New York City Administrative Code Section 23-502(f): Open Data FOIL Reporting

f.   Agencies shall review responses to freedom of information law requests that include the release of data to determine if such responses consist of or include public data sets that have not yet been included on the single web portal or the inclusion of which on the single web portal is not provided for in the compliance plan prepared pursuant to section 23-506. Each agency shall disclose in the update to such compliance plan the total number, since the last update, of such agency's freedom of information law responses that included the release of data, the total number of such responses determined to consist of or include a public data set that had not yet been included on the single web portal and the name of such public data set, where applicable, and the total number of such responses that resulted in voluntarily disclosed information being made accessible through the single web portal.

"Public Data Sets" as Defined by the Open Data Law

Local Law 11 of 2012 ("Open Data Law") requires covered agencies to post their "public data sets" on an open data Web portal created by the Department of Information Technology and Telecommunications ("DoITT"). The Open Data Law gives a lengthy and complex definition of "public data set." Below is a simplified summary of that definition.

"Data" is a final version of statistical or factual information that is reflected in a list, table, graph, or chart, and is regularly created or maintained by your agency for furtherance of your agency's mission. It is important to recognize that "data" is not limited to numerical databases – it includes "factual information" that is "reflected in a list" or other non-narrative form.

A "public data set" is a "comprehensive collection of interrelated data" that

- Is maintained on a computer system;
- Is maintained by or on behalf of your agency (including cloud-based platforms such as Salesforce or Microsoft Dynamics Online);
- Is "regularly created or maintained" (meaning that the data is regularly updated or added to – excluding, for example, a data set that was created once for a single purpose and therefore not updated "regularly");
- Includes a measurement, transaction, or determination related to the mission of your agency; and
- Is available to the public under "any provision of law," including FOIL.

"Public data set" does not include any of the following:

- Information provided to your agency by other governmental entities;
- "Image files, such as designs, drawings, maps, photos, or scanned copies of original documents" (note that a "map" by itself is excluded, but a "map" that contains data, such as a GIS map, is not excluded; similarly, a scan of a document is not "data" but the original document may contain data);
- Any portion of a data set that can be denied to the public under FOIL or any other federal or state law or regulation, or any local law. For example, personal information such as Social Security number, date of birth, or home telephone numbers that is exempt from disclosure under FOIL;
- An entire data set that contains a "significant amount" of exempt data, if removal of the exempt data would impose an undue financial or administrative burden on the agency;
- Data that reflects internal deliberative process, such as legal or administrative proceedings (for example, data that would reveal negotiating positions or future procurements are excluded from "public data sets");
- Data stored on an "agency-owned personal computing device, or data stored on a portion of network that has been exclusively assigned to a single agency employee" (a "personal computing device might be a desktop computer, laptop, smartphone, etc.);
- Materials that are protected by copyright, patent, trademark, confidentiality agreements or trade secret;
- Proprietary applications, computer code, software, operating systems, or similar materials (but even if an application is proprietary, the data the application contains may not be proprietary); and
- Employment records, employee directories or lists, facilities data, and other information related to internal agency administration.