



Metropolitan Transportation Authority

# Corporate Governance Committee Meeting

## February 2014

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### **Committee Members**

T. Prendergast, Chairman

F. Ferrer, Vice Chairman

J. Ballan

A. Cappelli

M. Lebow

S. Metzger

J. Molloy

M. Pally

D. Paterson

A. Saul

J. Sedore, Jr.

# MEETING AGENDA

## MTA CORPORATE GOVERNANCE COMMITTEE

February 24, 2014 2:45 p.m.

347 Madison Avenue  
Fifth Floor Board Room  
New York, New York

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<u>AGENDA ITEMS</u>	<u>PAGE</u>
Public Comment Period	
Approval of Minutes	2
1. Approval 2014 Committee Work Plan	4
2. Review/Revision to MTA Code of Ethics (Action Item)	5
3. Review and Approve Revisions to Board Committee Charters (Action Item)	17
a. Finance Committee Charter	
b. Governance Committee Charter	
4. Review MTA Whistleblower Protection Policy	24
5. Review Board Committee Schedule	

**MINUTES OF THE MEETING**  
**MTA Corporate Governance Committee**  
**July 22, 2013**  
**347 Madison Avenue**  
**New York, New York**

The following MTA Corporate Governance Committee members were present:

Hon. Thomas F. Prendergast, Chairman  
Hon. Fernando Ferrer, Vice Chair  
Hon. Susan Metzger  
Hon. Charles Moerdler  
Hon. James Sedore, Jr.

The following MTA Corporate Governance Committee members were absent:

Hon. Allen P. Cappelli  
Hon. Mark D. Lebow  
Hon. David Paterson

MTA Board members Hon. Robert C. Bickford and Hon. John J. Molloy also attended the meeting.

The following MTA staff attended the meeting:

Catherine Rinaldi, Chief of Staff  
James Henly, General Counsel  
Roberta Bender, Deputy General Counsel  
Nuria Fernandez, Chief Operating Officer  
Lamond W. Kears, Chief Compliance Officer  
Mary Bernet, Associate Counsel

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Vice Chairman Ferrer called the July 22, 2013 meeting of the MTA Corporate Governance Committee to order at 3:54p.m.

**Public Comments Period**

There were no speakers in the public comments portion of the meeting.

**Approval of Minutes**

Upon motion duly made and seconded, the Committee approved the minutes of the Committee meeting held on March 11, 2013.

**1. Changes in Board and Committee Meeting Schedules**

Catherine Rinaldi presented the committee with a staff summary setting forth proposed changes to the Board and Committee meeting calendar effective January 1, 2014. Under the proposal the Board and Committees meeting cycle would return to the 11 meetings per year schedule beginning in 2014, with Board meetings every month except for the month of August. Chief of Staff Rinaldi also noted that under the proposal, when possible, the

meetings of those committees that don't meet every month (diversity, audit and governance) would be held on Wednesday mornings. In addition, the Chairman's forum would be replaced by Presidents' forums where members of the public can ask agency-specific questions.

Upon motion duly made and seconded, the Committee recommended Board approval of amendments to the MTA and Agency By-laws, MTA Governance Guidelines and certain Committee charters, to provide for scheduled meetings 11 times per year, effective as of January 1, 2014.

## **2. Review and Approval of Amendments to certain MTA Policies**

Chief Operating Officer Fernandez presented the committee with a staff summary setting forth proposed changes to the All Agency Procurement Guidelines and All Agency and Guidelines for Procurement of Services. Under the proposed revisions to the Procurement Guidelines, Board approval of change orders would only be required if the change order is over \$750K, or over \$250K if the change order exceeds 15% of the adjusted contract value. In addition, the All Agency Guidelines for the Procurement of Services are proposed to be revised to clarify that change orders to service contracts less than or equal to \$750K, or less than or equal to \$250K if the change order exceeds 15% of the adjusted contract amount, would not require Board approval.

Chief Compliance Officer Kears presented the committee with a staff summary setting forth proposed changes to the All Agency Travel and Business Expense policy. The proposed change re-directs employees to a more useful website which provides them with information regarding travel reimbursement limitations.

Upon motion duly made and seconded, the Committee approved the revised All Agency Procurement Guidelines; All Agency Guidelines for Procurement of Services and the proposed revisions to the All-Agency Travel and Business Expense Policy.

## **3. Executive Session**

Upon motion duly made and seconded the Committee went into Executive Session to discuss matters made privileged by state law.

## **Adjournment**

Upon motion duly made and seconded, Vice Chairman Fernando Ferrer adjourned the July 22, 2013 meeting of the Corporate Governance Committee at 4:03pm.

Respectfully submitted

Lamond W. Kears  
MTA Chief Compliance Officer

## 2014 CORPORATE GOVERNANCE COMMITTEE WORK PLAN

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### I. RECURRING AGENDA ITEMS

	<u>Responsibility</u>
Approval of Minutes	Committee Chair & Members
Governance Committee Work Plan	Committee Chair & Members
Follow-up Items	As Appropriate
Review of any Significant Governance Issues	Chief Compliance Officer
Executive Sessions	As Appropriate
Action items	As listed

### II. SPECIFIC AGENDA ITEMS

#### February 2014

#### Responsibility

1. Review and Approve Revisions to Board Committee Charters \_\_\_\_\_ Chief Compliance Officer
2. Review and Approve Revisions to MTA Code of Ethics \_\_\_\_\_ Chief Compliance Officer
3. Approve 2014 Work Plan \_\_\_\_\_ Committee Chair & Members
4. Review MTA Whistleblower Protection Policy \_\_\_\_\_ Chief Compliance Officer
5. Review Board Committee Schedule \_\_\_\_\_ Committee Chair & Members

#### March 2014

#### Responsibility

1. Presentation on Recent Developments in Corporate Governance \_\_\_\_\_ Chief Compliance Officer
2. Review and Approve Mission Statement and Measurement Report \_\_\_\_\_ Various Staff Members
3. Review and Approval MTA Policies in connection with Provisions of the Public Authorities Law \_\_\_\_\_ Various Staff Members
4. Review and Approve Procurement Guidelines \_\_\_\_\_ Chief Procurement Officer

#### November 2014

#### Responsibility

1. Review/Update of MTA By-laws \_\_\_\_\_ General Counsel
2. Presentation on Compliance with Procurement Lobby Law \_\_\_\_\_ Chief Compliance Officer
3. 2015 Committee Work Plan \_\_\_\_\_ Committee Chair & Members
4. Review Governance Principles \_\_\_\_\_ Chief Compliance Officer
5. Review MTA Whistleblower Protection Policy \_\_\_\_\_ Chief Compliance Officer
6. Review and Approve Any Revisions to Board Committee Charters \_\_\_\_\_ Committee Chair & Members

# Staff Summary



Subject <b>Revisions to MTA Code of Ethics</b>
Department <b>Corporate Compliance</b>
Department Head Name <b>Lamond W. Kearse, Chief Compliance Officer</b>
Department Head Signature 
Project Manager Name <b>Lamond W. Kearse</b>

Date <b>February 26, 2014</b>
Vendor Name <b>N/A</b>
Contract Number <b>N/A</b>
Contract Manager Name <b>N/A</b>
Table of Contents Ref # <b>N/A</b>

Board Action					
Order	To	Date	Approval	Info	Other
1	Governance	2/24/14	X		
2	Board	2/25/14	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Legal		
2	Corporate Compliance		
3	Chief of Staff		

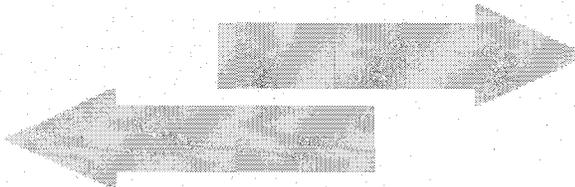
**Purpose:**  
To obtain Board authorization of proposed amendments to the existing MTA All-Agency Code of Ethics as indicated in the attachment to this staff summary.

**Discussion:**  
In November of 2011, the MTA Board adopted the current MTA All-Agency Code of Ethics. The Code of Ethics set forth the MTA's ethical rules relating to such matters as gifts, conflicts of interests, attendance at industry events, outside employment and post-employment service:  
Revisions to the MTA All Agency Code of Ethics are now proposed to codify certain current practices and to establish additional "best practice" controls over how MTA manages outside activity approvals.  
For some time, it has been the practice of the MTA agencies to require new employees to acknowledge that they have received and read the MTA Code of Ethics. The MTA Code of Ethics that is being placed before the Board this month incorporates a new section entitled "Certifications," which codifies this current practice as well as strengthens it by requiring periodic recertification.  
In addition, the outside activities section of the Code of Ethics has been revised to require that an employee designated as a policy maker who has previously had one or more outside activities approved certify every three years that there has been no material change in circumstances that would require a reevaluation of the outside activity approval. A policymaker employee who wishes to engage in new (or materially changed) outside activities would remain obligated under the Code of Ethics to timely seek approval for such a new or changed outside activity.

**Alternative:**  
Not to adopt the revised Code of Ethic. This alternative is not recommended because these changes will both align the Code of Ethics with current practice and strengthen the MTA's Ethics program.

**Recommendation:**  
It is recommended that the Board adopt the revised Code of Ethics.

# CODE OF **ETHICS**



Adopted by the MTA Board  
November 16, 2011 February 26, 2014

**Originally Issued**

**June 1, 2005**

**Revised**

**March 29, 2006**

**March 28, 2007**

**December 16, 2009**

**November 16, 2011**

**February 26, 2014**

**Additional copies may be obtained from  
MTA Corporate Compliance or your Agency's Human Resources Department**

**Internal Control Number GRC001921**



### **Section 1.07 Cooperation with Audits and Investigations**

Employees must cooperate fully and honestly with audits and investigations conducted by the MTA Inspector General, Joint Commission on Public Ethics, Auditor General, Chief Compliance Officer, or other governmental agency. Failure to so cooperate will subject an Employee to appropriate disciplinary penalty, up to and including dismissal.

### **Section 1.08 Mandatory Ethics Training**

Employees subject to the financial disclosure requirements of Section 6.01 of this Code must complete a comprehensive ethics training course within three months of becoming subject to that requirement.

Employees subject to the financial disclosure requirements and such other employees as may be determined by their Agency Ethics Committee are required to attend continuing ethics training every three years.

### **Section 1.09 Certifications**

Employees upon hire must certify to the MTA Code of Ethics by signing an Acknowledgment Form. Additionally, Employees may be required periodically to sign a certification or recertification attesting to their familiarity with the MTA Code of Ethics.

## **Chapter 2: Gifts, Awards and Honoraria**

### **Section 2.01 Gift Prohibition-Zero Tolerance**

Employees are prohibited from soliciting or receiving Gifts, directly or indirectly, from any Prohibited Source. The defined term "Gift" does not include items of truly nominal value. **(See definitions of "Gifts" and "Items of Nominal Value.")**

However, Employees may accept Gifts from employees of a Prohibited Source if these Gifts are reflective of a personal relationship independent of the relationship between the Prohibited Source and the MTA. For example, if the sibling of an MTA Agency Employee worked for a Prohibited Source, the MTA Agency Employee could nonetheless accept a Gift that reflects this personal relationship. In addition, an Employee can accept a modest, reasonable, and customary offering on an extraordinary occasion, such as a wedding, retirement, funeral, or serious illness. A Gift shall not be considered representative of a personal relationship – and thus permissible – if the donor seeks to charge or deduct the value of the Gift as a business expense or seeks reimbursement from a Prohibited Source.

Employees are permitted to accept discounts or special offers from a Prohibited Source so long as those discounts or special offers are generally available to similarly situated employees of other public



#### **Section 1.04 Revocation of Agencies' Ethics Policies**

This Code supersedes and by effect rescinds the MTA All-Agency Acceptance of Gifts Policy Statement 11-007, the MTA Guideline Document—Gifts, and all MTA Agencies' Ethics Policies and Codes.

#### **Section 1.05 Duty to Disclose**

Employees must promptly report any violation or potential violation of the MTA's Codes of Ethics (All-Agency Code of Ethics, Board Member Code of Ethics or Vendor Code of Ethics) as well as any actual or potential violation of law, regulations, or policies and procedures, relating to the MTA, whether committed by an MTA Employee or by a person doing business with the MTA. Employees should report to the MTA Inspector General allegations or information involving corruption, fraud, criminal activity or abuse.

Employees should report to their Agency's Ethics Officer, their Agency General Counsel, the MTA's Chief Compliance Officer or to the MTA Inspector General, all other violations or potential violations. Employees should feel free to discuss their concerns initially with their supervisor, but no supervisor may discourage an Employee from making a report.

NOTE: To obtain answers to questions or increase their understanding, Employees are encouraged to discuss particular situations or concerns they have regarding violations or potential violations of this Code or any laws, regulations or policies or procedures with their Agency Ethics Officer, the MTA Chief Compliance Officer or the MTA Inspector General.

#### **Section 1.06 No Reprisals/Whistle-Blowing**

Employees who report violations or potential violations of this Code or any actual or potential violations of laws, regulations or policies and procedures are protected under MTA All Agency Whistleblower Protection Policy, No. 11-041 and will not be subjected to punitive sanctions, reprisals, or other penalties solely for reporting such violations. Employees who file an intentionally false report may be subject to appropriate disciplinary penalty, up to and including dismissal as well as civil or criminal charges.



## Chapter 4: Conflicts of Interest, Other Employment and Political Activities

### Section 4.01 Conflicts of Interest

Employees shall not have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is or may be in conflict with the proper discharge of his or her duties. Employees must notify their Agency Ethics Committee regarding any possible conflict of interest.

#### Reminders:

- (a) If an Employee is uncertain as to whether a given situation creates a real or potential conflict of interest, such Employee should promptly disclose that situation to, and seek guidance from, his or her supervisor, Department Head, the applicable Agency Ethics Committee, or MTA Chief Compliance Officer.
- (b) With respect to all work an Employee performs, such Employee must be vigilant about the existence of any circumstances, interests, or relationships which might create or might be reasonably perceived by others as constituting a conflict of interest. If an Employee is uncertain as to whether a given situation creates a real or potential conflict of interest, such Employee must promptly disclose that situation to, and seek guidance from, such Employee's supervisor, Department Head, applicable Agency Ethics Committee, or MTA Chief Compliance Officer. In order to avoid a conflict of interest or the appearance of one, it may be necessary for Employees to recuse themselves from involvement with a matter before an MTA Agency. Employees must adhere strictly to the conflict of interest guidance they receive from their supervisor, Department Head, applicable Agency Ethics Committee, or applicable Agency law department.

**Example:** It would be a conflict of interest if an Employee participated in a transaction involving an MTA Agency in which transaction the Employee or someone associated with the Employee (Family Member or by a Business or financial relationship) had, directly or indirectly, a financial or other private interest (other than a de minimis financial interest as discussed in Section 4.04 below).

### Section 4.02 Public Trust

- (a) Employees shall not engage in a course of conduct that will raise suspicion among the public that they are likely to be engaged in acts that are in violation of the public trust. Employees shall avoid even the appearance that they can be improperly (1) influenced in the performance of their official duties or (2) induced to violate the public trust or impair their independence of judgment in the exercise of their official duties.



**Example:** An Employee's undisclosed social relationship with a Prohibited Source might create an impression of impropriety if the Employee were in a position to act favorably toward the Prohibited Source in an MTA Agency matter.

(b) Employees shall not use or attempt to use their official position to secure unwarranted privileges or exemptions for themselves or others.

(c) Employees shall not by their conduct give reasonable basis for the impression that any person can improperly influence them or unduly enjoy their favor in the performance of their official duties, or that they are affected by the kinship, rank, position, or influence of any party or person.

#### **Section 4.03 Confidential Information**

Employees shall not disclose Confidential Information without the permission of the General Counsel of the MTA Agency at which such individual is employed for any purpose, or use such information to further their personal interests.

#### **Section 4.04 Financial Interest**

(a) An Employee, or firm or association of which such Employee is a member, or corporation, ten per cent (10%) or more of the stock of which is owned or controlled directly or indirectly by such Employee, shall not (1) sell any goods or services having a value in excess of twenty-five dollars (\$25) to any New York State Agency, or (2) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a New York State Agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding.

**Exception:** This restriction does not apply to the publication of resolutions, advertisements, or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

(b) Employees shall not knowingly engage in any transaction on behalf of an MTA Agency with any business entity in which they or a family member has a direct or indirect financial interest, excluding mutual funds, that might reasonably tend to conflict with the proper discharge of their official duties. These provisions may be waived if *both* the Head of the Agency's Procurement Department and the Agency General Counsel state in writing that it is in the best interests of the Agency to waive the provisions.

In addition, New York Public Officers Law §74 provides for civil penalties in circumstances of self dealing and makes it a misdemeanor offense for an Employee of NYCT to have any interest, direct or indirect, in any contract entered into by the Employee's Agency.



#### **Section 4.05 Employees Engaged in Selection, Award and Administration of Contracts**

(a) Employees shall not participate in the selection, award, or administration of a contract if the Employee knows that he/she or any of his/her family members, his/her business partner, or an organization that employs or is about to employ any of the above, has a financial or other interest, other than mutual funds, in any of the companies, their parent company, its affiliates or subsidiaries ("the company") that propose or bid on or are awarded such contract. The provisions of Section 4.05(a) may be waived if the Head of the relevant Agency's Department, as well Agency General Counsel, and the Agency's Ethics Officer state in writing that it is in the best interests of the Agency to waive the provisions of this Section for a specific procurement or contract. Copies of any approved Waiver Request must also be filed with MTA Corporate Compliance.

(b) If a waiver is granted, (1) the Employee engaged in the **award or selection** of a contract, shall not during the selection process and for two weeks after the award of the contract buy or sell any of the company's securities or (2) the Employee engaged in the **administration** of a contract shall not buy or sell any of the awarded company's securities for six months after the award of the contract.

(c) An Employee shall not buy or sell any of the company's securities based upon information received as a result of their employment with an MTA Agency or for two weeks after the public release of information by any MTA Agency regarding the company.

(d) For two years from the commencement of employment with an MTA Agency, an Employee shall not do either of the following in relation to the Employee's immediate past non-governmental employer: (1) participate in the selection or award of a contract in which a bidder or proposer is such immediate past employer; or (2) administer a contract awarded to such immediate past employer, unless the Employee has notified the Employee's Department Head in writing of the potential conflict and has received from such Department Head, Agency General Counsel, and the Agency Ethics Committee a waiver stating that it is in the best interests of the applicable MTA Agency for such Employee to act in such a role. A copy of such waiver request must be submitted to the MTA Chief Compliance Officer for approval.

(e) No MTA employee may ask a current or former contractor, or any officer, director or employee thereof, to disclose: (i) the political party affiliation of such contractor, or any officer, director or employee thereof; (ii) whether such contractor, or any officer, director or employee thereof, has made campaign contributions to any party, elected official, or candidate for elective office; or (iii) whether such contractor, or any officer, director or employee thereof, cast a vote for or against any elected official, candidate or political party. No MTA employee may award or decline to award any contract, or recommend, promise or threaten to do so, in whole or in part, because of a current or prospective contractor's refusal to answer any inquiry regarding the above.

#### **Section 4.06 Representation of Other Parties and Certain Appearances and Services**

Employees shall not, directly or indirectly, act or appear on behalf of any individual, firm, or corporation, in any Business dealings with, or any matter against the interests of, an MTA Agency, or any other New York State Agency, other than as a fact witness. Employees of an MTA Agency are



## Metropolitan Transportation Authority All Agency Code of Ethics

prohibited from appearing for compensation of any kind before a New York State Agency in connection with the purchase or sale of real estate, any rate-making proceeding, licensing, obtaining grants of money or loans, proceedings related to franchise(s), or the adoption or repeal of any rule having the force of law.

### Exceptions

(a) Employees may appear before an MTA Agency or any New York State Agency or tribunal (1) in a representative capacity on behalf of an Employee organization or association or (2) in connection with a ministerial matter, such as acting as a notary or translator.

(b) Uncompensated work by Employees for not-for-profit entities doing Business with the State or City is not automatically a conflict of interest if the Employee takes no part in such Business dealings and the entity in question is not subject to supervision, control, or regulation by an MTA Agency. For example, an Employee might serve, without fee, on the Board of a community or church-sponsored day-care center that receives State funds. In such a case, the Employee cannot communicate with the State concerning receipt of those funds.

### Section 4.07 Other Employment and Outside Activities

Outside employment/activities may pose ethical issues if there is a conflict between the Employee's duties as an MTA Employee and the requirements of the outside employment/activity.

Employees are prohibited from outside employment, business, professional, or other outside activity that interferes or is in conflict with the proper and effective discharge of the individual's official duties or responsibilities. Each MTA Agency requires that Employees devote appropriate time and attention to their employment with that agency. Full-time employment with an MTA Agency is deemed to be an Employee's primary employment. All Employees must be fit for duty during their work hours.

MTA Employees who wish to engage in outside employment/activities must consult with their Agency's Human Resources Department or Ethics Committee to determine what dual employment or outside activity policy exists at the employing Agency.

Employees may engage in outside employment/activity provided that (1) such employment/activity does not interfere with their ability to devote appropriate time and attention to their employment with their MTA Agency; (2) such employment/activity does not violate the specific guidelines for other employment set by their MTA Agency; (3) they do not use any MTA Agency resources (e.g., time, equipment, telephone, etc.) in connection with such employment; and (4) they obtain the required approvals as set forth in the specific procedures for approval of other employment set by their MTA Agency. Any MTA Employee interested in running for elective office must also comply with the provisions of Section 4.08 of the Code.



## Metropolitan Transportation Authority All Agency Code of Ethics

Employees holding Policy-Making Positions must comply with certain additional requirements in connection with engaging in outside employment/activities:

- (1) Employees holding Policy-Making Positions are prohibited from serving as a director or officer of a Prohibited Source (including nonprofit organizations) or corporation or institution engaged in profit-making activities, without the prior approval of the applicable Agency Ethics Committee. Employees must also receive the approval of the Joint Commission on Public Ethics prior to serving as a director or officer of a corporation or institution engaged in profit-making activities.
- (2) Employees in Policy-Making Positions shall not engage in any private employment, profession or Business or other outside activity, without the following prior approvals:
  - (a) Annual compensation up to \$1,000—No approval required.
  - (b) Annual compensation in excess of \$1,000 to \$4,000—Approval by the applicable MTA Agency Ethics Officer.
  - (c) Annual compensation in excess of \$4,000—Approval by the applicable MTA Agency and the Joint Commission on Public Ethics.
- (3) Employees in Policy-Making Positions with approved outside activities must inform their Agency Ethics Officer if there is any material change to either their approved outside activity or their current job responsibilities which would require a new evaluation of their outside activity approval. In addition, Employees in Policy-Making Positions with approved outside activities shall file a certification with their Agency Ethics Officer every three years attesting to the fact that there have been no material changes to either their approved outside activity or their current job responsibilities which would require a new evaluation of their outside activity approval.

### Remember:

- (a) These approvals are in addition to any approvals which may be required by your Agency.
- (b) Employees must comply with all conflict of interest rules and may not use any MTA Agency resources in connection with such activities.
- (c) Employees holding Policy-Making Positions who request approval from the Joint Commission on Public Ethics to engage in outside activities must file a written request with the Commission which contains the approval of the activity by the applicable MTA Agency. Each Agency Ethics Committee shall establish a form for requests of approval of such outside activity. The Agency Ethics Committee acts as



## Metropolitan Transportation Authority All Agency Code of Ethics

accuracy and completeness. Reporting accurate and complete information about the MTA Agency's financial condition is an essential responsibility of all Employees.

(b) If you have reason to believe that any of the MTA Agency's financial records are not being maintained in an accurate or complete manner, you are expected to report this immediately to your Agency's General Counsel's Office or Chief Compliance Officer or your Agency's Chief Financial Officer or the Auditor General.

### Section 7.02 Financial Statements and Accounts

Employees who are involved in the preparation of the MTA Agency's financial statements must do so according to generally accepted accounting principles and other applicable accounting standards and rules, so that the statements fairly and completely reflect the operations and financial condition of the MTA Agency.

## Chapter 8: Other Ethics Issues

### Section 8.01 Nepotism

It is the policy of the MTA Agencies to ensure that all job opportunities at MTA Agencies are based on merit and qualifications. Employees are prohibited from participating in any hiring or employment decision relating to a family member. If a hiring or employment matter arises relating to a family member, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter. There will be no preferential treatment for family members of current Employees and/or union officials.

MTA Agencies must ensure that contracting opportunities are based only on merit and qualifications. There will be no preferential treatment for family members of current or former Employees and/or union officials. Employees are prohibited from taking part in any contracting decision: (i) relating to a family member; or (ii) relating to any entity in which either they or a family member is an officer, director or partner, or in which a family member owns or controls 10% or more of the stock (or 1% or more if in the case of a corporation whose stock is regularly traded on an established securities exchange) of such entity. If a contracting matter arises relating to a family member, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

An MTA Employee cannot participate in any decision to invest MTA funds in any security of any entity in which that employee or any relative of that Employee has a financial interest, is an underwriter, or receives any brokerage, origination or servicing fees.

MTA Employees are required to comply with and should consult with their Agency's Human Resources Department to determine their Agency's policy for avoiding Nepotism. Any such avoidance of Nepotism policy must be consistent with this Section of the Code the All Agency Policy Directive, Anti-Nepotism Employment Procedures.



value of such personal use shall be calculated and reported as personal income to such individual for tax purposes.

Any Agency policy regarding use of MTA property must be consistent with or more restrictive than this Section of the Code.

## **Chapter 9: Discipline/Penalty for Violation of this Code or State Ethics Laws**

### **Section 9.01 General**

Employees who violate any provision of the State Ethics Laws or of this Code may be subject to disciplinary action consistent with that administered for violations of the rules and regulations of the applicable MTA Agency, up to and including termination.

### **Section 9.02 Civil Penalties**

A violation of Public Officers Law Sections 73(2), (3), (4), (5), (7), (8), (12), (14), (15), (16), (17) and Sections 73-a, may result in the Joint Commission on Public Ethics imposing a civil penalty of up to forty thousand dollars (\$40,000) and the value of any gift, compensation, or benefit received as a result of such violation. These sections include but are not limited to prohibitions concerning gifts, future employment, and financial interests in MTA contracts as well as obligations in connection with the filing of Annual Statements of Financial Disclosure.

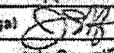
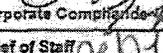
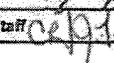
A violation of Public Officers Law Section 74 may result in the Joint Commission on Public Ethics imposing a civil penalty of up to ten thousand dollars (\$10,000) and the value of any gift, compensation, or benefit received as a result of such violation.

### **Section 9.03 Criminal Penalties**

A violation of Public Officers Law Section 73(2), (3), (4), (5), (7), (8), and Section 73-a, may result, in lieu of civil penalties, the Joint Commission on Public Ethics referring the violation to the New York State Attorney General or local prosecutor for criminal prosecution as a Class A misdemeanor, punishable by imprisonment for up to one year and a fine up to one thousand dollars (\$1,000).

# Staff Summary

Subject <b>Revisions to Committee Charters</b>	Date <b>February 26, 2014</b>
Department <b>Corporate Compliance</b>	Vendor Name <b>N/A</b>
Department Head Name <b>Lamond W. Kearse</b>	Contract Number <b>N/A</b>
Department Head Signature 	Contract Manager Name <b>N/A</b>
Project Manager Name <b>Lamond W. Kearse</b>	Table of Contents Ref #

Board Action						Internal Approvals			
Order	To	Date	Approval	Info	Other	Order	Approval	Order	Approval
1	Corporate Governance	2/24/14				1	Legal 		
2	Board	2/26/14				2	Corporate Compliance 		
						3	Chief of Staff 		

**Purpose:**

To seek Board approval of proposed revisions to the Corporate Governance and Finance committee charters. Copies of these committee charters with proposed revisions marked, are attached to this staff summary.

**Discussion:**

Minor technical amendments are proposed to the charters of the following committees:

*Finance Committee:* the Finance committee charter would be modified to make explicit that the MTA's Chief Procurement Officer is authorized to submit proposed procurements to the Committee.

*Governance Committee:* the Governance Committee charter would be amended to remove an out-of-date provision that creates an internal inconsistency in the charter. The charter appropriately provides that the MTA Chairman (who statutorily serves as the MTA chief executive officer pursuant to Public Authorities Law Section 1263.4[a]), be a member of the Governance Committee. The out-of-date provision inconsistently provides that membership on the Committee be limited to persons who are not employed by MTA.

**Recommendation:**

It is recommended that the Board adopt the revisions to the noted committee charters.

# THE METROPOLITAN TRANSPORTATION AUTHORITY

## FINANCE COMMITTEE

The Charter for the Finance Committee was adopted by the Board Chair and a majority of the members of Board of the Metropolitan Transportation Authority, a public benefit corporation established under the laws of the State of New York (together with any other entity or corporation for which the members of the Metropolitan Transportation Authority serve as a board of directors, the "MTA"), as amended on July 24, 2013~~February 26, 2014~~.

### I. PURPOSE

The Finance Committee (the "Committee") shall assist the Board Chair and the Board by (1) reviewing, providing guidance, and making recommendations with respect to the MTA's core financial policies and (2) reviewing, providing guidance and making recommendations with respect to MTA real estate matters.

### II. COMMITTEE AUTHORITY

In discharging its role, the Committee is empowered to investigate any matter brought to its attention. To facilitate any such investigation, the chairperson of the Committee shall have access to all books, records, facilities and staff of the MTA (including any of its subsidiary corporations or affiliates). The foregoing is not intended to alter or curtail existing rights of individual Board members to access books, records or staff in connection with the performance of their fiduciary duties as Board members.

### III. COMMITTEE MEMBERSHIP

The Committee shall consist of 3 or more members of the Board, appointed by the Board Chair. If not otherwise a member of the Committee, each Vice-Chair of the Board shall be an *ex officio* member of the Committee. The Board Chair shall appoint the chairperson of the Committee. In the absence of the chairperson at a meeting of the Committee, the Board Chair shall appoint a temporary chairperson to chair such meeting. A member of the Committee may be removed, for cause or without cause, by the Board Chair.

### IV. COMMITTEE MEETINGS

The Committee shall meet on a regularly-scheduled basis at least 11 times per year, and more frequently as circumstances dictate. The Committee shall cause to be kept adequate minutes of all its proceedings and records of any action taken. Committee members will be furnished with copies of the minutes of each meeting. Meetings of the Committee shall be open to the public, and the Committee shall be governed by the rules regarding public meetings set forth in the applicable provisions of the Public Authorities Law and Article 7 of the Public Officers Law that relate to public notice, public speaking and the conduct of executive session. The Committee may form and assign responsibilities to subcommittees when appropriate.

The Committee may request that any member of the Board, the Auditor General, any officer or staff of the MTA, or any other person whose advice and counsel are sought by the Committee, attend any meeting of the Committee to provide such pertinent information at the Committee requests. The Chief Financial Officer and/or the Director of the Division of Management and Budget, the Director of Finance, and the MTA Director of Real Estate, with respect to real estate matters, shall (1) furnish the Committee with all material information pertinent to matters appearing on the Committee agenda, (2) provide the chairperson of the Committee with all information that is material to the Committee's monitoring and oversight of the MTA's core financial policies and real estate matters, and (3) inform the chairperson of the Committee of any matters not already on the Committee agenda that should be added to the agenda in order for the Committee to be adequately monitoring and overseeing the MTA's core financial policies and real estate matters.

#### **V. COMMITTEE REPORTS.**

The chairperson of the Committee shall report on the Committee's proceedings, and any recommendations made.

#### **VI. KEY RESPONSIBILITIES**

The following responsibilities are set forth as a guide with the understanding that the Committee may diverge as appropriate given the circumstances. The Committee is authorized to carry out these and such other responsibilities assigned by the Board Chair or the Board, from time to time, and take any actions reasonably related to the mandate of this Charter.

To fulfill its purpose, the Committee shall:

1. Review the MTA's annual budget, and ensure that the MTA operates on a self sustaining basis, as required by applicable law, and with support from various levels of government.
2. Monitor the MTA's compliance during the fiscal year with its annual budget.
3. Review the financial requirements of the MTA's capital plans.
4. Review annually the proposed plan to meet the financial requirements of the MTA's capital plans, as well as any financing proposals during the fiscal year that deviate from the proposed financial plan for that year.
5. Review any proposal relating to the incurrence (or repayment) of material indebtedness or other financing arrangement.
6. Review any proposed procurements submitted to the Committee by the Chief Procurement Officer or Agency Procurement Officers.

7. Oversee the operations of MTA headquarters, including by reviewing proposed procurements for MTA headquarters that require Board approval.
8. Oversee the operations of the First Mutual Transportation Assurance Company ("FMTAC"), including by reviewing proposed procurements for FMTAC.
9. Review annually the scope and terms of the MTA's insurance policies and coverage.
10. Monitor the economic performance of the various MTA pension plans.
11. Review and make recommendations to the Board with respect to the leasing and acquisition of real property; the licensing of customer services and amenities; the maximizing of advertising opportunities; the disposition or conveyance of interests in real property; the management of occupancies on the property of the MTA and the adoption or amendment of any policies relating thereto;
12. Review and make recommendations to the Board with respect to the procurement of certain professional services in support of the activities of the real estate department, including real estate brokerage and other specialized consultant services;
13. Review the MTA's offering and management of leasing, licensing, or other business opportunities on the property of the MTA and its subsidiaries and affiliates;
14. Provide support and guidance to the MTA in its formulation of its real estate policies and procedures;
15. Review and assess the adequacy of this Charter annually;
16. Conduct an annual self-evaluation of the performance of the Committee, including its effectiveness and compliance with this Charter;
17. Report regularly to the Board Chair and Board on Committee findings and recommendations and any other matters the Committee deems appropriate or the Board Chair or the Board requests, and maintain minutes or other records of Committee meetings and activities.

## The Metropolitan Transportation Authority

### CORPORATE GOVERNANCE COMMITTEE

This Charter for the Corporate Governance Committee was adopted by the Board Chair and a majority of the members of Board of the Metropolitan Transportation Authority, a public benefit corporation established under the laws of the State of New York (together with any other entity or corporation for which the members of the Metropolitan Transportation Authority serve as a board of directors, the "MTA"), as amended on the 29<sup>th</sup> day of July, 2004. This charter was amended on the 17<sup>th</sup> day of December 2008 and further amended on December 16, 2009 February 26, 2014.

#### I. PURPOSE

The Corporate Governance Committee (the "Committee") shall assist the Board Chair and the Board in: (i) developing and recommending to the Board, policies to promote honest and ethical conduct by Board members, officers, and employees, and enhance public confidence in the MTA; (ii) developing, recommending to the Board and overseeing implementation of MTA policies relating to corporate governance, including the MTA Corporate Governance Principles; and (iii) reviewing on a regular basis the overall corporate governance of the MTA and recommending improvements when necessary (hereinafter referred to as the "Purpose").

#### II. COMMITTEE AUTHORITY

In discharging its role, the Committee is empowered to investigate any matter brought to its attention. To facilitate any such investigation, the chairperson of the Committee shall have access to all books, records, facilities and staff of the MTA (including any of its subsidiary corporations or affiliates). The foregoing is not intended to alter or curtail existing rights of individual Board members to access books, records or staff in connection with the performance of their fiduciary duties as Board members.

#### III. COMMITTEE MEMBERSHIP

The Committee shall consist of 3 or more members of the Board and shall include the Board Chair, and the chairs of each committee of the Board. All other members of the Committee shall be appointed by the Board Chair. At all times, the Committee shall include at least one member from among those recommended for appointment to the Board by the Mayor of the City of New York. If not otherwise a member of the Committee, each Vice-Chair of the Board shall be an *ex officio* member of the Committee. The Board Chair shall be the chairperson of the Committee. In the absence of the chairperson at a meeting of the Committee, the Board Chair shall appoint a temporary chairperson to chair such meeting. A member of the Committee may be removed, for cause or without cause, by the Board Chair. No member of the Committee shall be employed by (a) the MTA, or (b) a private entity that does, or is likely to do, business with the MTA.

#### IV. COMMITTEE MEETINGS

The Committee shall meet on a regularly-scheduled basis at least 2 times per year, and more frequently as circumstances dictate. The Committee shall cause to be kept adequate minutes of

all its proceedings and records of any action taken. Committee members will be furnished with copies of the minutes of each meeting. Meetings of the Committee shall be open to the public, and the Committee shall be governed by the rules regarding public meetings set forth in the applicable provisions of the Public Authorities Law and Article 7 of the Public Officers Law that relate to public notice, public speaking and the conduct of executive session. The Committee may form and assign responsibilities to subcommittees when appropriate.

The Committee may request that any member of the Board, the Auditor General, any officer or staff of the MTA, or any other person whose advice and counsel are sought by the Committee, attend any meeting of the Committee to provide such pertinent information at the Committee requests. The Chief Compliance Officer shall (1) furnish the Committee with all material information pertinent to matters appearing on the Committee agenda relating to the Purpose, (2) provide the chairperson of the Committee with all information that is material to the Committee's monitoring and oversight of the Purpose, and (3) inform the chairperson of the Committee of any matters not already on the Committee agenda that should be added to the agenda in order for the Committee to be adequately monitoring and overseeing the Purpose.

#### **V. COMMITTEE REPORTS**

The chairperson of the Committee shall report on the Committee's proceedings, and any recommendations made.

#### **VI. KEY RESPONSIBILITIES**

The following responsibilities are set forth as a guide with the understanding that the Committee may diverge as appropriate given the circumstances. The Committee is authorized to carry out these and such other responsibilities assigned by the Board Chair or the Board, from time to time, and take any actions reasonably related to the mandate of this Charter.

To fulfill its purposes, the Committee shall:

1. coordinate and oversee the annual self-evaluation of the role and performance of the Board, its committees, and management in the governance of the MTA;
2. develop and recommend to the Board, oversee the implementation and effectiveness of, and recommend modifications as appropriate to, any policies or documents relating to the governance of the MTA, including the MTA Corporate Governance Principles;
3. consider corporate governance issues that arise from time to time, and develop appropriate recommendations for the Board regarding such matters;
4. review, and as necessary recommend to the Board any revisions to, MTA policies regarding the procurement of goods and services;
5. monitor the MTA's compliance with MTA policy and the laws and requirements of the State of New York with respect to procurement lobbying;

6. review, and as necessary recommend to the Board any revisions to, MTA policies regarding the protection of whistleblowers from retaliation;
7. review and assess the adequacy of this Charter annually;
8. conduct an annual self-evaluation of the performance of the Committee, including its effectiveness and compliance with this Charter; and
9. report regularly to the Board Chair and Board on Committee findings and recommendations and any other matters the Committee deems appropriate or the Board Chair or the Board requests, and maintain minutes or other records of Committee meetings and activities.

# All Agency Policy Directive

## WHISTLEBLOWER PROTECTION

Policy Number	Responsible Agency/Department	Effective Date	Page
11-041	MTAHQ/General Counsel	June 23, 2010	Page 1 of 4

### I. PURPOSE

To encourage the reporting by MTA employees of wrongful acts, protect MTA employees from retaliation for whistleblowing and ensure that the MTA complies with applicable law protecting whistleblowers.

### II. SCOPE

This policy directive applies to all officers and employees of the MTA including MTA Headquarters (including the Business Service Center); MTA Long Island Rail Road; MTA Capital Construction Company; MTA Bridges and Tunnels; MTA Bus Company; MTA Long Island Bus; MTA Metro-North Railroad; MTA New York City Transit, including the Manhattan and Bronx Surface Transportation Operating Authority and the Staten Island Rapid Transit Operating Authority; and, any future subsidiary or affiliated entity of the Metropolitan Transportation Authority.

### III. DEFINITIONS

For purposes of this policy, the following terms shall have the meaning stated below:

**Adverse Action** means to fire, discharge, discipline, demote, suspend, threaten, harass, or discriminate against an MTA Employee and includes, but is not limited to, an action that adversely affects an MTA Employee's compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement, or evaluation of performance.

**MTA Agency** means any of the following: MTA Headquarters (including the Business Service Center); MTA Long Island Rail Road; MTA Capital Construction Company; MTA Bridges and Tunnels; MTA Bus Company; MTA Long Island Bus; MTA Metro-North Railroad; MTA New York City Transit, including the Manhattan and Bronx Surface Transportation Operating Authority and the Staten Island Rapid Transit Operating Authority; and, any future subsidiary or affiliated entity of the Metropolitan Transportation Authority.

**MTA Codes of Ethics** mean the All-Agency Code of Ethics, the MTA Board Member Code of Ethics, and the Vendor Code of Ethics.

**MTA Employee** means any officer or employee of an MTA Agency and includes, but is not limited to, full-time and part-time employees, those employees on probation, temporary employees including persons hired on a seasonal, per diem, or part time basis.

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Issued by: MTA Board

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**Whistleblower** means an MTA Employee who pursuant to statute or the All-Agency Code of Ethics reports a Wrongful Act or an MTA Employee who discloses information concerning a Wrongful Act, insofar as the actions taken by the MTA Employee are legal.

**Wrongful Act** means an act by any MTA Employee or MTA Board member, or by a person doing business with an MTA Agency, of fraud or corruption or violating the MTA Codes of Ethics or a law or regulation applicable to an MTA Agency and shall include an act of wrongdoing, misconduct, malfeasance or other inappropriate behavior, concerning any MTA Agency's investments, travel, acquisition of real or personal property, disposition of real or personal property, or procurements of goods or services.

#### IV. POLICY

##### A. Reporting of Wrongful Acts.

MTA Employees are encouraged to report any Wrongful Act. Such a report may be made through a number of mechanisms including, but not limited to:

- Direct contact with:
  - the Chief Compliance Officer;
  - the MTA Inspector General;
  - their Agency's Ethics Officer; or
  - any other internal complaint office designated by their Agency President.
- A Report to the Hotline maintained by the Chief Compliance Officer: 888-U-ASK-MTA (888-827-5682). Such a report may be made anonymously.
- A report to the New York State Authorities Budget Office.

Reports by an MTA Employee of a Wrongful Act involving corruption, fraud or criminal activity should be made to the MTA Inspector General:

Office of the Inspector General,  
Metropolitan Transportation Authority  
Two Penn Plaza, 5<sup>th</sup> Floor  
New York, New York 10121  
800-MTA-IG4U (800-682-4448)

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An MTA Employee should also feel free to discuss concerns about a Wrongful Act with their supervisor, but no supervisor may discourage an MTA Employee from making a report of a Wrongful Act.

### B. Investigation of Reported Wrongful Acts

1. Alleged Wrongful Acts that have been reported by MTA Employees to the Chief Compliance Officer, to an Agency's Ethics Officer, or to such other internal complaint office designated by an Agency President shall be promptly investigated by the applicable MTA Agency or, in the case of reports involving alleged corruption, fraud or criminal activity, shall be referred to the MTA Inspector General for investigation.

2. No MTA employee alleged to have been involved in a Wrongful Act shall supervise or conduct the investigation of such Wrongful Act. Each MTA Employee must cooperate fully and honestly with such investigations of alleged Wrongful Acts.

3. The findings of an investigation undertaken by an MTA Agency pursuant to this policy shall be provided to the President of the applicable MTA Agency or his or her designee, or in the case of MTA Headquarters with the Chief Operating Officer or his or her designee (unless a President or Chief Operating Officer is the subject of the investigation, in which case the finding shall be discussed directly with the Chairman), for review and determination of what further action should be taken.

### C. No Retaliation for Whistleblowing; Investigation of Adverse Action

1. No MTA Employee shall take any Adverse Action against another MTA Employee because of such MTA Employee's lawful disclosure or reporting of information concerning a Wrongful Act or because of such MTA Employee's role as a Whistleblower. Violations of this policy are subject to disciplinary action up to and including termination from employment.

2. An MTA Employee who has reason to believe he or she has been the target of an Adverse Action in violation of Section IV.C.1 of this policy directive, or who has reason to believe that an Adverse Action has been taken against another MTA Employee in violation of Section IV.C.1 of this policy directive, shall immediately report such suspected Adverse Action to the Chief Compliance Officer or such other person as may be designated by an MTA Agency President for the receipt of such a report, and an investigation thereof shall be promptly undertaken.

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## WHISTLEBLOWER PROTECTION

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3. All allegations of Adverse Actions in violation of Section IV.C.1 shall be investigated in the same manner as set forth above for investigation of claims of Wrongful Acts. Each MTA Employee must cooperate fully and honestly with such investigations of alleged Adverse Actions. An MTA Employee alleged to have been involved in an Adverse Action shall not supervise or conduct the investigation of such Adverse Action.

### D. False Allegations

No MTA Employee may knowingly and willfully make a false report of a Wrongful Act or of an Adverse Action. Any MTA Employee who knowingly and willfully makes a false report of a Wrongful Act or of an Adverse Action is subject to disciplinary action up to and including termination of employment.

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