were rejected for technical reasons; one dataset was no longer available; and four others were no longer considered high value after the change in scope of the Open Data website. At least one potential high value dataset is currently being worked on by OGS real property staff and will be published to Open Data once it is fully operational.

[Comment 1](#)

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Mr. Brian Reilly  
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The delegated OGS Data Coordinator will continue to work with ITS to potentially add new datasets to the Open Data catalogue as OGS programs and systems evolve and are updated and new ones are created.

OSC Recommendation 2: Develop procedures for:

- *Incorporating compliance with EO 95 into OGS' core business practices; and*
- *Ensuring accurate, complete, and timely updates to data posted on Open Data.*

OGS Response: We partially agree with this recommendation. OGS has worked to identify its publishable and high value datasets. As noted above, OGS plans to submit at least one new dataset once fully operational that it feels would be of the highest value, which is a searchable dataset of all New York State-owned real property and capital assets. That said, OGS will reconvaass its business units in an effort to identify any additional publishable, complete, high value datasets.

OGS has procedures for having timely, accurate, and complete updates. Upon bringing its Recycled Commodities dataset up to date, ITS staff has ensured OGS that all OGS's datasets have been refreshed according to their posting frequencies. While it is true that the Recycled Commodities dataset missed its first annual update, the delegated OGS Data Coordinator became aware when the second annual update was due that the manager of the business unit responsible for the updates had retired and had not yet been replaced. During this time, the business unit was undergoing structural changes, and when a person was identified to be responsible for the updates, the Recycled Commodities dataset was brought up to date.

With respect to data reliability, OGS disagrees with the statements within the body of the Audit Report that the Master Contract Value-Added Resellers dataset could not be found to be reliable. The Audit Report does note that OGS has now implemented an internal test of the Master Contract update file prior to submission and upload to Open Data to address any manual data entry issues. The sample of 46 source documents were for transaction requests to add or remove resellers in the Statewide Financial System. Because resellers can be added or removed at any time, the list is always in flux, and an accounting of the list performed at any time other than publication would likely result in a variance.

Moreover, the two instances where the value-added reseller data appeared to be incorrect constituted only two out of 7,943 rows or records, which is an error rate of .03%. With such a low error rate, OGS believes this data should be described as reliable. The other 19 instances where OSC identified a discrepancy with the award description constitute 19 out of 7,943 records, which produces an error rate of .24%. Once again, we believe this data should be described as reliable.

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Mr. Brian Reilly  
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With respect to the Recycled Commodities dataset, the aggregate tonnage for which OGS did not provide receipts (88.63 tons) represents less than 5% of the total sample tonnage. OGS disagrees that this would lead to the conclusion that the data is unreliable. Moreover, controls are in place to govern transaction entry in the asset management system from which the data is extracted for publishing to Open Data.

OSC Recommendation 3: *Designate a Data Coordinator or assistant to the Data Coordinator who has the necessary knowledge of the data and resources used by OGS to be actively involved in overseeing and executing requirements of EO 95.*

OGS Response: We disagree with the premise of this recommendation. The reason that EO 95 requires the Data Coordinator for each agency to be at the deputy commissioner level or equivalent is so that the Data Coordinator has a broad understanding of the agency's mission and operations and is aware of what data may reside within the agency. EO 95 also requires the Data Coordinator to "have knowledge of data and resources in use" by the agency. As the title implies, the Data Coordinator is expected to coordinate, not necessarily be the technical expert on all data within an agency.

[Comment 2](#)

OGS made the decision to appoint its Deputy Commissioner and Counsel as its Data Coordinator, and the Deputy Commissioner and Counsel made the decision to delegate the day-to-day duties for compliance with EO 95 to the Associate Counsel. The delegated OGS Data Coordinator has the requisite level of knowledge about the agency's data and relies on the technical expertise of the various business units within OGS to identify publishable, high value datasets and to prepare such datasets for publication and updates. When technical issues arise that require additional expertise, ITS is readily available to work with the dataset owner within the applicable OGS business unit in order to properly format and eliminate technical errors so that the dataset or the update is complete and in publishable form.

Thank you for the opportunity to comment on the draft audit report. Please let me know if you have any questions or require further clarification.

Sincerely,

*Theresa Bonneau*

Director of Internal Audit  
(518) 402-5846  
theresa.bonneau@ogs.ny.gov

# State Comptroller's Comments

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1. Although OGS has published some high-quality data, the total population of high-value publishable State data it maintains was not identified. As such, there is limited assurance that all high-value data has been posted to Open Data. Additionally, while OGS is adding new data to Open Data, a schedule of when additional data sets will be posted has not been made public.
2. We agree the Data Coordinator should “have knowledge of data and resources in use” as EO 95 directs. However, OGS’ Data Coordinator himself stated on several occasions during the audit he does not have this knowledge.

# Contributors to Report

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## Executive Team

**Tina Kim** - *Deputy Comptroller*

**Ken Shulman** - *Assistant Comptroller*

## Audit Team

**Brian Reilly**, CFE, CGFM - *Audit Director*

**Heather Pratt**, CFE - *Audit Manager*

**Theresa Podagrosi** - *Audit Supervisor*

**Amanda Dare** - *Examiner-in-Charge*

**Stephon Pereyra** - *Examiner-in-Charge*

**Jennifer Bordoni** - *Senior Examiner*

**Andrew Davis** - *Senior Examiner*

**Andrea Majot** - *Senior Editor*

## Contact Information

(518) 474-3271

[StateGovernmentAccountability@osc.ny.gov](mailto:StateGovernmentAccountability@osc.ny.gov)

Office of the New York State Comptroller  
Division of State Government Accountability  
110 State Street, 11th Floor  
Albany, NY 12236



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