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VIA FOIL RECORDS ACCESS CENTER (ELECTRONIC) — SUBMITTED AS A NEW REQUEST

Records Access Officer
New York State Department of State
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231-0001

Re: FOIL request — NYCRR performance, officiality, currency, accessibility, and Executive Law §§ 102 / 106-a public-access records (Contract C1001200)

Dear Records Access Officer:

Pursuant to Article 6 of the Public Officers Law, I request the following records of the Department of State or its Division of Administrative Rules concerning Contract C1001200 (West Publishing Corporation / Thomson Reuters) and public access to the NYCRR. This is a new request, separate from FOIL Request R000654-041926 and from my other pending requests and appeals. Unless otherwise stated, the period covered is January 1, 2019 to the date of this request.

A. Contractor performance and currency of the free electronic NYCRR

1. Records reflecting the Department's monitoring, review, acceptance, or audit of the Contractor's performance of RFP No. 18-ADM-11 Scope item 8 (the unofficial electronic version of the NYCRR and State Register available online at no cost to the general public), including currency or update reviews, acceptance records, deficiency notices, cure demands, or complaints received. (This request is prompted in part by public statements that the free electronic version is not current — for example, a sister agency's published notice that its regulations "on the Westlaw site are updated with changes as of December 31, 2021," and the vendor-operated site's own statement that the unofficial version "should not be used for evidentiary or any other official purpose.")
2. Records sufficient to show the update or supplementation schedule applicable to that unofficial electronic version, and the dates content updates were delivered or published;

service-level or update-cadence terms; error reports and update logs; and records of complaints or inquiries about stale online NYCRR content.

B. Executive Law § 106-a link compliance and standard language

3. Records reflecting the Department's implementation of Executive Law § 106-a, including the Department's posting or maintenance of a link to the free unofficial electronic NYCRR; guidance to state agencies concerning their obligation to maintain a link to the Department's website containing that link; lists, audits, checks, or communications tracking agency compliance; records identifying agencies known not to maintain such a link; and records addressing broken, obsolete, or nonfunctional agency links to NYCRR content.

4. Any template, guidance, instruction, contract term, or communication concerning how state agencies should describe the online NYCRR or the vendor arrangement — including any approved language stating whether the online NYCRR is official, unofficial, evidentiary, informational, current, or certified; records explaining why the Department's own "Rules and Regulations" page states that its posted text "is not the official version," "may not be read into evidence," and that the official NYCRR "is available from West Publishing"; and records concerning agency use of the labels "WestlawNext," "Westlaw," "West Publishing," "Thomson Reuters," or "Lawyers Cooperative Publishing," including any instruction to update retired vendor or product names.

C. Statutory public-access mechanisms (Executive Law § 102)

5. Records reflecting requests received by the Department under Executive Law § 102(4)(d) for photocopies of codes, rules and regulations at not more than twenty-five cents per page, and the Department's procedures, forms, fee schedules, logs, or guidance for fulfilling such requests, from January 1, 2020 to the date of this request.

6. Records reflecting how the Department makes the full text of the master compilation of codes, rules and regulations "readily available" at its office "for public inspection and copying," as Executive Law § 102(4)(a) requires, including the location(s), procedures, hours, guidance, signage, or logs of public use, from January 1, 2020 to the date of this request.

7. Records reflecting requests for certification of NYCRR content by the Secretary of State under Executive Law § 102, and the procedures and fees applicable to such certifications, from January 1, 2020 to the date of this request; and records explaining how a member of the public may obtain certified or court-evidentiary copies of NYCRR provisions.

D. Accessibility

8. Records concerning ADA, WCAG, or other accessibility requirements applicable to the free electronic NYCRR (govt.westlaw.com/nycrr), accessibility testing records, records

addressing whether that site is treated as the accessible version of any agency's rules, and complaints or support records concerning accessibility of NYCRR content.

E. The vendor-fee and officiality relationship

9. Records explaining why the Department directs the public to West Publishing for the official NYCRR; records showing the official products sold by the Contractor under Contract C1001200 and their public price schedules, subscription terms, and state/private rate distinctions; and records showing what the State receives in exchange for granting publication rights to the Contractor, including any records concerning the "Right to Publish Copyrighted Material" contract series reflected in the Comptroller's public contract reporting.

F. Trade-secret regulations

10. The regulations promulgated by the Department pursuant to Public Officers Law § 87(4) (a) pertaining to records containing trade secrets, and any designation records made under such regulations concerning materials related to Contract C1001200.

Please construe each numbered item separately and provide rolling production where feasible, rather than deferring all items pending completion of any one. If no records exist for any item, please provide a certification pursuant to Public Officers Law § 89(3)(a) that the Department does not have possession of such records or that such records cannot be found after diligent search. I prefer to receive responsive records as PDFs through the Records Center (electronic form, per § 87(5)(a)). If any portion is withheld, please specify the statutory basis under Public Officers Law § 87(2) for each redaction, with the particularized and specific justification § 87(2) requires. Please acknowledge receipt within five business days as required by § 89(3)(a).

Respectfully submitted,

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