



**Division of
the Budget**

KATHY HOCHUL
Governor

BLAKE WASHINGTON
Director of the Budget

MATTHEW HOWARD
Deputy Director

MARK MASSARONI
Deputy Director

Via Electronic Mail

December 22, 2023

Mr. Gunnar Larson
G@xny.io

Dear Mr. Larson:

This is in response to your correspondence dated December 6, 2023 ("December 6") which was in response to the Division's December 4, 2023 ("December 4") response to your Freedom of Information Law ("FOIL") request to the New York State Division of the Budget (the "Division") dated November 19, 2023 in which you were seeking the following: "While surveying 2022 New York City Pension/Investment Management Asset Performance, xNY.io - Bank.org noticed an overall negative return for the five systems referenced here: <https://comptroller.nyc.gov/services/financial-matters/pension/asset-performance/>. xNY.io - Bank.org seeks access to any and all records explaining [sic] 2022 New York City Pension/Investment Management Asset Performance as a loss for all five funds."

In the Division's December 4 response, you were informed that the Division "does not possess records responsive to your request as of November 19, 2023." In your December 6 correspondence, you advised the Division that "We kindly would like to appeal this response". Pursuant to Public Officers Law ("POL") section 89(4), only a person denied access to a record may appeal such determination. Here, the Division has not denied you access to any record within its possession. Rather, as noted in our December 4, 2023 communication and consistent with the requirements of POL section 89(3)(a), a diligent search of Division records was conducted and did not yield any records within the Division's possession which are responsive to your request.

For records potentially responsive to your request, we would suggest submitting a FOIL request to the New York City Comptroller. Information on making such request is available on the New York City Comptroller's website at: <https://comptroller.nyc.gov/services/for-the-public/freedom-of-information-law-foil-requests/overview/>.

Sincerely,

Amy Ottaviano
FOIL Officer

