



Report: New York City's MTA Must Improve Construction Project Record Keeping, Construction Dive, featuring Erik Ortmann, Esq., 1-12-22

The New York City Metropolitan Transit Authority's Construction & Development division has a record-keeping problem, according to a new report. The report on the agency's data filing practices from the MTA Office of the Inspector General paints an abysmal picture of data retention regarding construction projects in the city's transit system, showing that files are missing for many projects with some having as little as 21% of the necessary data. Over the course of the three-year investigation, the OIG examined record keeping on two different filing systems — Constructware, the original software that contractors uploaded documents to, and Asite, the current filing program that is used by MTA C&D on its construction projects. From a sample of construction projects, the OIG found only half of the required project files needed by MTA C&D. The missing files hadn't been uploaded to Constructware, as was mandated by the contracts involved and agency policy, and the practice continued once the MTA migrated to Asite....

Adapting to the system

MTA C&D is in agreement with the OIG, and plans to implement all of the recommended changes, according to Jamie Torres-Springer, president of MTA C&D... However, for construction firms that perform work for the agency, this may not be simple.

Erik Ortmann, a partner at New York-based law firm Kaufman Dolowich Voluck, said that an important point of focus for contractors is how they will be supported in training staff to work with systems such as Asite. "It could be something that contractors say, 'Hey, that's not a problem. We've done similar things before, and our people can shift from program to program easily enough. And we can train them in there too, and we're fine.' Or maybe something where it becomes more of a challenge. And we're not going to necessarily know exactly how that'll play out until we start to see enforcement and compliance build up," Ortmann said. Ortmann also expressed concerns about an apparent lack of input from contractors on the proposed fixes within the report. Nevertheless, MTA C&D Spokesperson Michael Cortez, when asked about contractors having the ability to have input on the fixes mentioned in the report, said that they were a part of the process and will continue to be.

"Construction & Development is in continuous dialogue with contractors and other stakeholders as it builds and modifies systems to manage project work," said Cortez in a statement sent to Construction Dive. MTA C&D is currently soliciting 21 projects and saw recent bids for hundreds of millions on certain projects, and more could be on the way following President Joe Biden's signing of the bipartisan infrastructure act last year.

"[MTA C&D] is trying to build a better mousetrap. We all want to see projects done efficiently. And well. We want to see communication, we want to see documents loaded into systems and have communication," Ortmann said.

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