



Metropolitan Transportation Authority

Corporate Governance Committee Meeting

June 2016

Committee Members

T. Prendergast, Chairman

F. Ferrer, Vice Chairman

J. Ballan

A. Cappelli

S. Metzger

J. Molloy

M. Pally

J. Sedore, Jr.

Corporate Governance Committee Meeting

**Board Room
2 Broadway, 20th Floor
Wednesday, 6/22/2016
8:30 - 9:00 AM ET**

1. PUBLIC COMMENTS PERIOD

2. APPROVAL OF MINUTES-DECEMBER 16, 2015

Minutes of Meeting - December 16 2015 (002) - Page 3

3. REVIEW AND APPROVE MISSION STATEMENT AND PERFORMANCE MEASUREMENT REPORT Approve

*Staff Summary Mission Statement and Performance Measurement Report - Page 6
2015 Mission Statement and Performance Measurement Report - Page 7*

4. REVIEW AND APPROVE PROCUREMENT GUIDELINES Approve

*Staff Summary Procurement Guidelines - Page 40
All-Agency General Contract Guidelines - Page 42
Redlined All-Agency General Contract Guidelines - Page 56
All-Agency Service Contract Procurement Guidelines - Page 73
Redlined All-Agency Service Contract Procurement Guidelines - Page 87*

5. REVIEW AND APPROVE REVISIONS TO AUDIT AND SAFETY COMMITTEE CHARTERS Approve

*Staff Summary Committee Charters - Page 104
Audit Committee Charter - Page 105
Safety Committee Charter - Page 112*

MINUTES OF THE MEETING
MTA Corporate Governance Committee
December 16, 2015
2 Broadway – 20th Floor
New York, New York

The following MTA Corporate Governance Committee members were present:

Hon. Thomas F. Prendergast, Chairman
Hon. Fernando Ferrer, Vice Chairman
Hon. Jonathan A. Ballan
Hon. Susan Metzger
Hon. John J. Molloy
Hon. Mitchell H. Pally

The following MTA Corporate Governance Committee members were absent:

Hon. Allen P. Cappelli
Hon. James L. Sedore, Jr.

MTA Board member Hon. Robert C. Bickford also attended the meeting.

The following MTA staff attended the meeting:

Donna M. Evans, Chief of Staff
Jerome Page, General Counsel
Lamond W. Kearse, Chief Compliance Officer
Mary Bernet, Sr. Associate Counsel
Barry Kluger, Inspector General

* * *

Chairman Prendergast called the December 16, 2015 meeting of the MTA Corporate Governance Committee to order at 8:29a.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 23, 2015.

1. 2016 Draft Committee Work Plan

Upon motion duly made and seconded the Committee approved the 2016 Committee Work Plan.

2. Review and Approval of MTA By-Laws

MTA Chief Compliance Officer Lamond Kearse advised the Committee that each year this committee must review the MTA and its Agencies' By-laws. Mr. Kearse advised the Committee that there were no recommended changes at this time.

3. Procurement Lobby Law Presentation

Mr. Kears informed the Committee that each year a review is conducted by the MTA and its constituent agencies to ensure our policies are in compliance with the procurement lobby law. Mr. Kears advised the Committee that if and when there any legislative changes to the procurement lobby law they are incorporated into MTA policies during the review process. Mr. Kears also informed the Committee that the review determined that there are no compliance issues with the MTA and its constituent Agencies at this time in terms the procurement lobby law.

4. Review of MTA Governance Principals

Mr. Kears advised the Committee that each year this Committee is required to review the MTA's Governance principals. Mr. Kears informed the Committee that there were no recommended changes at this time.

5. Review and Approval of MTA Whistleblower and Protection Policy

Mr. Kears advised the Committee that each year this Committee must review and approve the MTA Whistleblower and Protection Policy. Mr. Kears advised the Committee that there were no recommended changes at this time.

Upon motion duly made and seconded, the Committee approved the MTA Whistleblower and Protection Policy.

6. Review and Approval of Board Committee Charters

MTA Chief Compliance Officer advised the Committee that each year this Committee as well at the other committees of the MTA Board are required to review their charters. There are no proposed changes or recommendations to any of the MTA Board Committee Charters at this time.

7. Review and Approval of MTA Code of Ethics

The Chief Compliance Officer informed the Committee that the MTA Code of Ethics was last revised in November of 2014. Subsequent to the adoption of the current version of the Code of Ethics the Joint Commission on Public Ethics issued new and revised regulation regarding, among other things, outside employment and outside activities. The proposed substantive revisions to the Code of Ethics are to ensure that our Code continues to be consistent with state regulations. In addition, the proposed revisions now require our employees to compete an annual certification regarding their outside employment and outside activities.

Mr. Kears noted that the most significant change formalize our conflict of interest recusal process. Recusals regarding conflicts of interest will now require the approval of both the agency ethics officer as well as the Chief Compliance Officer.

Upon motion duly made and seconded, the Committee recommended Board approval of the proposed changes to the MTA Code of Ethics.

8. Review and Approval of MTA Policies in Connection with PAL Provisions

MTA Chief Compliance Officer Lamond Kearsé advised the Committee that PAL Section 2824 require the MTA Board to establish policies regarding travel, the payment of salaries compensation, reimbursements and rules for time and attendance for chief executive and management. MTA and its agencies have existing policies on all of these subject area which have been reviewed by the respective agencies. Mr. Kearsé recommended the Board approve the policies.

Upon motion duly made and seconded, the Committee recommended Board approval of the proposed changes to the MTA Policies in Connection with PAL Provisions.


Adjournment

Upon motion duly made and seconded, Chairman Prendergast adjourned the December 15, 2015 meeting of the Corporate Governance Committee at 8:36am.

Respectfully submitted

Lamond W. Kearsé
MTA Chief Compliance Officer

Staff Summary

Subject Mission Statement, Measurements, and Performance Indicators Report	Date June 22, 2016
Department Chief of Staff	Vendor Name N/A
Department Head Name Donna Evans	Contract Number N/A
Department Head Signature 	Contract Manager Name N/A
Project Manager Name Lamond Kearse	Table of Contents Ref #

Board Action						Internal Approvals			
Order	To	Date	Approval	Info	Other	Order	Approval	Order	Approval
	Corporate Governance	6/22/16				1	Chief Compliance Officer		
	Board	6/22/16				2	Legal		
						3	Chief of Staff		

Purpose:

To obtain Board approval of the MTA's Mission Statement and to authorize submission of the annexed 2015 Mission Statement, Measurements, and Performance Indicators Report (the "Report") to the Independent Authorities Budget Office ("ABO").

Discussion:

Section 1269-f and Section 2824-a of the Public Authorities Law require MTA annually to reexamine its mission statement, reassess its stakeholders, and selected performance measurement indicators and to submit a report based on the performance indicator results from the previous year.

The MTA and its Board engage in oversight of agency operating performance throughout the year. The Board, through its transit, rail and bridge/tunnel operation committees, closely monitors agency operating performance. Each operating agency reports its most recent performance data in posted monthly reports and in committee books distributed in advance of public MTA operating committee meetings, which are conducted at least eleven times a year. At these public meetings, operating agency results are reviewed and discussed by Board members and agency senior staff. In addition, presentations focused on particular areas of performance are made by the agency staff to the Board operating committees periodically through the year, in accordance with the work plan schedule of each operating committee. The MTA website also contains a "Performance Dashboard" for each of the MTA operating agencies, updated monthly, summarizing the agencies' leading performance measurements.

The Report compiles the MTA Mission Statement, Stakeholder Assessment and the performance measurements from 2015. The operating agencies have each submitted, within the Report, a summary that evaluates agency performance on the applicable indicators in the past year.

Recommendation:

It is recommended that the MTA Board approve the annexed Report and authorize submission of such Report as required by Section 1269-f and Section 2824-a of the Public Authorities Law to the ABO.



**Metropolitan Transportation Authority
Mission Statement, Measurements, and Performance
Indicators Report Covering Fiscal Year 2015**

In Compliance with New York State Public Authorities Law §1269-f and §2824-a

Submitted as Part of the MTA 2015 Annual Report to the Governor

Note

Because of the timing of this report, the performance indicators against which the MTA agencies measure their performance are preliminary and subject to subsequent reconciliation and adjustment as data are finalized over the course of the year. For that reason, some of the 2014 data presented in last year's report have been adjusted, and the 2015 performance is being measured against this more recent and accurate data, even if it differs only slightly from the data in last year's report. Likewise, the 2015 preliminary data are also subject to subsequent adjustment, and the 2016 report will similarly measure performance against the most recent and accurate data available.

MTA Mission Statement

The Metropolitan Transportation Authority (MTA) preserves and enhances the quality of life and economic health of the region it serves through the cost-efficient provision of safe, on-time, reliable, and clean transportation services.

Stakeholder Assessment

The main stakeholders of the MTA are its customers; the businesses, residents, and taxpayers of our service area and the State; the MTA's employees and unions; and its government partners. A set of goals for each group has been defined, along with performance indicators to measure the attainment of these goals.

Customers	
Our customers are those who ride our trains and buses or cross our bridges and tunnels. They include the residents in our region, as well as tourists and visiting business persons. Our customers expect service that is safe, on-time, reliable, and that provides good value for their money.	
MTA Goals	Performance Indicators
Ensure our customers' safety	<ul style="list-style-type: none"> ✓ Customer injury rates ✓ Bus collision rate
Provide on-time and reliable services	<ul style="list-style-type: none"> ✓ On-time performance (subway and commuter railroads) ✓ Subway wait assessment ✓ Bus trips completed ✓ Mean distance between failures
Provide services to people with disabilities	<ul style="list-style-type: none"> ✓ Elevator availability ✓ Escalator availability ✓ Bus passenger wheelchair lift usage (does not include paratransit) ✓ Paratransit ridership
Repair, replace, and expand transportation infrastructure	<ul style="list-style-type: none"> ✓ Capital Program commitments ✓ Capital Program completions

Businesses, Residents, and Taxpayers

The businesses, residents, and taxpayers in our service area want the MTA to spend its resources efficiently and appropriately, while enhancing the mobility of the region.

MTA Goals	Performance Indicators
Perform services in an efficient manner	<ul style="list-style-type: none">✓ Farebox operating ratio✓ Operating cost per customer✓ Total support to mass transit
Maximize system usage	<ul style="list-style-type: none">✓ Ridership✓ Traffic volume
Repair, replace, and expand transportation infrastructure	<ul style="list-style-type: none">✓ Capital Program commitments✓ Capital Program completions

Employees and Unions

Our employees and unions expect a safe workplace, skills training relevant to their roles, and opportunities for growth.

MTA Goals	Performance Indicators
Ensure our employees' safety	<ul style="list-style-type: none">✓ Employee lost time and restricted-duty rate
Maintain a workforce that reflects the regional availability of all races, nationalities, and genders for our industry	<ul style="list-style-type: none">✓ Female representation in MTA workforce✓ Minority representation in MTA workforce

Government Partners (Federal, State, and Local Governments)

Our government partners expect us to enhance regional mobility by providing excellent service, while spending our resources in a cost-effective and appropriate manner.

MTA Goals	Performance Indicators
Provide on-time and reliable services	<ul style="list-style-type: none">✓ On-time performance (subway and commuter railroads)✓ Subway wait assessment✓ Bus trips completed✓ Mean distance between failures
Maximize system usage	<ul style="list-style-type: none">✓ Ridership✓ Traffic volume
Perform services in an efficient manner	<ul style="list-style-type: none">✓ Farebox operating ratio✓ Operating cost per customer
Repair, replace, and expand transportation infrastructure	<ul style="list-style-type: none">✓ Capital Program commitments✓ Capital Program completions

MTA New York City Transit (“NYCT”)

Performance Indicator	2014 Actual	2015 Actual
Service Indicators		
On-Time Performance – Terminal	74.0%	69.6%
Subway Wait Assessment	78.8%	77.4%
Elevator Availability – Subways	96.5%	96.5%
Escalator Availability – Subways	95.1%	94.3%
Total Ridership – Subways	1,751,287,621	1,762,565,419
Mean Distance Between Failures – Subways (miles)	141,202	131,325
Mean Distance Between Failures – Staten Island Railway (miles)	74,358	52,947
On-Time Performance – Staten Island Railway	91.4%	95.3%
% of Completed Trips – NYCT Bus	99.0%	99.0%
Total Paratransit Ridership – NYCT Bus	8,884,282	8,828,545
Bus Passenger Wheelchair Lift Usage – NYCT Bus	1,463,940	1,454,543
Total Ridership – NYCT Bus	667,051,170	650,652,440
Mean Distance Between Failures – NYCT Bus (miles)	4,221	4,618
Safety Indicators		
Customer Injury Rate – Subways (per million customers)	2.65	2.58
Customer Accident Injury Rate – NYCT Bus (per million customers)	1.16	1.23
Collisions with Injury Rate – NYCT Bus (per million vehicle miles)	6.50	6.68
Employee Lost Time and Restricted-Duty Rate (per 100 employees)	3.37	3.53
Workforce Indicators		
Female Representatives in NYCT Workforce	17.4%	21.3%
Minority Representatives in NYCT Workforce	75.0%	80.6%
<i>Note: MTA performance data are subject to periodic adjustment. Some 2014 data may have been updated subsequent to the 2014 PAL §1269-f report. This table of NYCT Performance Indicators continues on the following page.</i>		

NYCT, cont.

Performance Indicator	2014 Actual	2015 Actual
Financial Indicators		
Farebox Operating Ratio	58.1%	59.7%
Operating Cost per Passenger	\$3.03	\$3.07
Capital Program Indicators		
Commitments in \$ Millions (% of planned value)	\$2,633 (72%)	\$1,557 (65%)
Completions in \$ Millions (% of planned value)	\$1,842 (86%)	\$1,679 (89%)
<i>Note: MTA performance data are subject to periodic adjustment. Some 2014 data may have been updated subsequent to the 2014 PAL §1269-f report. The 2015 Farebox Operating Ratios are based on preliminary 2015 actual results and will be updated by the MTA Division of Management & Budget in April 2016. The Operating Costs per Passenger exclude debt service expenses.</i>		

MTA GOAL: Ensure Customer Safety**PERFORMANCE INDICATORS: Customer Injury Rate**

The 2015 “customer injury rate” for the NYCT Department of Subways was 2.58 per million customers. This represents a decrease over the latest adjusted 2014 rate of 2.65 per million customers and follows a steady overall decline in customer injuries, from 3.33 per million in 2009. NYCT Subways remains committed to continuing this long-term decline in customer injuries.

NYCT Bus saw a slight increase in its customer accident injury rate, from 1.16 per million customers in 2014 to 1.23 per million in 2015. By continuing its “Bus Accident Safety Improvement Coordination System” (BASICS), NYCT Bus has been able to maintain overall safety performance with a minimal increase in the accident injury rate. The BASICS program and other safety initiatives should continue to improve the safety habits of bus operators.

NYCT Bus saw a slight 2.8-percent increase in its collision injury rate in 2015 over the previous year. At 6.68 incidents per million vehicle miles, this is still 11.6 percent below the rate of 7.56 in 2013, when NYCT Bus launched its BASICS safety initiative. The BASICS program continues to promote safe practices through analysis of driver performance, including basic procedures such as scanning mirrors, observing the area around the bus, pulling into and out of bus stops properly, and positioning the bus correctly in the bus stop.

NYCT Bus continues to incorporate relevant accident findings into its safety and training initiatives. Additionally, NYCT, in joint agreement with all represented labor unions, continues to emphasize a “zero-tolerance” policy banning the use of cell phones and other electronic devices by bus operators on duty.

MTA GOAL: Provide On-Time and Reliable Services**PERFORMANCE INDICATORS: Subway Wait Assessment, On-Time Performance, Mean Distance Between Failures, Bus Trips Completed**

Wait assessment, which measures the regularity of service, is NYCT Subways’ primary indicator for customer service. The wait assessment indicator measures the percentage of trains maintaining their scheduled train-to-train intervals. NYCT Subways wait assessment declined from 78.8 percent in 2014 to 77.4 percent in 2015. Subways is actively deploying wide-ranging strategies to manage the impacts that increasing ridership and growing maintenance needs have on the regularity of service.

NYCT Subways “terminal” on-time performance (OTP) declined from 74.0 percent in 2014 to 69.6 percent in 2015. Terminal OTP is based on the difference between the time a train is scheduled to arrive at its terminal and the time it actually arrives. Because most customers ride only on a portion of the line and are more affected by the time between trains versus the arrival time at the terminal, NYCT Subways prioritizes evenness of service over terminal OTP, and may deploy strategies that improve evenness of service, even at the expense of terminal OTP. OTP is further challenged by record ridership, increasing maintenance and inspection work, and

unplanned incidents. NYCT Subways is aggressively working to mitigate the service impact of these challenges. In addition, the new I-TRAC system replaced paper “train register sheets,” allowing dispatchers to record train arrival and departure times electronically. This increased the accuracy of the terminal delay data, thus increasing the number of recorded delays and artificially lowering the reported Terminal OTP when compared with 2014 data.

The subway “mean distance between failures” (MDBF) fell from 141,202 miles in 2014 to 131,325 in 2015, but remains well above the design specification of 100,000 miles.

At the Staten Island Rapid Transit Operating Authority (SIRTOA), OTP increased from 91.4 percent in 2014 to 95.3 percent in 2015. SIRTOA’s MDBF decreased from 74,358 miles in 2014 to 52,947 in 2015; SIRTOA operates a rail fleet that is nearly 40 years old.

NYCT Bus posted an MDBF of 4,618 miles in 2015, representing a 9.4-percent increase from the 2014 MDBF of 4,221 miles. NYC Bus continues to manage a population of significantly over-age buses that pose a challenge for operations. A large number of these buses will be replaced in 2016 under the 2010-2014 Capital Program, and the remaining over-age fleet will be replaced under the 2015-2019 Capital Program.

The percentage of “bus trips completed,” which depends on both vehicle and operator availability, remained constant at 99.0 percent.

MTA GOAL: Provide Services to People with Disabilities

PERFORMANCE INDICATORS: Elevator Availability, Escalator Availability, Bus Passenger Wheelchair Lift Usage, Paratransit Ridership

NYCT elevator availability remained unchanged between 2014 and 2015, with an availability of 96.5 percent. Escalator availability declined slightly from 95.1 percent in 2014 to 94.3 percent in 2015.

Wheelchair ridership at NYCT Buses decreased slightly by 0.6 percent in 2015 to a total of 1.45 million passengers. The agency's new low-floor buses provide easier boarding and more reliable service for wheelchair passengers.

NYCT Paratransit's Access-A-Ride trips completed declined slightly in 2015, resulting in a slight 0.6-percent decrease in annual paratransit ridership.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

NYCT committed nearly \$1.56 billion of its Capital Programs funds in 2015, representing 65 percent of the 2015 total commitment goal. This is slightly below average performance when compared to past years, mainly due to delayed approval of the 2015-2019 Program.

NYCT achieved capital project completions in 2015 worth nearly \$1.68 billion, or 89 percent of the year's \$1.9 billion completion goal. This compares with an 86-percent completion value in 2014.

MTA GOAL: Perform Services in an Efficient Manner

PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Passenger

NYCT's "farebox operating ratio" increased slightly in 2015, going from a final figure of 58.1 percent of operating costs in 2014 to 59.7 percent in 2015, as estimated in the "MTA 2016 Adopted Budget, February Financial Plan." The 2015 "operating cost per passenger" rose slightly from the final figure of \$3.03 in 2014 to an estimated \$3.07 in 2015. Note that the 2015 costs are based on the best current estimates and will be updated by the MTA Division of Management & Budget in April 2016.

MTA GOAL: Maximize System Usage

PERFORMANCE INDICATORS: Ridership

NYCT Subways continued to experience strong subway ridership in 2015, surpassing total rides for the previous year and reaching the highest total since the 1940s, with some lines now running near peak levels for much of the day. Total subway ridership increased by more than 11 million passengers to over 1.76 billion passengers in 2015.

NYCT Bus ridership decreased 2.5 percent in 2015 to 651 million riders, with the decline attributable to the March 2015 fare increase, as well as severe winter weather in the first quarter of 2015.

MTA GOAL: Ensure Our Employees' Safety

PERFORMANCE INDICATORS: Employee Lost Time and Restricted-Duty Rate

The combined employee “lost time and restricted-duty” accident rates at NYCT Subways and Buses rose slightly from 3.37 per 100 employees in 2014 to the latest adjusted 2015 rate of 3.53 per 100 employees, a 4.7-percent increase.

At NYCT Subways, the rate increased from 2.60 per 100 employees in 2014 to 2.94 in 2015. This increase occurred primarily in the Rail Operations division, and it follows a significant decline from 2013 to 2014. NYCT Subways will continue to operate an expanded safety program for employees, including safety communications, safety audits, training, and accident investigations. In addition, NYCT Subways continues efforts to maximize use of the FASTRACK program, which provides a safer working environment for maintenance and repair crews by curbing train operations in work areas.

NYCT Bus saw a 2.5-percent increase in the “employee lost-time accident rate” in 2015. In 2016, NYCT Bus will implement several bus safety programs. An oversight group will continue to maintain a focus on preventing injuries through increased safety awareness campaigns, as well as a focus on the root causes of incidents leading to injuries. In addition, NYCT Bus and MTA

NYCT, cont.

Bus will continue major initiatives aimed at protecting all bus operators from assault, including oversight by an executive task force, enhanced training, and the ongoing installation of bus operator shields.

In addition, NYCT Bus and MTA Bus have continued major initiatives aimed at protecting MTA bus operators from assault, including oversight by an executive task force, enhanced training, and the ongoing installation of bus operator shields.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders

PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce

Female representation agency-wide rose by 3.9 percent in 2015, yet continues to fall below the estimated percentage of women available for work within NYCT's recruiting area. A contributing factor is the low percentage of women who apply for what are generally considered non-traditional jobs. NYCT will continue to increase its outreach and recruitment efforts to improve female representation within its workforce. The percentage of minority representation grew in 2015, from 75.0 percent to 80.6 percent, exceeding the estimated percentage of minorities available for work within NYCT's recruiting area.

MTA Long Island Rail Road (“LIRR”)

Performance Indicator	2014 Actual	2015 Actual
Service Indicators		
On-Time Performance	92.0%	91.6%
Elevator Availability	98.3%	98.5%
Escalator Availability	97.3%	97.9%
Total Ridership	85,868,246	87,648,046
Mean Distance Between Failures (miles)	206,226	208,383
Safety Indicators		
Customer Injury Rate (per million customers)	6.36	5.61
Employee Lost Time and Restricted-Duty Rate (per 200,000 worker hours)	3.76	3.62
Workforce Indicators		
Female Representatives in LIRR Workforce	15.5%	15.4%
Minority Representatives in LIRR Workforce	34.0%	34.7%
Financial Indicators		
Farebox Operating Ratio	45.1%	48.4%
Operating Cost per Passenger	\$17.09	\$16.44
Capital Program Indicators		
Commitments in \$ Millions (% of planned value)	\$278.3 (111%)	\$323.2 (114%)
Completions in \$ Millions (% of planned value)	\$148.3 (92%)	\$245.7 (137%)
<i>Note: MTA performance data are subject to periodic adjustment. Some 2014 data may have been updated subsequent to the 2014 PAL §1269-f report. The 2015 Farebox Operating Ratios are based on preliminary estimates from the “MTA 2016 Adopted Budget, February Financial Plan,” and will be updated by the MTA Division of Management & Budget in April 2016.</i>		

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATORS: Customer Injury Rate

The LIRR experienced a significant decrease in the “customer injury rate” in 2015. The total number of customer injuries decreased by 10.7 percent from the previous year, and the injury rate (based on injuries per 1 million rides) decreased by 11.8 percent. This decrease is positive, particularly in view of the significant growth in ridership. It is notable that gap-related incidents decreased by 18.9 percent to historical lows in 2015. LIRR’s “Be Train Smart/Don’t Become a Statistic” safety information campaign contributed to the improvement and will remain an integral part of LIRR’s safety program in 2016.

MTA GOAL: Provide On-Time and Reliable Services

PERFORMANCE INDICATORS: On-Time Performance, Mean Distance Between Failures

The LIRR’s “on-time performance” (OTP) for 2015 was 91.6 percent, a decline of 0.4 percent from the previous year. The decline in OTP was attributable to significant weather events. Additional incidents affecting OTP in 2015 resulted from trespassers, loading, motor vehicles, and other factors.

The agency’s 2015 “mean distance between failures” (MDBF) exceeded the goals set for each of the LIRR fleets except for the M3 fleet, and set a new record at 208,383 miles, a 1.0-percent improvement over the 2014 MDBF of 206,226 miles. This increase was largely attributable to the continued efforts of the LIRR’s reliability-centered maintenance program; performance-improvement teams; and initiatives targeting the performance of the entire fleet.

MTA GOAL: Provide Services to People with Disabilities

PERFORMANCE INDICATORS: Elevator Availability, Escalator Availability

Elevator availability increased to 98.5 percent in 2015, a 0.2-percent improvement from the previous year. Escalator availability increased to 97.9 percent, up 0.6 percent from last year. Much of that success was due to the reliability centered maintenance program implemented for elevators and escalators. The LIRR's Elevator and Escalator Operations Center, staffed with certified "Qualified Elevator-Escalator Inspectors," further reduced the frequency of breakdowns through scheduled repairs and improved response times.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

The LIRR's 2015 capital commitments totaled over \$323 million, or 114 percent of goal. Major commitments included Jamaica Capacity Improvements, the 2015 Annual Track Program, the Long Beach Substation Replacement, and the Long Beach Signal System.

The railroad's 2015 capital completions totaled nearly \$246 million, or 137 percent of goal. Among the major completions during the year were the replacement of Hillside and Kew Gardens Substations, Massapequa Station Platform Replacement, the Wyandanch Parking Facility, and the 2015 Annual Track Program.

MTA GOAL: Perform Services in an Efficient Manner

PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Passenger

The LIRR's "farebox operating ratio" increased from 45.1 percent in 2014 to 48.4 percent in 2015, as estimated in the "MTA 2016 Adopted Budget, February Financial Plan." This increase was driven by a decrease in passenger expenses, mostly attributable to lower operating expenses,

and an increase in farebox revenue due to ridership growth. The LIRR's "operating cost per passenger" decreased from \$17.09 in 2014 to \$16.44 in 2015. This decrease stemmed largely from lower passenger expenses and an increase in ridership.

MTA GOAL: Maximize System Usage

PERFORMANCE INDICATORS: Ridership

LIRR ridership rose to 87.6 million in 2015 from 85.9 million customers in 2014, a 2.0-percent increase. This breaks the recent record of 87.4 million passengers in 2008. In fact, LIRR's 2015 ridership was the railroad's highest since 1949, which saw 91.8 million passengers.

This can be attributed partly to good weather, along with additional ridership for games and events at the Barclays Center. The center began hosting New York Islanders hockey games in 2015, adding to this already strong market for the LIRR.

Service enhancements enacted during 2015 included: implementation of year-round, extra-weekend service between Babylon and Patchogue; the addition of two Oyster Bay Branch weekend trains; and expanded Atlantic Terminal service to accommodate the increased ridership to and from Barclays Center events.

MTA GOAL: Ensure Our Employees' Safety

PERFORMANCE INDICATORS: Employee Lost Time and Restricted-Duty Rate

LIRR experienced a positive trend with respect to employee accidents and injuries in 2015. The rate of employee "lost time and restricted-duty" injuries (based on injuries per 200,000 worker hours) decreased in 2015 by 3.7 percent. Additionally, the total number of employee injuries decreased by 4.7 percent, and the number of employee accidents requiring Federal Railroad Administration (FRA) reports decreased by 5.1 percent. The category having the highest number of employee accidents was "slip, trip, and falls," which experienced an increase of 15 percent in 2015. LIRR will review the data to identify trends and potential mitigation strategies.

**MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races,
Nationalities, and Genders**

PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce

The percentage of female representation in LIRR's workforce decreased slightly in 2015 from 15.5 percent to 15.4 percent. The percentage of minority representation increased from 34.0 percent to 34.7 percent. The percentage of minority representation exceeds the estimated percentage of minorities available in LIRR's recruitment area. The percentage of female representation continues to fall below the estimated percentage of women available for work in the recruitment area. Many of the positions that became available in 2015 are considered "nontraditional" jobs for women and, as a result, a low percentage of the applicants for these positions were women. LIRR continues to focus on efforts to improve the representation of women and minorities in its workforce.

MTA Metro-North Railroad (“Metro-North”)

Performance Indicator	2014 Actual	2015 Actual
Service Indicators		
On-Time Performance (East of Hudson)	91.5%	93.5%
On-Time Performance (West of Hudson)	95.4%	94.9%
Elevator Availability	97.4%	99.7%
Escalator Availability	97.4%	97.1%
Total Rail Ridership (East & West of Hudson)	84,659,000	86,018,159
Total Ridership on Connecting Services Provided by MNR Contractors	535,414	556,009
Mean Distance Between Failures (miles)	147,063	199,838
Safety Indicators		
Customer Injury Rate (per million customers)	3.48	4.27
Employee Lost Time and Restricted-Duty Rate (per 200,000 worker hours)	2.46	2.49
Workforce Indicators		
Female Representatives in MNR Workforce	13%	13%
Minority Representatives in MNR Workforce	35%	36%
Financial Indicators		
Farebox Operating Ratio	56.1%	59.4%
Operating Cost per Passenger	\$14.70	\$13.67
Capital Program Indicators		
Commitments in \$ Millions (% of planned value)	\$542.5 (205%)	\$283.6 (82%)
Completions in \$ Millions (% of planned value)	\$170.6 (98%)	\$204.3 (88%)
<i>Note: MTA performance data are subject to periodic adjustment. Some 2014 data may have been updated subsequent to the 2014 PAL \$1269-f report. The 2015 Farebox Operating Ratios are based on preliminary estimates from the “MTA 2016 Adopted Budget, February Financial Plan” and will be updated by the MTA Division of Management & Budget in April 2016.</i>		

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATORS: Customer Injury Rate

The “customer injury rate” at Metro-North increased from 3.48 per million customers in 2014 to 4.27 in 2015. The higher rate of customer injuries in 2015 was attributable to the February 2015 Valhalla incident. Metro-North has embarked on the following initiatives aimed at reducing customer injuries:

- Reintroduced the “Best Foot Forward” safety campaign to promote safe customer footing and handling on trains, platforms, and stairs during inclement weather.
- Partnered with Operation Lifesaver, Inc., to promote rail, train, and grade-crossing safety and awareness throughout the organization.
- Created a “Safety Education Specialist and Community Outreach” staff position to educate the public and promote awareness of rail, train, and grade-crossing safety.
- Executed a comprehensive plan to assess grade-crossing conditions on Metro-North’s territory to make recommendations for implementing safety improvements.
- Posted weekly safety “tweets” via Twitter to promote safety awareness among social media followers.

MTA GOAL: Provide On-Time and Reliable Services

PERFORMANCE INDICATORS: On-Time Performance, Mean Distance Between Failures

Metro-North’s systemwide “on-time performance” (OTP) for 2015 totaled 93.5 percent, a 2.0-percent increase from 91.5 percent OTP in 2014 and above the goal of 93 percent. West-of-Hudson OTP remained stable at 94.9 percent, which is a slight decrease from 95.4 percent the previous year, due to the extremely cold winter.

There were many challenges related to service delivery throughout 2015:

- Extreme weather in the first quarter of 2015, including the coldest February on record;
- A grade crossing accident in Valhalla, NY, in February that resulted in significant adverse operational impacts on the Harlem Line for several days;
- Aggressive track inspections and maintenance requiring temporary speed restrictions;
- Replacement of the CP6 interlocking on the Hudson Line for seven weekends in the fall, which required single tracking and significant schedule modifications;
- Ongoing catenary replacement on the east end of the New Haven Line.

In 2015, Metro-North's fleet attained a "mean distance between failures" (MDBF) of 199,838 miles against a goal of 185,000 miles. The harsh winter weather during the first quarter of 2015 took a toll on equipment, but by April the fleets recovered. Despite the first quarter weather, Metro-North's ongoing investments continue to improve the condition of equipment and the number of cars available to meet the railroad's record ridership growth. Metro-North finalized the roll-out of the new M8 fleet by July, which will have a beneficial effect on service reliability and availability. The railroad continued its ten-year lifecycle maintenance program for the M7 fleet, and initiated a five-year program for the M8 fleet. The GP-35 locomotive overhaul program completed delivery of two locomotives in 2015.

MTA GOAL: Provide Services to People with Disabilities

PERFORMANCE INDICATORS: Elevator Availability, Escalator Availability

At 99.7 percent, Metro-North's elevator availability in 2015 remained at a high service level, above the goal of 98.0 percent.

The railroad's focus on escalator repairs, particularly in Grand Central Terminal, resulted in a 97.1 percent escalator availability for 2015, well above the goal of 93 percent. Metro-North plans to replace all eleven escalators in Grand Central with a new, heavy-duty model designed to

handle the terminal's high pedestrian traffic. Design work will be completed in 2016, with full replacement to be completed by approximately 2020. In addition to ensuring that elevators and escalators are functioning as intended, Metro-North posts the current status of station elevators and escalators online to provide customers with up-to-date information.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

Metro-North's Capital Program commitments and completions for 2015 came in at 82 percent and 88 percent of the year's goals, respectively.

Commitments that exceeded the annual goal included: design-build of Phase I of the Superstorm Sandy Restoration and Resiliency work for power, communication, and signal infrastructure repairs; replacement and upgrade of the fire standpipe system in the lower level of the Grand Central Terminal train shed; inspection and load rating of select undergrade bridges in New York State, and work related to Positive Train Control (PTC).

Capital program completions that met the annual goal in 2015 included: the acceptance of M8 new single unpowered cars; construction of the North White Plains Parking Garage; the 2015 West-of-Hudson Track Program; the West-of-Hudson Rockslope Remediation on the Port Jervis Line; and the final phase of the Employee Welfare and Storage Facility project.

MTA GOAL: Perform Services in an Efficient Manner

PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Passenger

Metro-North's 2015 "farebox operating ratio" was 59.4 percent, representing a 5.7-percent increase from the previous year. Revenues increased by 4.3 percent, while total expenses decreased year-over-year by 5.4 percent.

The revenue increase reflects the highest East-of-Hudson ridership in Metro-North's history, year-over-year growth in West-of-Hudson ridership, as well as fare increases in New York State (4.0 percent effective March 2015) and in the State of Connecticut (1.0 percent effective January 2015). Reduced expenses in 2015 reflect lower overall payroll costs and reduced rates for diesel fuel and electric propulsion. Lower payroll costs are primarily the result of 2014 retroactive wage adjustments that do not recur in 2015. These declining costs were partially offset by inflationary increases in baseline service levels and maintenance programs.

In addition, initiatives funded in 2015 include the ongoing implementation of strategic safety investments and the continuation of the comprehensive "Infrastructure Improvement" and "Station Enhancement" programs.

The 2015 "operating cost per passenger" of \$13.67 is \$1.03 lower than in 2014, mainly due to the lower expenses noted above and the 1.6-percent increase in the number of passengers carried in 2015 over 2014.

MTA GOAL: Maximize System Usage

PERFORMANCE INDICATORS: Ridership

Combined ridership in 2015, including all rail lines and connecting services, reached the highest levels in Metro-North's history at 86.6 million rides.

East-of-Hudson ridership hit a record 84.3 million for the year, surpassing by 1.6 percent the previous record of 83.0 million rides set in 2014. The New Haven Line was the fastest growing line, increasing ridership by 1.8 percent to over 40.3 million customers in 2015, its highest ridership ever. Also setting a record, the Hudson Line was up 1.2 percent to 16.4 million rides in 2015, over 200,000 more rides than the previous record in 2013. The Harlem Line grew 1.4 percent in 2015, carrying over 27.5 million customers and surpassing the previous record set in 2008 by 100,000 rides. Commutation ridership grew 1.0 percent in 2015, while non-commutation ridership increased 2.3 percent.

Combined ridership on the three Metro-North-operated connecting services (Haverstraw-Ossining Ferry, Newburgh-Beacon Ferry, and Hudson Rail Link) increased by 3.8 percent to about 556,000 customers. Ridership increased by 4.2 percent on the Hudson Rail Link, increased by 7.1 percent on the Haverstraw-Ossining Ferry, and decreased by 3.8 percent on the Newburgh-Beacon Ferry.

West-of-Hudson ridership reached 1.7 million in 2015, a 3.7-percent increase over 2014. Ridership on the Port Jervis Line increased 2.1 percent; ridership on the Pascack Valley Line jumped 6.1 percent. These increases are attributable to reliable service and an improving economy.

MTA GOAL: Ensure Our Employees' Safety

PERFORMANCE INDICATORS: Employee Lost Time and Restricted-Duty Rate

Metro-North's "employee lost time and restricted-duty rate" for 2015 was 2.49 (per 200,000 worker hours), a marginal increase over the 2014 rate of 2.46. Metro-North has developed the following initiatives aimed at reducing employee injuries:

- Conducted quarterly employee "Safety Stand Down" events to bring attention to such issues as safe work practices, the impact of seasonal conditions on work environments, employee fatigue, grade-crossing safety, fire safety, and security and trespasser awareness. The fourth-quarter "Stand Down" saw record attendance.
- Successfully implemented the Confidential "Close Call" Reporting System (C³RS) in conjunction with the FRA. Also, finalized an "Implementing Memorandum of Understanding" (IMOU) to expand the reporting system to Metro-North's mechanical and engineering departments. The C³RS enables employees to report safety issues without the fear of reprisal.
- Launched a pilot program in conjunction with the FRA to test all Metro-North engineers for "obstructive sleep apnea" (OSA). The program successfully screened all locomotive engineers and referred those who met OSA criteria for further testing.

- Conducted “Safety Clean-Up Days” at the Brewster, North White Plains, Croton-Harmon, Poughkeepsie, New Haven, Stamford, and Springdale yards to remove debris and clutter.
- Continued to revise the “System Safety Program Plan” to meet FRA requirements and to be used as a guide to promote a more proactive approach to safety systemwide.
- Conducted a full-scale “Emergency Preparedness Simulation” to provide first responders with the training and hands-on experience needed to manage rail-based incidents and emergencies
- Continued to implement National Transportation Safety Board (NTSB) recommendations, while working with both the NTSB and other MTA agencies to ensure the coordination of industry “best practices” in relation to safety issues.
- Redesigned the logo for the employee nonemergency “SafetyHelp” call line, and initiated a related poster campaign. The SafetyHelp line records nonemergency employee safety concerns 24 hours a day, seven days a week.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders

PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce

Metro-North’s minority workforce representation of 36 percent exceeds the estimated availability of minorities in a majority of its Equal Employment Opportunity (EEO) job categories. The female workforce representation of 13 percent falls below the estimated availability for women in a majority of its EEO job categories. However, in three out of the seven EEO job categories at Metro-North, female representation exceeds the estimated availability for women. The three categories are Professionals, Skilled Craftsman, and Service Maintenance. Our minority recruitment efforts show continued improvement in 2015. Over 48 percent of our new hires in 2015 were minority, as compared to 46 percent in 2014 and 43 percent in 2013. Metro-North will continue its outreach and recruitment efforts to attract qualified women and minorities.

MTA Bridges and Tunnels (“Bridges and Tunnels”)

Performance Indicator	2014 Actual	2015 Actual
Service Indicators		
Total Traffic	286,416,905	297,951,556
Safety Indicators		
Collisions with Injury Rate (per million vehicles)	0.99	0.96
Employee Lost Time and Restricted-Duty Rate (per 200,000 work hours)	6.5	4.8
Workforce Indicators		
Female Representation in B&T Workforce	21.5%	21.9%
Minority Representation in B&T Workforce	52.2%	52.9%
Financial Indicators		
E-ZPass Market Share	84.5%	85.7%
Total Support to Transit (\$ millions)	\$992.8	\$1,124.9
Capital Program Indicators		
Commitments in \$ Millions (% of planned value)	\$808.1 (83%)	\$526.5 (128%)
Completions in \$ Millions (% of planned value)	\$287.5 (184%)	\$214.8 (103%)
<i>Note: MTA performance data are subject to final audit. Some 2014 data may have been updated subsequent to the 2014 PAL §1269-f report.</i>		

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATOR: Customer Injury Rate

Bridges and Tunnels reported 290 customer accidents with injuries in 2015, a slight increase from 287 in 2014. However, due to increased annual traffic, the rate of “collisions with injuries” per million vehicles decreased from 0.99 in 2014 to 0.96 in 2015.

The agency is dedicated to improving all aspects of its safety performance through the Safety Management Program. This broad range of initiatives includes safety training, policy enhance-

Bridges & Tunnels, cont.

ments, hazard identification and accident prevention, and the communication of safety values and practices. The goal of this program is to transform the organizational culture to effectively focus on customer and employee safety.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

In 2015, Bridges and Tunnels made 130 task commitments to Capital Program projects, well above its goal of 61 task commitments. The total value of the awards was \$526.5 million. This represents 128 percent of the 2015 goal, as compared to \$808.1 million and 83 percent of the goal committed in 2014. The actual awards in 2015 were \$113.5 million above the approved plan, primarily due to unplanned and accelerated commitments against the 2015-2019 Capital Program. Major project commitments in 2015 included:

- Restoration projects at the Queens Midtown Tunnel and at the Marine Parkway and Cross Bay bridges to repair damage inflicted by Superstorm Sandy;
- Rehabilitation of the Marine Parkway Bridge Lift Span's electrical, mechanical, and control systems to keep the lift functioning efficiently in its service to both auto customers and boat traffic;
- Structural rehabilitation and painting at the Bronx-Whitestone Bridge to protect and maintain the structure;
- Installation of a dehumidification system in the Throgs Neck Bridge anchorages to protect the structure.

The value of Capital Program projects completed in 2015 totaled \$214.8 million, versus planned completions of \$208.5 million, representing 103 percent of the 2015 goal. In 2014, by comparison, a total of \$287.5 million was completed, representing 184 percent of goal. Major projects completed in 2015 included: the deck replacement on the Queens elevated and on-grade approach roadways on the Bronx-Whitestone Bridge, as well as the replacement of the necklace lighting and acoustic monitoring system, and substructure and underwater scour protection at the Marine Parkway Bridge.

MTA GOAL: Perform Services in an Efficient Manner

PERFORMANCE INDICATORS: Total Support to Transit

A total of \$1,124.9 million in surplus revenue from Bridges and Tunnels was provided for MTA transit services in 2015.

MTA GOAL: Maximize System Usage

PERFORMANCE INDICATORS: Traffic Volume

Bridges and Tunnels had a total of 298.0 million crossings in 2015, an increase of about 4 percent or 11.5 million more crossings than in 2014. Overall E-ZPass usage increased to 85.7 percent of total crossings at year-end 2015, up from 84.5 percent in 2014.

MTA GOAL: Ensure Our Employees' Safety

PERFORMANCE INDICATORS: Employee Lost Time and Restricted-Duty Rate

Bridges and Tunnels experienced 72 lost-time injuries in 2015, a decrease from 98 in 2014. As a result, the “employee lost-time injury rate” decreased to 4.8 (per 200,000 work hours) in 2015, down from 6.5 in 2014.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders

PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce

The representation of female and minority employees in the agency’s workforce increased slightly in 2015. The percentage of female employees rose to 21.9 percent, and the percentage of minorities rose to 52.9 percent. Bridges and Tunnels has a structured program to achieve and maintain a workforce that exceeds 80 percent of estimated availability of females and minorities within the relevant labor market serviced by the MTA, based on U.S. Census data. This program includes: targeted recruitment and outreach efforts to attract qualified female and minority candidates; strategic retention and mobility programs to provide the skills and opportunities necessary for female and minority employees to have successful career paths; and a monitoring program to identify and address female and minority under-representation on an ongoing basis.

MTA Bus Company (“MTA Bus”)

Performance Indicator	2014 Actual	2015 Actual
Service Indicators		
% of Completed Trips	98.2%	98.7%
Bus Passenger Wheelchair Lift Usage	65,101	75,911
Total Ridership	125,581,237	125,399,522
Mean Distance Between Failures (miles)	5,366	5,741
Safety Indicators		
Customer Accident Injury Rate (per million customers)	0.91	1.09
Collisions with Injury Rate (per million vehicle miles)	5.61	5.68
Employee Lost Time Rate (per 100 employees)	7.91	7.02
Workforce Indicators		
Female Representation in MTA Bus Workforce	12.4%	12.6%
Minority Representation in MTA Bus Workforce	72.5%	74.1%
Financial Indicators		
Farebox Operating Ratio	35.9%	34.6%
Operating Cost per Passenger	\$4.90	\$5.32
Capital Program Indicators		
Commitments in \$ Millions (% of planned value)	\$91.1 (62%)	\$43.6 (45%)
Completions in \$ Millions (% of planned value)	\$5.6 (13%)	\$89.4 (202%)
<i>Note: MTA performance data are subject to periodic adjustment. Some 2014 data may have been updated subsequent to the 2014 PAL §1269-f report. The 2015 Farebox Operating Ratios are based on preliminary estimates from the “MTA 2016 Adopted Budget, February Financial Plan,” and will be updated in April 2016.</i>		

MTA GOAL: Ensure Customer Safety

PERFORMANCE INDICATOR: Customer Injury Rate

MTA Bus saw a 20-percent increase in its “customer accident injury rate” in 2015 as compared to 2014. In 2015, additional staff were hired and a random undercover observation program

implemented to focus on evaluating and reinforcing safety habits while providing positive feedback at the completion of every ride.

The “collisions with injury rate” increased by 1.2 percent in 2015 from the previous year. Based on accident analysis, the agency’s 2015 safety initiatives continued to focus on basic operating procedures in bus stop areas, including scanning mirrors, observing all sides of the bus, pulling into and out of bus stops properly, and positioning the bus correctly in the bus stop. MTA Bus continues to incorporate relevant accident findings into its safety and training initiatives. In April, 2015, the Vision Zero’s “Eye on Safety” eight-hour bus operator training program was expanded to include all bus operators.

In a joint agreement with all represented labor unions, MTA Bus continues to emphasize a “zero-tolerance” policy banning cell phones and other electronic devices for bus operators on duty. In another joint agreement with all represented labor unions, MTA Bus has established a process where operators are disciplined for receiving speed camera violations as well as having to pay the fine. In addition, the agency recently negotiated an “accident review system” (ARS) with the MTA Bus Transit Workers Union and intends to continue negotiating for ARS procedures with the remaining MTA labor unions.

MTA GOAL: Provide On-Time and Reliable Services

PERFORMANCE INDICATORS: Mean Distance Between Failures, Bus Trips Completed

MTA Bus had a “mean distance between failures” (MDBF) of 5,741 miles in 2015, which represents an increase of 7.0 percent from the 2014 MDBF of 5,366 miles. MTA Bus continues to manage a population of over-age buses that pose a challenge for operations. A number of these buses were replaced in 2015 and will continue to be replaced in 2016 under the 2010-2014 Capital Program.

The number of bus trips completed depends on the availability of both buses and bus operators. The “percentage of trips completed” increased to 98.7 percent in 2015 from 98.2 percent in 2014.

MTA GOAL: Provide Services to People with Disabilities

PERFORMANCE INDICATORS: Bus Passenger Wheelchair Lift Usage

Wheelchair ridership on MTA buses was 75,911 passengers in 2015, an increase of 16.6 percent from 65,101 passengers in 2014. The agency's new low-floor buses provide easier boarding and more reliable service for wheelchair passengers, contributing to the increase in wheelchair ridership.

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

MTA Bus committed \$43.6 million in capital project funds in 2015. This represents 45 percent of planned commitments, compared to 62 percent committed in 2014.

Notable 2015 commitments included: emergency generator installations at six depots; and security upgrades at the Far Rockaway and Baisley Park depots. The planned commitments not achieved in 2015 are: the replacement of the Bus Radio System (\$58.5 million, MTA Bus share of a joint NYCT-MTA Bus system) and Superstorm Sandy rehabilitation at Far Rockaway Depot (\$15 million).

MTA Bus completed \$89.4 million in capital projects in 2015. This represents 202 percent of the value of planned completions for the year, as compared to 13 percent of planned completions in 2014. The actual completions included: the purchase of 45 standard bus (\$23.8 million), ahead of planned completion in 2016, and the relocation of fuel tanks at Eastchester Depot (\$13.8 million). There were no planned completions that were not achieved in 2015.

MTA GOAL: Perform Services in an Efficient Manner

PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Passenger

The “farebox operating ratio” was 34.6 percent in 2015, as estimated in the “MTA 2016 Adopted Budget, February Financial Plan,” down from 35.9 percent in 2014. Fare collections from decreased ridership and fares in 2015 were offset by increased operating expenses. These were primarily attributable to higher wages and higher health and welfare costs, as well as higher costs for maintenance and operating contracts, and claims. The “operating cost per passenger” was \$5.32 in 2015, as compared to \$4.90 in 2014. The \$0.42 increase was the result of the increased operating costs cited above.

MTA GOAL: Maximize System Usage

PERFORMANCE INDICATORS: Ridership

Total MTA Bus ridership decreased by 0.1 percent in 2015 to 125.4 million riders, as compared to 125.6 million riders in 2014. Weather conditions experienced during the year suppressed ridership contributing to the slight decrease.

A GOAL: Ensure Our Employees' Safety

PERFORMANCE INDICATORS: Employee Lost Time and Restricted-Duty Rate

MTA Bus saw an 11.3-percent decrease in the “employee lost-time accident rate” in 2015. In 2016, MTA Bus will implement several NYCT Bus safety programs. An oversight group will continue to maintain a focus on preventing injuries through increased safety awareness campaigns, as well as a focus on the root causes of incidents leading to injuries.

In addition, NYCT Bus and MTA Bus will continue major initiatives aimed at protecting all bus operators from assault, including oversight by an executive task force, enhanced training, and the ongoing installation of bus operator shields.

**MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races,
Nationalities, and Genders**

PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce

Female representation agency-wide continues to be below the estimated percentage of women available to work within MTA Bus's recruiting area. MTA Bus will continue to increase its outreach and recruitment efforts to improve female representation within its workforce. The percentage of minority representation, which increased slightly in 2015 from 72.5 percent to 74.1 percent, exceeds the estimated percentage of minorities available to work within MTA Bus's recruiting area.

MTA Capital Construction (“MTACC”)

Performance Indicator	2014 Actual	2015 Actual
Workforce Indicators		
Female Representatives in MTACC Workforce	35.0%	33.1%
Minority Representatives in MTACC Workforce	52.0%	53.5%
Capital Program Indicators		
Commitments in \$ Millions (% of planned value)	\$1,401 (122%)	\$940.6 (146%)
Completions in \$ Millions (% of planned value)	\$2,060 (68%)	\$378.6 (24%)
<i>Note: MTA performance data are subject to periodic adjustment. Some 2014 data may have been updated subsequent to the 2014 PAL §1269-f report.</i>		

MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure

PERFORMANCE INDICATORS: Capital Program Commitments and Completions

MTACC had a total commitment goal of \$642.4 million in capital funds for 2015 and committed approximately \$940.6 million, or 146 percent of goal. The net commitments above goal were primarily due to options being exercised on the East Side Access Facilities Systems, along with additional support costs above yearly goals for East Side Access and Second Avenue Subway. Notable MTACC commitments in 2015 included the reconstruction contract for the Cortlandt Street Station on the No. 1 Line, the East Side Access contract for the construction of the new LIRR Grand Central Terminal concourse facility, and the East Side Access contract for Tunnel D Approach and 48th Street Bridge construction in the Harold Interlocking.

MTACC’s goal for capital project completions in 2015 was \$1.56 billion, of which \$378.6 million, or 24 percent, was achieved. The shortfall was primarily due to delayed substantial completion of contracts, including the 7 Line Extension Systems and Finishes contract, an East Side Access contract in Harold Interlocking and the Second Avenue Subway’s 63rd Street Station Upgrade contract. A notable completion included the Fulton Transit Center Building

contract, which was the last contract required for the Fulton Center project. Additionally, there were two East Side Access contracts which were completed, including one contract to construct the 55th Street Ventilation Plant and another to construct various civil infrastructure elements within the Harold Interlocking.

MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders

PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce




At 33.1 percent, down slightly from the previous year, the agency's percentage of female representation in 2015 exceeded the estimated availability of women available for work within the MTACC recruitment area in the "Officials and Administrators" and the "Professionals" EEO job categories. While overall minority representation was 53.5 percent in 2015, representing an increase in the percentage of overall minorities from 2014, MTACC continues to strengthen its outreach and recruitment efforts to attract qualified minority candidates.

Staff Summary

Subject All Agency General Contract Procurement Guidelines and All Agency Service Contract Procurement Guidelines
Department MTA Business Service Center
Department Head Name Angel Barbosa, Chief Procurement Officer
Department Head Signature 
Project Manager Name

Date June 22, 2016
Vendor Name
Contract Number
Contract Manager Name
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
	Corporate Governance	6/22/16			
	Board	6/22/16			

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

Purpose:

To obtain Board approval of the revised All Agency General Contract Procurement Guidelines and the All Agency Service Contract Procurement Guidelines (collectively, the "Revised Guidelines").

Discussion:

Public Authorities Law Section 2879 requires the MTA to annually review and approve its procurement guidelines, which were last approved by the Board at its March 2015 meeting.

The revisions to the procurement guidelines, previously known as the All Agency Procurement Guidelines and All Agency Guidelines for Procurement of Services, are shown in redline, as well as in clean copy, in the annexed versions. The proposed revisions accomplish three principal objectives: (1) they incorporate the amendments to the applicable procurement statutes; (2) they add best practice provisions, particularly with respect to the facilitation of the use of the design-build project delivery model; and (3) they clarify and conform the two guidelines to make them consistent, as well as easier to understand and use.

The substantive changes to the Revised Guidelines that incorporate procurement-related amendments to the NYS Public Authorities Law are as follows:

- Increasing the sealed bidding threshold for purchases of goods and public work contracts to \$100,000. Previously, the statute required sealed bidding for such contracts with an estimated price greater than \$15,000 for purchase contracts for supplies, materials or equipment and \$25,000 for public work (except that neither of these constraints applied to Bridges and Tunnels ("B&T") because the applicable statutes do not apply to it). The budget legislation increased the threshold to \$100,000, and the Revised Guidelines are conformed to reflect the new threshold (except for B&T). This change will allow streamlined small purchase procedures to be used for purchases between \$15,000 and \$100,000, will reduce purchasing lead times and will allow Procurement staff to focus on higher dollar actions.
- Increasing the estimated price threshold under which a contract for services of any kind can be awarded without Board approval to \$100,000, regardless of the length of the period over which services are rendered. Previously, the statutory threshold amount for the award of such a contract without Board approval was \$20,000 for personal services (and for B&T, \$15,000 and a one-year term) and \$15,000 or \$25,000 for miscellaneous service, depending on duration. The budget legislation increased the threshold to \$100,000, and the Revised Guidelines are conformed to reflect the new threshold (and apply to B&T as well). This will reduce the time required to put lower value contracts in place. It should be noted that the implementation of \$100,000

thresholds as described in this and the above bullet is consistent with procurement rules applicable to many other governmental entities, including transit agencies. The State Legislature, for example, amended the State Finance Law in 2006 to increase the dollar thresholds for small purchases by State agencies; the small-purchase threshold for the Office of General Services was increased to \$85,000. At the federal level, Congress and the Federal Transit Administration have redefined “small purchases” to mean those valued at \$150,000 or less. The small purchase threshold at each of BART (Bay Area Rapid Transit in San Francisco), LACMTA (Los Angeles County) and SEPTA (Philadelphia) is \$100,000, and at WMATA (Washington Metropolitan Area) is \$150,000. MTA has calculated that purchases between \$15,000 and \$100,000 make up only about 3.5 percent of the total contract dollars awarded but make up fully 60 per cent of the total number of awards. This change will allow procurement staff resources to focus on larger dollar value sourcing contracts will also saving the MTA six weeks of processing time on each of approximately 1,700 procurements under \$100,000 annually.

- Authorizing (i) the award of non-federally funded contracts to certified minority or women-owned business enterprises (“MWBEs”), small business concerns, or certified service disabled veteran owned businesses (“SDVOBs”) in an amount not to exceed \$400,000, without a formal competitive process and without Board approval; the previous statutory threshold for the award of such a contract was \$200,000, and the provisions now include SDVOBs in addition to MWBEs and small business concerns. The Chief Procurement Officer (“CPO”) of each agency may make a determination that any such contract award may be limited only to an MWBE, or only to an SDVOB, or only to an MWBE or an SDVOB; and (ii) purchases of goods or technology that are recycled or remanufactured in an amount not to exceed \$400,000, without formal competitive process and without Board approval. Increasing these limits will not only speed procurements but will help the MTA achieve important, statutorily required, MWBE and SDVOB goals.
- Authorizing an agency to use an electronic bidding system for the purchase of goods, materials and commodities that may inform bidders whether their bid is the current low bid, and allowing bidders to submit new bids before the date and time assigned for the opening of bids.

Other material substantive revisions to the Revised Guidelines include:

- Not prohibiting the payment of stipends to proposers on design-build contracts as part of an RFP process. The request for Board approval to use the RFP process for a specific Design-Build contract may include a request for approval of the use of stipends in connection with such RFP.
- Authorizing an agency to issue change orders to a design-build contract without Board approval where the Board has previously adopted a resolution that it is in the public interest to award the contract through a competitive RFP process and such change order does not change the total contract price to exceed the project budgeted cost, including contingency.
- Adding provisions implementing SDVOB set-aside contracts.

Recommendation:

It is recommended that the MTA Board approve the annexed All Agency General Contract Procurement Guidelines and All Agency Service Contract Procurement Guidelines.



ALL AGENCY GENERAL CONTRACT PROCUREMENT GUIDELINES

Adopted by the Board on June 22, 2016

These guidelines (the “**General Contract Guidelines**”) apply to the Metropolitan Transportation Authority (“**MTA**”), the New York City Transit Authority (“**NYCT**”), the Long Island Rail Road Company (“**LIRR**”), The Metro-North Commuter Railroad Company (“**MNR**”), Staten Island Rapid Transit Operating Authority (“**SIRTOA**”), Manhattan and Bronx Surface Transit Operating Authority (“**MaBSTOA**”), MTA Capital Construction (“**MTACC**”), MTA Bus Company (“**MTA Bus**”), First Mutual Transportation Assurance Co. (“**FMTAC**”) and to the Triborough Bridge and Tunnel Authority (“**Bridges and Tunnels**”) insofar as they are consistent with the provisions of law applicable to Bridges and Tunnels (each of which is referred to severally and together, as the “**Authority**”).

Article I - Applicability of General Contract Guidelines

These **General Contract Guidelines** apply to

- i) purchase contracts for supplies, materials, equipment or other goods (“**Purchase Contracts**”);
- ii) public work contracts (“**Public Work Contracts**”); and
- iii) “**Miscellaneous Procurement Contracts**” (which are defined as leases of equipment with or without an option to purchase, computer software licenses including software as a service subscriptions, software maintenance agreements, printing contracts (where editorial services do not predominate), and any other contract which is not otherwise classified under these General Contract Guidelines or the All Agency Service Contract Procurement Guidelines (the “**Service Contract Guidelines**”, and collectively with these General Contract Guidelines, the “**Guidelines**”).

Purchase Contracts, Public Work Contracts and Miscellaneous Procurement Contracts are collectively referred to herein as “**General Contracts**”).

In the event a proposed contract contains elements of more than one type of General Contract and/or elements of either or both types of Service Contracts (as such term is defined in the Service Contract Guidelines), the elements of the type of contract that predominates shall determine whether the General Contract Guidelines or the Service Contract Guidelines apply and which type of contract within the applicable Guidelines shall apply.

Article II - Delegation of Authority

The Chairman, the President of the respective Authority, or the designated representative or representatives thereof (each defined for purposes of these General Contract Guidelines as an

"Authorized Officer") are hereby empowered with respect to General Contracts to be entered into by the respective Authority acting on its own behalf or as agent for MTA, as follows:

- A. to implement these General Contract Guidelines.
- B. to establish procedures which shall be competitive to the extent deemed practicable by the Authorized Officer, for the award of Purchase Contracts, Public Work Contracts or Miscellaneous Procurement Contracts estimated to involve the expenditure of \$100,000 or less;
- C. for Purchase Contracts and Public Work Contracts estimated to involve the expenditure of more than \$100,000:
 - 1. to determine the criteria for the evaluation of bids which may include but are not limited to unit or aggregate amount bid, life cycle costs or savings (including but not limited to costs or savings associated with installation, energy use, maintenance, operation, salvage and disposal), discounts and costs of maintenance and inspection services;
 - 2. to determine whether a Purchase Contract or Public Work Contract required to be advertised in the New York State Contract Reporter ("NYSCR") is exempt from such requirement on the basis of a need to award such contract on an emergency or critical basis;
 - 3. to advertise for, solicit and open bids;
 - 4. to record the name of each bidder and the amount(s) bid;
 - 5. to determine the lowest responsive and responsible bidder, including, in the event two or more responsible bidders submit identical bids which are the lowest bids, to award the Purchase Contract or Public Work Contract to any of such bidders or obtain new bids from such bidders;
 - 6. to reject all bids when it is determined to be in the public interest to do so; and
 - 7. to award the Purchase Contract or Public Work Contract.
- D. to determine whether a bidder is responsible pursuant to the All-Agency Responsibility Guidelines.
- E. in addition to the other authorizations set forth elsewhere in this document, to establish guidelines governing the qualifications of bidders for General Contracts, and to fix the standards for the prequalification of bidders entering into such contracts for the East Side Access Project in accordance with Section 1265-a.2(c) of the Public Authorities Law.

Article III - Award of General Contracts Without Competitive Bidding

- A. A Miscellaneous Procurement Contract estimated to involve the expenditure of more than \$100,000, may be awarded after soliciting three or more bids or proposals, except for such contracts awarded pursuant to Article III (D) or (E)

below. However, approval of a majority of the members of the Board in attendance at a meeting at which a quorum is present shall be required to approve the resolution authorizing award of a Miscellaneous Procurement Contract estimated to involve the expenditure of more than \$100,000 that is not awarded pursuant to sealed competitive bidding and no Board approval shall be required for a ride of another qualifying contract.

- B. Except as otherwise provided in paragraphs C and D of this Article III, a Purchase Contract or a Public Work Contract estimated to involve the expenditure of more than \$100,000 may be awarded without competitive bidding under the circumstances set forth below, provided that the Authorized Officer recommends such an action and the Board adopts a resolution (i) declaring competitive bidding to be impractical or inappropriate because of the existence of any of the circumstances set forth in Articles III(B)(1) to (6), (ii) stating the reasons therefore, and (iii) summarizing any negotiations that have been conducted. Except in a situation specified in Article III(B)(1), such resolution shall be approved by two-thirds of the members of the Board then in office. A resolution under Article III(B)(1) shall require approval by a majority of the members of the Board in attendance at a meeting at which a quorum is present.
1. Emergency. The existence of an emergency involving danger to life, safety or property which requires immediate action and cannot await competitive bidding; or when the item to be purchased is essential to the efficient operation of or the adequate provision of service and, as a consequence of an unforeseen circumstance, such purchase cannot await competitive bidding. Competitive bidding is hereby declared to be impractical and inappropriate in any of the foregoing situations where an Authorized Officer must take appropriate action and cannot await action by the Board; provided, however, that notice of such action shall be given to the Board as soon as practicable, together with a statement of the reasons for such action and a request for ratification by the Board.
 2. Single Source. The item to be purchased is available only from a single responsible source provided, however, that a notice of the Authority's intent to purchase such item without competitive bidding shall be posted on the Authority's website, and, if bids have not been solicited for such item within the preceding twelve months, a notice must be published pursuant to Article V hereof. Any notices required by this paragraph shall set forth the Authority's intent to purchase the item without competitive bidding because the item is available from only one source and invites any firm which believes it can provide the item to so inform the Authority and to provide the Authority with additional information which confirms that it can supply the item.
 3. No Bids or One Responsive Bid. Competitive bids are solicited and

- a. no responsive bid is received; or
 - b. only a single responsive bid is received, and the Authorized Officer rejects the bid.
4. Experiments, Tests and Evaluations. With respect to a product or technology, the Authority wishes to:
- a. experiment with or test it;
 - b. experiment or test a new source for it; or
 - c. evaluate its service or reliability.

Such a contract may not be awarded until at least thirty days after the date the Board has declared competitive bidding to be impractical or inappropriate

5. Riding an Existing Contract. The item is available through an existing General Contract between a vendor and any of the following and the resolution adopted by the Board includes a determination that, and the reasons, why, it is in the public interest to do so:
- a. An Authority or any other public authority provided such General Contract had been awarded through a process of competitive bidding or a competitive request for proposals;
 - b. The State of New York, The City of New York, or (except for Transit and MaBSTOA) the County of Nassau.

It is hereby determined that competitive bidding is inappropriate and, because of the likelihood that a competitive process will not result in better commercial terms, that it is in the public interest to purchase an item through an existing General Contract of the State of New York, The City of New York, a different Authority, or any other public authority, where price and other commercial terms specified in such General Contract are satisfactory to the Authorized Officer. Such a determination shall be documented in writing by the Authorized Officer.

6. Request For Proposals. The Authority determines that it is in the public interest to award the General Contract through a competitive request for proposals ("**RFP**") process.
- a. For purposes of this Article III(B)(6), a competitive RFP shall mean a method of soliciting proposals and awarding a General Contract on the basis of a formal evaluation of the characteristics which are deemed relevant to the Authority's operations, such as quality, cost, delivery schedule and financing, against stated selection criteria. Where the RFP involves the purchase or rehabilitation of rail cars, transit cars or buses, the selection criteria may also include the extent to which the performance of all or a portion of the contract will involve the use of sites within the State of New York or the use

of goods produced or services provided within the State of New York.

- b. For those contracts awarded under this Article III(B)(6), (1) such contract may not be awarded until at least thirty days after the Board has declared competitive bidding to be impractical or inappropriate and (2) the Board's approval resolution must (i) disclose the other proposers and the substance of their proposals, (ii) summarize the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (iii) set forth the criteria upon which the selection was made. The Board's contract approval resolution may be adopted simultaneously with or subsequent to the Board's declaration that competitive bidding is impractical or inappropriate, provided that, if the Board's declaration and the Board's approval resolution are adopted simultaneously or within less than thirty days of each other, the subject contract may be executed by the Authority no less than thirty days after the adoption of the Board's declaration that competitive bidding is impractical or inappropriate.
- c. In addition to the information required under Article V(C), the public notice of an RFP must include a statement of the selection criteria. Such notice shall also be provided by mail or electronically to professional and other organizations, if any, that represent or regularly notify certified minority or women-owned business enterprises ("MWBEs") or a certified service disabled veteran owned business ("SDVOBs") of the type of procurement opportunity that is the subject of the RFP notice.
- d. The Authority may engage in a selection process involving multiple steps such as requests for qualifications, requests for technical proposals and requests for quotations. After the publication of the notice, any or all of the selection criteria specified in the advertisement may be changed, provided that, if the change is material, proposers and potential proposers who, prior to the deadline for the receipt of proposals, have expressed an interest in the RFP, shall be informed of the change and afforded the opportunity to modify their proposals.
- e. After receipt of the proposals, an Authority may:
 - 1. change the selection criteria provided that, if the change is material, all proposers that have not been eliminated from the competitive process prior to such change, are informed of the change and afforded the opportunity to modify their proposals;

2. request that any of the proposers make a presentation. If it does so, it is not required to afford such opportunity to all proposers;
3. negotiate with any of the proposers. If it does so, it is not required to negotiate with all proposers;
4. reject any proposal at any time; and
5. reject all proposals, in which event the Authority may decide to take no further action, solicit new proposals or solicit bids.

C. Under the MTA Small Business Mentoring Program (the “**SBMP**”), a non-federally funded Public Work Contract that is designated by the Authority as a small business mentoring program contract (“**SBMP Contract**”) within the meaning of Section 1265-b(1)(e) of the Public Authorities Law, may be awarded in accordance with the provisions of Section 1265-b of the Public Authorities Law, notwithstanding any other provision of law or these General Contract Guidelines. A Public Work Contract that is partially or wholly federally funded, subject to United States Department of Transportation regulations and estimated to involve an expenditure of not more than \$3 million, may be awarded pursuant to the MTA Small Business Federal Program (the “**SBFP**”) established under 49 CFR 26.39 in accordance with the competitive procedures established under the SBFP, notwithstanding any other provision of law or these General Contract Guidelines. The Chairman or his/her designee is authorized to designate which eligible Public Work Contracts shall be SBMP or SBFP Public Work Contracts.

D. A Purchase Contract or a Miscellaneous Procurement Contract, in an amount not to exceed \$400,000, that is not federally funded, may be awarded pursuant to Section 2879(3)(b)(i) of the Public Authorities Law without competitive bidding or other formal competitive process, notwithstanding any other provision of law or these General Contract Guidelines, where either (i) the Purchase Contract or Miscellaneous Procurement Contract involves goods or technology that are recycled or remanufactured or (ii) the proposed award is to a small business concern (“**SBC**”), an MWBE or a SDVOB.

The relevant Authority Chief Procurement Officer or his/her designee (the “**CPO**”) shall determine which Purchase Contracts or Miscellaneous Procurement Contracts are appropriate for such types of procurements. In the case of Purchase Contracts or Miscellaneous Procurement Contracts that, pursuant to Section 2879(3)(b)(i), are eligible for award to SBCs, MWBEs or SDVOBs, the CPO may make a determination that any such Purchase Contract or Miscellaneous Procurement Contract may only be awarded to an MWBE, or only to an SDVOB, or only to an MWBE or an SDVOB. The basis for such a determination must be to promote participation of MWBEs and SDVOBs in Authority contracts, as mandated by Articles 15-A and 17-B of the Executive Law, and to assist the Authorities in achieving their MWBE and SDVOB goals. Notice of such procurements shall be placed on the Authority website inviting responsive proposals from qualified SBCs, MWBEs or SDVOBs. At least three bids or proposals must be solicited, and there must be a determination that the price is fair and reasonable. Awards pursuant to

this process shall be made to the bidder or proposer determined to have submitted the bid or proposal that is most advantageous to the Authority, price and any other relevant factors considered. An award proposed to be made to a bidder or proposer other than the lowest responsible, responsive bidder or proposer shall require approval by a majority of the Board at which a quorum is present. The CPO may reject all offers and withdraw the designation of a contract as one to be awarded pursuant to this process if the CPO determines that an award will result in the payment of an unreasonable price or otherwise not be advantageous to the Authority.

- E. Pursuant to Article 17-B of the Executive Law, the Authority may determine that a non-federally funded General Contract procurement is appropriate for a set-aside contract for SDVOBs. A notice shall be placed on the MTA website and the NYSCR, stating that only SDVOBs are eligible for contract award. The MTA and its agencies will administer set-aside procurements pursuant to the laws, rules and procedures that govern contracting for each type of procurement.

Article IV - Qualified Products Lists

The Board hereby determines that for reasons of efficiency, economy, compatibility or maintenance reliability, there is a need for standardization as to various supplies, materials and equipment which are purchased by the Authorities and authorizes the establishment of a qualified products list ("QPL") identifying such supplies, materials and equipment as hereinafter provided. A purchase contract for an item which has been included on a QPL duly established and maintained by an Authority, may be entered into by that Authority as hereafter set forth:

- A. The Authorized Officer of the Authority determines as to a specific item that, for reasons of efficiency, economy, compatibility or maintenance reliability, there is a need for standardization.
- B. The QPL is reviewed no less than two times per year. The purpose of this review is to evaluate whether to add or delete items or vendors to or from the QPL.
- C. A notice is published by the Authority no less than one time per year in a general circulation newspaper and in the NYSCR which:
 - 1. advertises the existence of the QPL;
 - 2. states that the QPL is available for public inspection; and
 - 3. specifies the name and address of the Authority's office which may be contacted in regard to the procedure for the compilation of the QPL.
- D. A contract for an item on the QPL may be awarded:
 - 1. without competitive bidding if only one source for the item is specified on the QPL;

2. by competitive sealed bidding but without advertising provided the invitation to bid is sent to all vendors listed on the QPL for the particular item;
 3. by competitive sealed bidding after advertising the bid pursuant to Article V(A) of these General Contract Guidelines.
- E. Two or more Authorities may utilize the same QPL provided that such Authorities jointly comply with the provisions of this Article.

Article V – Notice and Advertising

Except as provided in Article V(D) and Article II(B)(2), in those instances where advertising is required under these General Contract Guidelines:

- A. For Purchase Contracts and Public Work Contracts in the actual or estimated amount in excess of \$100,000, an advertisement shall be published at least once in a newspaper of general circulation in the area served by the Authority and in the NYSCR provided that, if the Purchase Contract or Public Work Contract is to be awarded without the solicitation of competitive bids or RFP, the timing of the publication in the NYSCR shall be determined by an Authorized Officer.
- B. The notice in the NYSCR must contain, as applicable, a statement of: i) the name of the contracting Authority; ii) the contract identification number; iii) a brief description of the services sought, the location where services are to be provided and the contract term; iv) the address where bids or proposals are to be submitted; v) the date when bids or proposals are due; vi) a description of any eligibility or qualification requirement or preference; vii) a statement as to whether the contract may be fulfilled by a subcontracting, joint venture or co-production arrangement; viii) any other information which the Authority deems useful to potential contractors; ix) the name, address and the telephone number of the person to be contacted for additional information; and x) a statement as to whether the services sought had, in the immediately preceding three year period, been supplied by a foreign business enterprise as that term is defined in Article 4-C of the Economic Development Law. The first publication shall be no less than fifteen business days prior to the planned bid opening date and the second publication shall be within a reasonable period prior to the planned bid opening date.

The advertisement must contain, as applicable, a statement of: (i) the time and place where bids received will be publicly opened and read; (ii) the name of the contracting Authority; (iii) the contract identification number; (iv) a brief description of the public work supplies, materials, or equipment sought, the location where work is to be performed, goods are to be delivered or services provided and the contract term; (v) the address where bids or proposals are to be submitted; (vi) the date when bids or proposals are due; (vii) a description of any eligibility or qualification requirement or preference; (viii) a statement as to whether the contract requirement may be fulfilled by a subcontracting, joint venture or co-production

arrangement; (ix) any other information which the Authority deems useful to potential contractors; and (x) the name, address, and telephone number of the person to be contacted for additional information. In addition, if a purchase contract is involved, the advertisement in the NYSCR shall also include a statement as to whether the goods sought had in the immediately preceding three year period been supplied by a foreign business enterprise as that term is defined in Article 4-C of the Economic Development Law

- D. Advertisement in a general circulation newspaper and in the NYSCR is not required if the Authority regularly purchases the particular supplies, material or equipment and bids are solicited from a list of potential suppliers for the item which has been established and maintained as set forth in Article VI hereof.
- E. In addition to the above advertisements, the Authority shall provide notice to professional and other organizations, if any, that regularly notify MWBEs and SDVOBs of the type of procurement opportunity that is the subject of the solicitation.

Article VI - Contractor Outreach

The Authority shall encourage firms to be interested in competing for Authority contracts. The Authority shall do so in the following manner:

- A. Suppliers Lists for Purchase Contracts: The Authority shall compile a list of potential sources of supplies, materials, equipment, and other goods which it regularly purchases. Such list must be compiled in accordance with the following procedures:
 - 1. Advertisements must be periodically placed in one or more publications which are likely to be read by manufacturers, suppliers and others who deal in the item including firms which may be minority or woman owned businesses, which set forth a general description of categories of items which are regularly procured by the Authority and invites firms to advise the Authority in writing of their interest in being placed on the suppliers list for specific items or categories of items.
 - 2. A periodic effort:
 - i) must be undertaken to identify potential bidders for the item who are not on the list including minority or woman owned businesses and service disabled veterans. Such effort shall include the use of the Authorities' websites, use of appropriate publications, including those, if any, that serve minority and women's business communities, and service disabled veterans other sources of information, and cooperation with federal, state and local agencies and other Authorities. Where appropriate, a print or electronic letter shall be sent to a new potential supplier which invites it to request that

it be added to the list and, if it does not wish to be added, requests that it indicate why.

ii) where appropriate, must be undertaken to identify firms which have not responded to bids or expressed an interest in remaining on a list. An effort should be made to contact such firms to determine why they have not bid, whether they are interested in remaining on the list and, if not, why not. A firm may be deleted from the list where it requests deletion, or where the circumstances indicate that it is unlikely that the firm is interested in remaining on the list.

3. The Authority will maintain lists of qualified MWBEs and SDVOBs, including professional firms that have expressed an interest in doing business with the Authority and ensure that such lists are updated regularly. The Authority will also consult the lists of MWBEs maintained by the New York State Department of Economic Development (“**DED**”) and the lists of SDVOBs maintained by the New York State Office of General Services (“**OGS**”), Division of Service-Disabled Veterans’ Business Development
4. An advertisement must be placed quarterly in the State Register and in the NYSCR.
5. In the event it is not practicable to maintain a suppliers list for a specific item, such item shall be included in a broader category or other appropriate classification which reasonably includes the item, and a suppliers list shall be maintained with respect to the category or classification.

- B. Capital Program Purchase and Public Work Contracts: The Authority shall place an advertisement in the NYSCR no less than four times per year which sets forth a general list of anticipated capital program Purchase Contracts and Public Work Contracts, and the address of the Authority's office which may be contacted in order to be afforded the opportunity to compete for such contracts and for other Authority contracts. Advertisements will also be placed in publications that serve minority and women’s business communities.

Article VII – Minority/Women Owned and Disadvantaged Business Enterprises and Service-Disabled Veteran-Owned Businesses:

The potential exists for disadvantaged/minority/women owned business enterprise and SDVOB involvement in General Contracts. The Authority shall use its best efforts to maximize the utilization, as applicable, of certified disadvantaged business enterprises (“**DBEs**”) under the Authority's federal program, and MWBEs and SDVOBs under the New York State programs set forth in Public Authorities Law §2879, Article 15-A and 17-B of the Executive Law and these General Contract Guidelines.

- A. The MTA Chief Diversity Officer ("**Chairman's Designee**") is responsible for overseeing the programs established by the MTA to promote and assist: i) the participation by MWBEs and SDVOBs in procurement opportunities and facilitation of the award of General Contracts to such enterprises; ii) the utilization of MWBEs and SDVOBs as subcontractors and suppliers to Authority prime contractors; and iii) the utilization of partnerships, joint ventures ("**JVs**") or other similar arrangements between MWBEs, SDVOBs and prime contractors. The Chief Diversity Officer reports directly to the Chairman in connection with the responsibilities set forth herein, and will participate in the procurement process either directly or through his or her designees.
- B. For contracts awarded pursuant to these General Contract Guidelines, the Authority shall establish appropriate goals for participation by MWBEs and SDVOBs and for the utilization by prime contractors of MWBEs and SDVOBs as subcontractors and suppliers. Statewide MWBE numerical participation target goals will be established by the Authority based on the findings of the New York State 2010 Disparity Study, or any subsequent New York State Disparity Study.
- C. The Authority will conduct non-federally funded procurements in a manner that enables the Authority to achieve the maximum feasible portion of the goals set pursuant to Article VII (B), including by taking the following actions:
- i) establishing measures and procedures to ensure that MWBEs and SDVOBs are given the opportunity for maximum feasible participation in the performance of Authority contracts and to assist in the identification of those contracts that are best suited for which MWBEs and SDVOBs may best bid to actively and affirmatively promote and assist their participation in the performance of Authority contracts so as to facilitate the Authority's achievement of the maximum feasible portion of the MWBE and SDVOB goals;
 - ii) designating the New York State Division of Minority and Women-owned Business Development ("**DMWBD**") to certify and decertify MWBEs, and OGS Division of Service-Disabled Veterans' Business Development to certify and decertify SDVOBs, for purposes of these General Contract Guidelines;
 - iii) setting forth in each contract solicitation the expected degree of MWBE and SDVOB participation based on potential subcontracting opportunities and the availability of MWBEs and SDVOBs to respond competitively to those opportunities;
 - iv) providing to prospective contractors in writing, or by identifying a link to a specific web site, a current list of MWBEs and SDVOBs;
 - v) with regard to JVs, allowing a bidder to count toward meeting its MWBE and SDVOB participation goals, the MWBE or SDVOB portion of the JV;
 - vi) waiving a contractor's obligation relating to MWBE or SDVOB participation after a showing of good faith efforts to comply with the participation goal; and

- vii) verifying that MWBEs and SDVOBs listed in a successful bid or proposal are actually participating to the extent listed in the project for which the bid or proposal was submitted.

The Authority will also consider, where practicable:

- a. the severability of construction projects and other bundled contracts;
- b. with respect to MWBEs, the implementation of a program that will enable the Authority to evaluate each contract to determine the appropriateness of the goal pursuant to the New York State 2010 Disparity Study, or any subsequent New York State Disparity Study; and
- c. compliance with the requirements of any federal law concerning opportunities for any DBEs, MWBEs and SDVOBs which effectuates the purposes of this Article VII.

- D. The Chairman's Designee is responsible for ensuring compliance with all applicable laws and regulations with regard to the utilization of DBEs on federally funded General Contracts.

Article VIII - Change Orders

- A. A change order to a General Contract which exceeds the lesser of \$750,000 or \$250,000 in the event such change order exceeds 15% of the adjusted contract value, may be entered into by an Authorized Officer, upon the approval of the Board pursuant to a resolution adopted in accordance with Article IX hereof. The submission to the Board shall include an explanation of the need for the change order. All other change orders shall be approved by an Authorized Officer; provided that a change order over \$250,000 must be approved by the Authority president or his or her designee. For purposes of this Article, the "adjusted contract value" shall mean the original amount of the contract plus the aggregate amount of all prior change orders (whether or not approved by the Board). This provision applies to all contracts subject to these General Contract Guidelines, including budget adjustments to estimated quantity contracts previously approved by the Board which exceed the threshold.
- B. Notwithstanding the foregoing, an Authorized Officer may enter into a change order in any of the following situations as determined by an Authorized Officer:
 - 1. The existence of an emergency; or
 - 2. There is a risk of a substantial increase in cost or delay if prompt action is not taken.
 - 3. The change order is for a Design-Build contract where the Board has previously declared (as described in Article III(B)(6)) that it is in the public interest to award the contract through a competitive RFP process, and such change order does not change the total contract price to exceed the project budgeted cost, including contingency.

- C. The Chief Operating Officer shall establish policies with respect to the delegation of responsibilities set forth in this Article.

Article IX - Form of Board Resolution

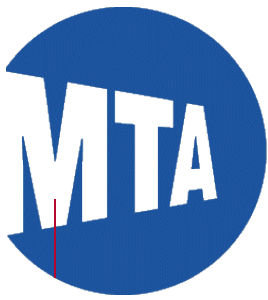
- A. Except as otherwise required in Article III, the procedure for the adoption by the Board and the format of a resolution pursuant to these General Contract Guidelines shall be determined by the MTA Chairman and may be in the form of a staff summary or a formal resolution. Provided, however, that any Board resolution or staff summary sought pursuant to these General Contract Guidelines shall (i) identify the contractor by name ; (ii) briefly describe the substance of the General Contract; (iii) specify all the information required under the applicable provisions of these General Contract Guidelines; and (iv) specify the estimated or actual cost to the Authority or that the estimated or actual cost shall be within the budget approved by the Board for that purpose.
- B. To the extent practicable, the recommendation of award and the associated resolution or staff summary shall first be submitted to the standing committee of the Board responsible for the Authority.
- C. The MTA Chairman may modify the procedures in this Article for all Authorities.

Article X - Miscellaneous

- A. Any provision of these General Contract Guidelines may be waived by the Chairman, an Authority President, or the Board, or such individuals as they may designate, except to the extent prohibited by law. A waiver may also be in the form of a ratification. If a contract is federally assisted, prior to issuing a waiver, consideration should be given to the steps which may be taken to assure that federal assistance is not jeopardized.
- B. No Board Committee action or Authority policy, other than one approved by the Chairman, shall be inconsistent with these General Contract Guidelines.
- C. An Authority may not divide or split any contract or series of contracts for the purpose of avoiding the requirements of these General Contract Guidelines provided that with regard to SBMP and SBFP contracts awarded under Article III(C) and discretionary contracts awarded under Article III(D), an Authority may divide requirements for the purpose of unbundling contracts to create SBMP, SBFP or discretionary contracting opportunities.
- D. If prior to the commencement of an Authority fiscal year, an Authorized Officer reasonably anticipates that, during the next fiscal year, the Authority will expend, in the aggregate, in excess of \$100,000 for a series of Purchase Contracts for the same or substantially similar good or for a series of Public Work Contracts for same

or substantially the same type of public work: i) such requirement shall be met pursuant to a requirements contract awarded pursuant to the applicable provisions of these General Contract Guidelines; ii) each such Purchase Contract shall be awarded pursuant to the provisions of Article II(C), III, IV or Article VI of these General Contract Guidelines or iii) each such contract shall be awarded pursuant to the provisions of Article II(C) or III or a procedure determined by an Authorized Officer to be comparable to Article IV or VI.

- E. Nothing in these General Contract Guidelines shall preclude the Authority from accepting bids or proposals utilizing an electronic bidding system that may inform bidders whether their bid is the current low bid, and allow bidders to submit new bids before the date and time assigned for the opening of bids. Such procedure shall not constitute disclosure in violation of Section 2878 of the Public Authorities Law.
- F. A General Contract awarded by an Authority pursuant to these General Contract Guidelines may provide that the General Contract includes the requirements of one or more other Authorities.
- G. The Authority shall prepare a publicly available report no less frequently than annually, summarizing procurement activity by the Authority for the period of the report in accordance with the reporting requirements of Section 2879(6) of the Public Authorities Law.
- H. These General Contract Guidelines are intended for the guidance of officers and employees of the Authority only. Nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under, or by reason of, any requirement or provision hereof.
- I. Nothing in these General Contract Guidelines shall preclude the Authority from offering stipends to proposers on Design-Build contracts as part of an RFP process. The request for Board approval to use the RFP process for a specific Design-Build contract may include a request for approval of the use of stipends in connection with such RFP.
- J. Nothing contained in these General Contract Guidelines shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of these General Contract Guidelines.
- K. Where applicable federal, state or local laws, ordinances, codes, rules or regulations contain requirements which are in conflict with or which impose greater obligations upon the Authority than these General Contract Guidelines, then such requirements shall take precedence over those contained herein.



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Adopted by the Board on ~~March 25, 2015~~ June 22, 2016

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~~This policy applies~~ These General Contract Guidelines apply to i)

- i) purchase contracts for supplies, materials ~~or~~, equipment ("~~purchase contracts~~"); ii) or other goods ("Purchase Contracts");
- ii) public work contracts ("~~public work contracts~~"); and iii) Public Work Contracts"); and
- iii) "Miscellaneous Procurement Contracts" (which are defined as leases of equipment with or without an option to purchase, computer software licenses and including software as a service subscriptions, software maintenance agreements, printing contracts (where editorial services do not predominate), and to any other contract which is not otherwise classified under these guidelines General Contract Guidelines or the All Agency Guidelines for Procurement of Services ("miscellaneous procurement contracts" Service Contract Procurement Guidelines (the “Service Contract Guidelines”, and collectively with these General Contract Guidelines, the “Guidelines”)).

Purchase Contracts, Public Work Contracts and Miscellaneous Procurement Contracts are collectively referred to herein as “General Contracts”).

In the event a proposed contract contains elements of more than one type of ~~contract under these Guidelines or the All Agency Guidelines for Procurement of Services~~ General Contract and/or elements of either or both types of Service Contracts (as such term is defined in the Service Contract Guidelines), the elements ~~which predominate~~ of the type of contract that predominates shall determine the whether the General Contract Guidelines or the Service Contract Guidelines apply and which type of contract ~~for purposes of both within the applicable Guidelines- shall apply.~~

Article II - Delegation of Authority

The Chairman, the ~~presidents~~President of the ~~Authorities~~respective Authority, or the designated representative or representatives thereof (each defined for purposes of these ~~guidelines~~General Contract Guidelines as an "Authorized Officer") are hereby empowered with respect to ~~purchase contracts, public work contracts, and miscellaneous procurement contracts~~General Contracts to be entered into by the respective Authority acting on its own behalf or as agent for MTA, as follows:

- A. to ~~establish procedures which shall be competitive to the extent deemed practicable by the Authorized Officer, for the award of purchase contracts estimated to involve the expenditure of \$15,000 or less and public work contracts estimated to involve the expenditure of \$25,000 or less;~~implement these General Contract Guidelines.
- B. to ~~establish procedures for the award of miscellaneous procurement contracts regardless of the estimated expenditure, which procedures shall provide for Board approval of the award if the contract provides for the estimated expenditure of more than \$25,000 and is not awarded pursuant to sealed competitive bidding. A majority of the members of the Board in attendance at a meeting at which a quorum is present shall be required to approve the resolution authorizing such award which shall be competitive to the extent deemed practicable by the Authorized Officer, for the award of Purchase Contracts, Public Work Contracts or Miscellaneous Procurement Contracts estimated to involve the expenditure of \$100,000 or less;~~
- C. for ~~purchase contracts estimated to involve the expenditure of more than \$15,000 and public work contracts~~Purchase Contracts and Public Work Contracts estimated to involve the expenditure of more than ~~\$25,000~~100,000:
 1. to determine the criteria for the evaluation of bids which may include but are not limited to unit or aggregate amount bid, life cycle costs or savings (including but not limited to costs or savings associated with installation, energy use, maintenance, operation, salvage and disposal), discounts and costs of maintenance and inspection services;
 2. to determine whether a ~~contract~~Purchase Contract or Public Work Contract required to be advertised in the New York State ~~contract reporter~~Contract Reporter ("NYSCR") is exempt from such requirement on the basis of a need to award ~~the~~such contract on an emergency or critical basis;
 3. to advertise for, solicit and open bids;
 4. to record the name of each bidder and the amount(s) bid;
 5. to determine the lowest responsive and responsible bidder, including, in the event two or more responsible bidders submit identical bids which are the lowest bids, to award the ~~contract~~Purchase Contract or Public Work Contract to any of such bidders or obtain new bids from such bidders;
 6. to reject all bids when it is determined to be in the public interest to do so; and
 7. to award the ~~contract~~Purchase Contract or Public Work Contract.

- D. to determine whether a bidder ~~or prospective bidder should be ineligible to act or bid as a contractor or act as a subcontractor for a fixed or indefinite period of time with respect to contracts of the Authority in question is responsible pursuant to the All-Agency Responsibility Guidelines.~~
- E. in addition to the other authorizations set forth elsewhere in this document, to establish guidelines governing the qualifications of bidders for ~~public works and public contracts~~General Contracts, and to fix the standards for the prequalification of bidders entering into such contracts; for the East Side Access Project in accordance with Section 1265-a.2(c) of the Public Authorities Law.

Article III - Award of General Contracts Without Competitive Bidding

- A. A Miscellaneous Procurement Contract estimated to involve the expenditure of more than \$100,000, may be awarded after soliciting three or more bids or proposals, except for such contracts awarded pursuant to Article III (D) or (E) below. However, approval of a majority of the members of the Board in attendance at a meeting at which a quorum is present shall be required to approve the resolution authorizing award of a Miscellaneous Procurement Contract estimated to involve the expenditure of more than \$100,000 that is not awarded pursuant to sealed competitive bidding and no Board approval shall be required for a ride of another qualifying contract.
- A. ~~— A purchase contract estimated to involve the expenditure of more than \$15,000 and a public work contract~~ B. Except as otherwise provided in paragraphs C and D of this Article III, a Purchase Contract or a Public Work Contract estimated to involve the expenditure of more than \$~~25,000~~100,000 may be awarded without competitive bidding under the circumstances set forth below, provided that the Authorized Officer recommends such an action and the Board adopts a resolution (i) declaring competitive bidding to be impractical or inappropriate ~~and states because of the existence of any of the circumstances set forth in Articles III(B)(1) to (6), (ii) stating the reasons therefore, and summarizes(iii) summarizing~~ any negotiations that have been conducted. Except in a situation specified in Article III (~~AB~~) (1), such resolution shall be approved by two-thirds of the members of the Board then in office. A ~~declaration~~resolution under Article III (~~AB~~) (1) shall require approval by a majority of the members of the Board in attendance at a meeting at which a quorum is present.
1. Emergency. The existence of an emergency involving danger to life, safety or property which requires immediate action and cannot await competitive bidding; or when the item to be purchased is essential to the efficient operation of or the adequate provision of service and, as a consequence of an unforeseen circumstance, such purchase cannot await competitive bidding. Competitive bidding is hereby declared to be impractical and inappropriate in any of the foregoing situations where an Authorized Officer

must take appropriate action and cannot await action by the Board; provided, however, that notice of such action shall be given to the Board ~~at its next scheduled meeting~~ as soon as practicable, together with a statement of the reasons for such action and a request for ratification by the Board.

2. Single Source. The item to be purchased is available only from a single responsible source provided, however, that a notice of the Authority's intent to purchase such item without competitive bidding shall be posted on the Authority's website, and, if bids have not been solicited for such item within the preceding twelve months, a notice must be published pursuant to Article ~~VI(A)~~V hereof. Any notices required by this paragraph shall set forth the Authority's intent to purchase the item without competitive bidding because the item is available from only one source and invites any firm which believes it can provide the item to so inform the Authority and to provide the Authority with additional information which confirms that it can supply the item.
3. No Bids or One Responsive Bid. Competitive bids are solicited and
 - a. no responsive bid is received; or
 - b. only a single responsive bid is received, and the Authorized Officer rejects the bid.
4. Experiments, Tests and Evaluations. With respect to a product or technology, the Authority wishes to:
 - a. experiment with or test it;
 - b. experiment or test a new source for it; or
 - c. evaluate its service or reliability.

Such a contract may not be awarded until at least thirty days after the date the Board has declared competitive bidding to be impractical or inappropriate-

5. Riding an Existing Contract. The item is available through an existing ~~contract~~General Contract between a vendor and any of the following and the resolution adopted by the Board includes a determination that, and the reasons, why, it is in the public interest to do so:
 - a. An Authority or any other public authority provided such ~~contract~~General Contract had been awarded through a process of competitive bidding or a competitive request for proposals;
 - b. The State of New York, The City of New York, or (except for Transit and MaBSTOA) the County of Nassau.

It is hereby determined that competitive bidding is inappropriate and, because of the likelihood that a competitive process will not result in better commercial terms, that it is in the public interest to purchase an item through an existing ~~contract~~General Contract of the State of New York, The City of New York ~~or an, a different~~ Authority, or any other public authority, where price and other commercial terms specified in such ~~contract~~General Contract are satisfactory to the Authorized Officer. Such a determination shall be documented in writing by the Authorized Officer.

6. Request For Proposals. The Authority determines that it is in the public interest to award the ~~contract through~~General Contract through a competitive request for proposals ("RFP") ~~in accordance with the procedures set forth in Article IV") process.~~
- a. For purposes of this ~~subsection~~Article III(B)(6), a competitive RFP shall mean a method of soliciting proposals and awarding a ~~contract~~General Contract on the basis of a formal evaluation of the characteristics which are deemed relevant to the Authority's operations, such as quality, cost, delivery schedule and financing, against stated selection criteria. Where the RFP involves the purchase or rehabilitation of rail cars, transit cars or buses, the selection criteria may also include the extent to which the performance of all or a portion of the contract will involve the use of sites within the State of New York or the use of goods produced or services provided within the State of New York.
- ~~B. Under the MTA Small Business Mentoring Program, a non-federally funded public work contract that is designated by the Authority as a small business mentoring program contract within the meaning of Section 1265-b(1)(e) of the Public Authorities Law, may be awarded in accordance with the provisions of Section 1265-b of the Public Authorities Law, notwithstanding any other provision of law or these guidelines. A public work contract that is partially or wholly federally funded, subject to Department of Transportation regulations and estimated to involve an expenditure of not more than \$3 million, may be awarded pursuant to the MTA Small Business Federal Program established under 49 CFR 26.39 in accordance with the competitive procedures established under that Program, notwithstanding any other provision of law or these guidelines. The Chairman or his designee is authorized to designate which eligible public work contracts shall be small business mentoring program or small business federal program contracts.~~
- ~~C. A contract, in an amount not to exceed \$200,000 for the purchase of goods, for public works or for a miscellaneous procurement that is not federally funded, may be awarded pursuant to Section 2879(3)(b)(i) of the Public Authorities Law without competitive bidding or other formal competitive process, notwithstanding any other provision of law or these guidelines, where either (i) the contract involves goods or technology that are recycled or remanufactured or (ii) the proposed award is to a small business concern or a certified minority or women-owned business enterprise~~

~~(“MWBE”). The Chairman or his designee shall determine which contracts are appropriate for such types of procurements in consultation with the Authorized Officer of the appropriate agency. In the case of contracts that are designated pursuant to Section 2879(3)(b)(i) for award to eligible small business concerns or MWBEs, there shall be notice of the proposed contract on the Authority website inviting responsive bids or proposals from qualified small business concerns and MWBEs. Notice of such procurement shall also be provided to identified organizations that represent or regularly notify small business concerns or MWBEs of the type of procurement opportunity that is the subject of the award. Awards pursuant to Section 2879(3)(b)(i) shall be made to the bidder or proposer determined to have submitted the bid or proposal that is most advantageous to the Authority, price and any other relevant factors considered. An award proposed to be made to a bidder or proposer other than the lowest responsible, responsive bidder or proposer shall require approval by a majority of the Board at which a quorum is present. The Chairman or his designee, in consultation with the Authorized Officer of the appropriate agency, may reject all offers and withdraw the designation of a contract as one to be awarded pursuant to Section 2879(3)(b)(i) if the Chairman or his designee determines that an award will result in the payment of an unreasonable price or otherwise not be advantageous to the Authority.~~

Article IV – Requests for Proposals

~~—————~~ A contract authorized pursuant to Article III (A)(6) may be awarded after the issuance of an RFP in the following manner:

- b. For those contracts awarded under this Article III(B)(6), (1) such contract may not be awarded until at least thirty days after the Board has declared competitive bidding to be impractical or inappropriate and (2) the Board’s approval resolution must (i) disclose the other proposers and the substance of their proposals, (ii) summarize the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (iii) set forth the criteria upon which the selection was made. The Board’s contract approval resolution may be adopted simultaneously with or subsequent to the Board’s declaration that competitive bidding is impractical or inappropriate, provided that, if the Board’s declaration and the Board’s approval resolution are adopted simultaneously or within less than thirty days of each other, the subject contract may be executed by the Authority no less than thirty days after the adoption of the Board’s declaration that competitive bidding is impractical or inappropriate.

~~—————~~ A. ~~Public notice shall be given of the RFP in accordance with the procedures specified in Article VI(A) and (B). In addition to the information required under Article VI(C), the public notice of an RFP must include a statement of the selection criteria. Such notice shall also be provided by mail or electronically to professional and other~~

organizations, if any, that represent or regularly notify certified MWBEs minority or women-owned business enterprises ("MWBEs") or a certified service disabled veteran owned business ("SDVOBs") of the type of procurement opportunity that is the subject of the RFP notice.

- c. The Authority may engage in a selection process involving multiple steps such as requests for qualifications, requests for technical proposals and requests for quotations. After the publication of the notice, any or all of the selection criteria specified in the advertisement may be changed, provided that, if the change is material, proposers and potential proposers who, prior to the deadline for the receipt of proposals, have expressed an interest in the RFP, shall be informed of the change and afforded the opportunity to modify their proposals.

~~B.~~ After receipt of the proposals, an Authority may:

1. change the selection criteria provided that, if the change is material, all proposers that have not been eliminated from the competitive process prior to such change, are informed of the change and afforded the opportunity to modify their proposals;
2. request that any of the proposers make a presentation. If it does so, it is not required to afford such opportunity to all proposers;
3. negotiate with any of the proposers. If it does so, it is not required to negotiate with all proposers;
4. reject any proposal at any time; and
5. reject all proposals, in which event the Authority may decide to take no further action, solicit new proposals or solicit bids.

- C. A contract may be awarded pursuant to an RFP only after adoption of a resolution by a 2/3 vote of the Board members then in office (the "award resolution"). Under the MTA Small Business Mentoring Program (the "SBMP"), a non-federally funded Public Work Contract that is designated by the Authority as a small business mentoring program contract ("SBMP Contract") within the meaning of Section 1265-b(1)(e) of the Public Authorities Law, may be awarded in accordance with the provisions of Section 1265-b of the Public Authorities Law, notwithstanding any other provision of law or these General Contract Guidelines. A Public Work Contract that is partially or wholly federally funded, subject to United States Department of Transportation regulations and estimated to involve an expenditure of not more than \$3 million, may be awarded pursuant to the MTA Small Business Federal Program (the "SBFP") established under 49 CFR 26.39 in accordance with the competitive procedures established under the SBFP, notwithstanding any other provision of law or these General Contract Guidelines. The Chairman or his/her designee is authorized to designate which eligible Public Work Contracts shall be SBMP or SBFP Public Work Contracts.

~~The award resolution:~~

- ~~1. must be recommended to the Board by the Authority's Authorized Officer;~~
- ~~2. must identify all proposers;;~~
- ~~3. must set forth the substance of the proposals received;;~~
- ~~4. must, as applicable, summarize the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals; and~~
- ~~5. must set forth the criteria upon which the selection was made.~~

D. ~~The award resolution may be adopted simultaneously with or subsequent to the adoption of the resolution declaring that competitive bidding is impractical or inappropriate because it is in the public interest to use the RFP process specified in the opening paragraph of Article III hereof (the "RFP authorizing resolution"); provided that, if the RFP authorizing resolution and the RFP award resolution are adopted simultaneously or within less than thirty days of each other, the contract may be executed by the Authority no less than thirty days after the adoption of the RFP authorizing resolution. A Purchase Contract or a Miscellaneous Procurement Contract, in an amount not to exceed \$400,000, that is not federally funded, may be awarded pursuant to Section 2879(3)(b)(i) of the Public Authorities Law without competitive bidding or other formal competitive process, notwithstanding any other provision of law or these General Contract Guidelines, where either (i) the Purchase Contract or Miscellaneous Procurement Contract involves goods or technology that are recycled or remanufactured or (ii) the proposed award is to a small business concern ("**SBC**"), an MWBE or a SDVOB.~~

~~The relevant Authority Chief Procurement Officer or his/her designee (the "**CPO**") shall determine which Purchase Contracts or Miscellaneous Procurement Contracts are appropriate for such types of procurements. In the case of Purchase Contracts or Miscellaneous Procurement Contracts that, pursuant to Section 2879(3)(b)(i), are eligible for award to SBCs, MWBEs or SDVOBs, the CPO may make a determination that any such Purchase Contract or Miscellaneous Procurement Contract may only be awarded to an MWBE, or only to an SDVOB, or only to an MWBE or an SDVOB. The basis for such a determination must be to promote participation of MWBEs and SDVOBs in Authority contracts, as mandated by Articles 15-A and 17-B of the Executive Law, and to assist the Authorities in achieving their MWBE and SDVOB goals. Notice of such procurements shall be placed on the Authority website inviting responsive proposals from qualified SBCs, MWBEs or SDVOBs. At least three bids or proposals must be solicited, and there must be a determination that the price is fair and reasonable. Awards pursuant to this process shall be made to the bidder or proposer determined to have submitted the bid or proposal that is most advantageous to the Authority, price and any other relevant factors considered. An award proposed to be made to a bidder or proposer other than the lowest responsible, responsive bidder or proposer shall require approval by a majority of the Board at which a quorum is present. The CPO may reject all offers and withdraw the designation of a contract as one to be awarded pursuant to this process if the CPO determines that an award~~

will result in the payment of an unreasonable price or otherwise not be advantageous to the Authority.

- E. Pursuant to Article 17-B of the Executive Law, the Authority may determine that a non-federally funded General Contract procurement is appropriate for a set-aside contract for SDVOBs. A notice shall be placed on the MTA website and the NYSCR, stating that only SDVOBs are eligible for contract award. The MTA and its agencies will administer set-aside procurements pursuant to the laws, rules and procedures that govern contracting for each type of procurement.

Article ~~V~~IV - Qualified Products Lists ("QPL")

The Board hereby determines that for reasons of efficiency, economy, compatibility or maintenance reliability, there is a need for standardization as to various supplies, materials and equipment which are purchased by the Authorities and authorizes the establishment of a qualified products list ("QPL") identifying such supplies, materials and equipment as hereinafter provided. A purchase contract for an item which has been included on a QPL duly established and maintained by an Authority, may be entered into by that Authority as hereafter set forth:

- A. The Authorized Officer of the Authority determines as to a specific item that, for reasons of efficiency, economy, compatibility or maintenance reliability, there is a need for standardization.
- B. The QPL is reviewed no less than two times per year. The purpose of this review is to evaluate whether to add or delete items or vendors to or from the QPL.
- C. A notice is published by the Authority no less than one time per year in a general circulation newspaper and in the ~~New York State contract reporter~~ NYSCR which:
1. advertises the existence of the QPL;
 2. states that the QPL is available for public inspection; and
 3. specifies the name and address of the Authority's office which may be contacted in regard to the procedure for the compilation of the QPL.
- D. A contract for an item on the QPL may be awarded:
1. without competitive bidding if only one source for the item is specified on the QPL;
 2. by competitive sealed bidding but without advertising provided the invitation to bid is sent to all vendors listed on the QPL for the particular item;
 3. by competitive sealed bidding after advertising the bid pursuant to Article ~~VI~~V(A) of these ~~procedures~~ General Contract Guidelines.

- E. Two or more Authorities may utilize the same QPL provided that such Authorities jointly comply with the provisions of this Article.

Article VI-V – Notice and Advertising

Except as provided in ~~subsection D of this~~ Article V(D) and Article II(~~CB~~)(2), in those instances where advertising is required under these General Contract Guidelines:

- A. ~~For purchase contracts~~ For Purchase Contracts and Public Work Contracts in the actual or estimated amount in excess of ~~\$15,000 for all Authorities and for public work contracts in the estimated amount in excess of \$25,000, the~~ 100,000, an advertisement shall be published at least once in a newspaper of general circulation in the area served by the Authority and in the ~~New York State contract reporter~~ NYSCR provided that, if the ~~contract~~ Purchase Contract or Public Work Contract is to be awarded without the solicitation of competitive bids or RFP, the timing of the publication in the ~~New York State contract reporter~~ NYSCR shall be determined by an Authorized Officer;

- B. The notice in the NYSCR must contain, as applicable, a statement of: i) the name of the contracting Authority; ii) the contract identification number; iii) a brief description of the services sought, the location where services are to be provided and the contract term; iv) the address where bids or proposals are to be submitted; v) the date when bids or proposals are due; vi) a description of any eligibility or qualification requirement or preference; vii) a statement as to whether the contract may be fulfilled by a subcontracting, joint venture or co-production arrangement; viii) any other information which the Authority deems useful to potential contractors; ix) the name, address and the telephone number of the person to be contacted for additional information; and x) a statement as to whether the services sought had, in the immediately preceding three year period, been supplied by a foreign business enterprise as that term is defined in Article 4-C of the Economic Development Law. The first publication shall be no less than fifteen business days prior to the planned bid opening date and the second publication shall be within a reasonable period prior to the planned bid opening date.

- ~~C.~~ The advertisement must contain, as applicable, a statement of: (i) the time and place where bids received will be publicly opened and read; (ii) the name of the contracting Authority; (iii) the contract identification number; (iv) a brief description of the public work supplies, materials, or equipment sought, the location where work is to be performed, goods are to be delivered or services provided and the contract term; (v) the address where bids or proposals are to be submitted; (vi) the date when bids or proposals are due; (vii) a description of any eligibility or qualification requirement or preference; (viii) a statement as to whether the contract requirement may be fulfilled by a subcontracting, joint venture or co-production arrangement; (ix) any other information which the Authority deems useful to

potential contractors; and (x) the name, address, and telephone number of the person to be contacted for additional information. In addition, if a purchase contract is involved, the advertisement in the ~~New York State contract reporter~~ NYSCR shall also include a statement as to whether the goods sought had in the immediately preceding three year period been supplied by a foreign business enterprise as that term is defined in Article 4-C of the Economic Development Law.

- D. Advertisement in a general circulation newspaper and in the ~~New York State contract reporter~~ NYSCR is not required if the Authority regularly purchases the particular supplies, material or equipment and bids are solicited from a list of potential suppliers for the item which has been established and maintained as set forth in Article ~~VHVI~~ hereof.
- E. In addition to the above advertisements, the Authority shall provide notice to professional and other organizations, if any, that regularly notify ~~certified~~ MWBEs and SDVOBs of the type of procurement opportunity that is the subject of the solicitation.

Article ~~VHVI~~ - Contractor Outreach

The Authority shall encourage firms to be interested in competing for Authority contracts. The Authority shall do so in the following manner:

- A. Suppliers Lists for Purchase Contracts: The Authority shall compile a list of potential sources of supplies, materials ~~or~~, equipment, and other goods which it regularly purchases. Such list must be compiled in accordance with the following procedures:
 - ~~1.1.~~ Advertisements must be periodically placed in one or more publications which are likely to be read by manufacturers, suppliers and others who deal in the item including firms which may be minority or woman owned businesses, which set forth a general description of categories of items which are regularly procured by the Authority and invites firms to advise the Authority in writing of their interest in being placed on the suppliers list for specific items or categories of items.
 - 2. A periodic effort:
 - i) must be undertaken to identify potential bidders for the item who are not on the list including minority or woman owned businesses and service disabled veterans. Such effort shall include the use of the Authorities' websites, use of appropriate publications, including those, if any, that serve minority and women's business communities, and service disabled veterans other sources of information, and cooperation with federal, state and local agencies and other Authorities. Where appropriate, a print or electronic letter shall be sent to a new potential ~~bidders~~ supplier which invites

it to request that it be added to the list and, if it does not wish to be added, requests that it indicate why.

ii) where appropriate, must be undertaken to identify firms which have not responded to bids or expressed an interest in remaining on a list. An effort should be made to contact such firms to determine why they have not bid, whether they are interested in remaining on the list and, if not, why not. A firm may be deleted from the list where it requests deletion, or where the circumstances indicate that it is unlikely that the firm is interested in remaining on the list.

3. The Authority will maintain lists of qualified MWBEs and certified MWBEs/SDVOBs, including professional firms that have expressed an interest in doing business with the Authority and ensure that such lists are updated regularly. The Authority will also consult the lists of ~~certified~~ MWBEs maintained by the New York State Department of Economic Development (“DED”); and the lists of SDVOBs maintained by the New York State Office of General Services (“OGS”), Division of Service-Disabled Veterans’ Business Development
4. An advertisement must be placed quarterly in the State Register and in the ~~New York State contract reporter~~ NYSCR.
5. In the event it is not practicable to maintain a suppliers list for a specific item, such item shall be included in a broader category or other appropriate classification which reasonably includes the item, and a suppliers list shall be maintained with respect to the category or classification.

- B. Capital Program Purchase and Public Work Contracts: The Authority shall place an advertisement in the ~~New York State contract reporter~~ NYSCR no less than four times per year which sets forth a general list of anticipated capital program ~~purchase contracts and public work contracts~~ Purchase Contracts and Public Work Contracts, and the address of the Authority's office which may be contacted in order to be afforded the opportunity to compete for such contracts and for other Authority contracts. Advertisements will also be placed in publications that serve minority and women’s business communities.

Article ~~VHHVII~~ – Minority/Women Owned and Disadvantaged Business Enterprises and Service-Disabled Veteran-Owned Businesses:

The potential exists for disadvantaged/minority/women owned business enterprise and SDVOB involvement in ~~Authority contracts~~ General Contracts. The Authority shall use its best efforts to maximize the utilization, as applicable, of ~~DBEs~~ certified disadvantaged business enterprises (“DBEs”) under the Authority's federal program, and ~~MBEs/WBEs~~ MWBEs and

SDVOBs under the New York State ~~program~~programs set forth in Public Authorities Law §2879, Article 15-A and 17-B of the Executive Law and these ~~guidelines~~General Contract Guidelines.

- A. The MTA Chief Diversity Officer ("Chairman's Designee") is responsible for overseeing the programs established by the MTA to promote and assist: i) the participation by ~~certified~~ MWBEs and SDVOBs in procurement opportunities and facilitation of the award of ~~procurement contracts~~General Contracts to such enterprises; ii) the utilization of ~~certified~~ MWBEs and SDVOBs as subcontractors and suppliers to Authority prime contractors; and iii) the utilization of partnerships, joint ventures ("JVs") or other similar arrangements between ~~certified~~ MWBEs, SDVOBs and prime contractors. The Chief Diversity Officer reports directly to the Chairman in connection with the responsibilities set forth herein, and will participate in the procurement process either directly or through his or her designees.
- B. For contracts awarded pursuant to these General Contract Guidelines, the Authority shall establish appropriate goals for participation by ~~certified~~ MWBEs and SDVOBs and for the utilization by prime contractors of MWBEs and SDVOBs as subcontractors and suppliers. Statewide MWBE numerical participation target goals will be established by the Authority based on the findings of the New York State 2010 Disparity Study, or any subsequent New York State Disparity Study.
- C. The Authority will conduct non-federally funded procurements in a manner that enables the Authority to achieve the maximum feasible portion of the goals set pursuant to Article ~~VIII~~VII (B) ~~above~~, including by taking the following actions: ~~i)~~
- i) establishing measures and procedures to ensure that ~~certified~~ MWBEs and SDVOBs are given the opportunity for maximum feasible participation in the performance of Authority contracts and to assist in the identification of those contracts that are best suited for which ~~certified~~ MWBEs and SDVOBs may best bid to actively and affirmatively promote and assist their participation in the performance of Authority contracts so as to facilitate the Authority's achievement of the maximum feasible portion of the MWBE and SDVOB goals; ~~ii)~~
 - ii) designating the New York State Division of Minority and Women-owned Business Development ("DMWBD") to certify and decertify MWBEs, and OGS Division of Service-Disabled Veterans' Business Development to certify and decertify SDVOBs, for purposes of these ~~guidelines; iii)~~General Contract Guidelines;
 - iii) setting forth in each contract solicitation the expected degree of MWBE and SDVOB participation based on potential subcontracting opportunities and the availability of ~~certified~~ MWBEs and SDVOBs to respond competitively to those opportunities; ~~iv)~~
 - iv) providing to prospective contractors in writing, or by identifying a link to a specific web site, a current list of MWBEs and SDVOBs; ~~v)~~
 - v) with regard to ~~joint ventures~~JVs, allowing a bidder to count toward meeting its MWBE and SDVOB participation ~~goal~~goals, the MWBE or SDVOB portion of the ~~joint venture~~JV; ~~vi)~~

- vi) waiving a contractor's obligation relating to MWBE or SDVOB participation after a showing of good faith efforts to comply with the participation goal; and ~~vii)~~
- vii) verifying that MWBEs and SDVOBs listed in a successful bid or proposal are actually participating to the extent listed in the project for which the bid or proposal was submitted. ~~In implementing its MWBE programs, the~~

The Authority will also consider, where practicable: ~~i)~~

- a. the severability of construction projects and other bundled contracts; ~~ii)~~
- b. with respect to MWBEs, the implementation of a program that will enable the Authority to evaluate each contract to determine the appropriateness of the goal pursuant to the New York State 2010 Disparity Study, or any subsequent New York State Disparity Study; ~~iii)-and~~
- c. compliance with the requirements of any federal law concerning opportunities for any DBEs, MWBEs and SDVOBs which effectuates the ~~purpose of this section; and iv) consultation of the most recent disparity study.~~ purposes of this Article VII.

D. The Chairman's Designee is responsible for ensuring compliance with all applicable laws and regulations with regard to the utilization of DBEs on federally funded General Contracts.

Article ~~IX~~VIII - Change Orders

- A. A change order to a General Contract which exceeds the lesser of \$750,000 or \$250,000 in the event such change order exceeds 15% of the adjusted contract value, may be entered into by an Authorized Officer, upon the approval of the Board pursuant to a resolution adopted in accordance with Article IX hereof. The submission to the Board shall include an explanation of the need for the change order. All other change orders shall be approved by an Authorized Officer; provided that a change order over \$250,000 must be approved by the Authority president or his or her designee. For purposes of this Article, the "adjusted contract value" shall mean the original amount of the contract plus the aggregate amount of all prior change orders (whether or not approved by the Board). This provision applies to all contracts subject to these General Contract Guidelines, including budget adjustments to estimated quantity contracts previously approved by the Board which exceed the threshold.
- B. Notwithstanding the foregoing, an Authorized Officer may enter into a change order in any of the following situations as determined by an Authorized Officer:
 - 1. The existence of an emergency; or
 - 2. There is a risk of a substantial increase in cost or delay if prompt action is not taken.
 - 3. The change order is for a Design-Build contract where the Board has previously declared (as described in Article III(B)(6)) that it is in the public

interest to award the contract through a competitive RFP process, and such change order does not change the total contract price to exceed the project budgeted cost, including contingency.

- C. The Chief Operating Officer shall establish policies with respect to the delegation of responsibilities set forth in this Article.

Article XIX - Form of Board Resolution

- A. Except as otherwise required in Article III ~~and Article IV(C)~~, the procedure for the adoption by the Board and the format of a resolution pursuant to ~~this policy~~ these General Contract Guidelines shall be determined by the MTA Chairman and may be in the form of a staff summary or a formal resolution. Provided, however, that any Board resolution or staff summary sought pursuant to these General Contract Guidelines shall (i) identify the ~~contract~~ contractor by ~~vendor name~~; (ii) briefly describe the substance of the ~~contract~~ General Contract; (iii) specify all the information required under the applicable provisions of ~~this policy~~ these General Contract Guidelines; and (iv) specify the estimated or actual cost to the Authority or that the estimated or actual cost shall be within the budget approved by the Board for that purpose.
- B. To the extent practicable, the ~~request for~~ recommendation of award and the associated resolution or staff summary shall first be submitted to the standing committee of the Board responsible for the Authority.
- C. The MTA Chairman may modify the procedures in this Article for all Authorities.

Article XIX - Miscellaneous

- A. ~~Any provision of this policy~~ these General Contract Guidelines may be waived by the Chairman, an Authority President, or the Board, or such individuals as they may designate, except to the extent prohibited by law. A waiver may also be in the form of a ratification. If a contract is federally assisted, prior to issuing a waiver, consideration should be given to the steps which may be taken to assure that federal assistance is not jeopardized.
- B. No Board Committee action or Authority policy, other than one approved by the Chairman, shall be inconsistent with these General Contract Guidelines.
- C. An Authority may not divide or split any contract or series of contracts for the purpose of avoiding the requirements of these ~~Guidelines~~ General Contract Guidelines provided that with regard to SBMP and SBFP contracts awarded under Article III(C) and discretionary contracts awarded under Article III(D), an Authority

may divide requirements for the purpose of unbundling contracts to create SBMP, SBFP or discretionary contracting opportunities.

- D. If prior to the commencement of an Authority fiscal year, an Authorized Officer reasonably anticipates that, during the next fiscal year, the Authority will expend, in the aggregate, in excess of ~~fifteen thousand dollars~~\$100,000 for a series of ~~purchase contracts~~Purchase Contracts for the same or substantially similar good or for a series of Public Work Contracts for same or substantially the same type of public work: i) such requirement shall be met pursuant to a requirements contract awarded pursuant to the applicable provisions of these ~~guidelines; or~~General Contract Guidelines; ii) each such ~~contract~~Purchase Contract shall be awarded pursuant to the provisions of Article II(C), III, IV, ~~V~~ or Article ~~VII of these Guidelines~~VI of these General Contract Guidelines or iii) each such contract shall be awarded pursuant to the provisions of Article II(C) or III or a procedure determined by an Authorized Officer to be comparable to Article IV or VI.
- E. ~~If prior to the commencement of an Authority fiscal year, an Authorized Officer reasonably anticipates that, during the next fiscal year, the Authority will expend, in the aggregate, in excess of twenty-five thousand dollars for a series of contracts for same or substantially the same type of public work: i) such requirements shall be met pursuant to a requirements contract awarded pursuant to the provisions of Article II(C), III, or IV or a procedure determined by an Authorized Officer to be comparable to Article V or VII of these Guidelines; or ii) each such contract shall be awarded pursuant to the provisions of Article II(C), III, or IV or a procedure determined by an Authorized Officer to be comparable to Article V or VII. Nothing in these General Contract Guidelines shall preclude the Authority from accepting bids or proposals utilizing an electronic bidding system that may inform bidders whether their bid is the current low bid, and allow bidders to submit new bids before the date and time assigned for the opening of bids. Such procedure shall not constitute disclosure in violation of Section 2878 of the Public Authorities Law.~~
- F. ~~Nothing in these Guidelines shall preclude the Authority from accepting bids or proposals in an electronic format, to the extent permitted by law.~~
- G. ~~A contract~~F. A General Contract awarded by an Authority pursuant to these General Contract Guidelines may provide that the ~~contract~~General Contract includes the requirements of one or more other Authorities.
- H. The Authority shall prepare a publicly available report no less frequently than annually, summarizing procurement activity by the Authority for the period of the report in accordance with the reporting requirements of Section 2879(6) of the Public Authorities Law.
- I. These ~~guidelines~~General Contract Guidelines are intended for the guidance of officers and employees of the Authority only. Nothing contained herein is

intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under, or by reason of, any requirement or provision hereof.

- I. Nothing in these General Contract Guidelines shall preclude the Authority from offering stipends to proposers on Design-Build contracts as part of an RFP process. The request for Board approval to use the RFP process for a specific Design-Build contract may include a request for approval of the use of stipends in connection with such RFP.
- J. Nothing contained in these General Contract Guidelines shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of these General Contract Guidelines.
- K. Where applicable federal, state or local laws, ordinances, codes, rules or regulations contain requirements which are in conflict with or which impose greater obligations upon the Authority than these General Contract Guidelines, then such requirements shall take precedence over those contained herein.



ALL AGENCY SERVICE CONTRACT PROCUREMENT GUIDELINES

Adopted by the Board on June 22, 2016

These guidelines (the “**Service Contract Guidelines**”) apply to the Metropolitan Transportation Authority (“**MTA**”), the New York City Transit Authority (“**NYCT**”), the Long Island Rail Road Company (“**LIRR**”), The Metro-North Commuter Railroad Company (“**MNR**”), Staten Island Rapid Transit Operating Authority (“**SIRTOA**”), Manhattan and Bronx Surface Transit Operating Authority (“**MaBSTOA**”), MTA Capital Construction (“**MTACC**”), MTA Bus Company (“**MTA Bus**”), First Mutual Transportation Assurance Co. (“**FMTAC**”), and to the Triborough Bridge and Tunnel Authority (“**Bridges and Tunnels**”) insofar as they are consistent with the provisions of law applicable to Bridges and Tunnels (each of which is referred to severally and together, as the “**Authority**”).

Article I-Applicability of Service Contract Guidelines

It is the policy of the Authority to contract for services when, because of factors such as timing, costs, qualifications or availability of Authority staff, or the nature of the services to be rendered, it is more beneficial for such services to be contracted for than performed by employees of the Authority. Contractors shall be selected on a competitive basis except when competition is not required pursuant to applicable law or these Service Contract Guidelines or is waived as impractical or inappropriate.

These **Service Contract Guidelines** apply to

- i) personal service contracts (“**Personal Service Contracts**”); and
 - ii) miscellaneous service contracts (“**Miscellaneous Service Contracts**”, and collectively with Personal Service Contracts, “**Service Contracts**”).
- A. Personal Services Contracts involve contracts for the provision of personal services (“**Personal Services**”) which generally involve retaining a consultant who specializes in one of the following:
- (1) Accounting and auditing
 - (2) Advertising
 - (3) Analysis
 - (4) Appraisal
 - (5) Architecture and design
 - (6) Bonds and financial management
 - (7) Commissioning of original art
 - (8) Dispute resolution
 - (9) Engineering
 - (10) Financial
 - (11) Human resources
 - (12) Information technology
 - (13) Investment
 - (14) Labor relations

- (15) Legal
- (16) Legislation
- (17) Management
- (18) Marketing
- (19) Office services requiring specialized skills
- (20) Other consulting, professional or technical services
- (21) Planning
- (22) Printing where editorial services predominate
- (23) Public affairs and corporate relations
- (24) Real estate
- (25) Records management, including electronic data storage and retrieval and discovery
- (26) Research
- (27) Security, including cybersecurity
- (28) Statistics
- (28) Surveying
- (30) Training

B. A Miscellaneous Service Contract is any contract for services which is not:

- i) a Personal Service Contract; or
- ii) a General Contract (capitalized terms not defined in these Service Contract Guidelines shall have the meaning ascribed thereto in the All Agency General Contract Procurement Guidelines (the “**General Contract Guidelines**” and collectively with these Service Contract Guidelines, the “**Guidelines**”).

Examples of miscellaneous services (“**Miscellaneous Services**”) include but are not limited to guard service, custodial service and maintenance work performed by laborers, workers or mechanics which does not result in a substantial improvement to a building or other fixed asset.

C. In the event a proposed contract contains elements of more than one type of contract under these Service Contract Guidelines or the General Contract Guidelines, the elements which predominate shall determine the type of contract for purposes of the Guidelines.

Article II - Delegation of Authority

The Chairman, the President of the respective Authority or the designated representative or representatives thereof (each defined for purposes of these Service Contract Guidelines as an “**Authorized Officer**”) are hereby empowered with respect to Service Contracts to be entered into by the respective Authority acting on its own behalf or as agent for the MTA, as follows:

A. to implement these Service Contract Guidelines.

- B. to establish procedures which shall be competitive to the extent deemed practicable by the Authorized Officer, for the award of Service Contracts estimated to involve the expenditure of more than \$100,000.
- C. to establish procedures, to the extent not otherwise covered herein, for the award of Service Contracts regardless of the estimated expenditure, which procedures shall provide for Board approval of the award if the Services Contract provides for the estimated expenditure of \$100,000 or more is not awarded pursuant to sealed competitive bidding. A majority of the members of the Board in attendance at a meeting at which a quorum is present shall be required to approve the resolution authorizing such award.
- D. for Service Contracts estimated to involve the expenditure of \$100,000 or more:
 - 1. to determine the criteria for the evaluation of bids;
 - 2. to determine whether a Services Contract required to be advertised in the New York State Contract Reporter ("NYSCR") is exempt from such requirement on the basis of a need to award such contract on an emergency or critical basis;
 - 3. to advertise for, solicit and open bids;
 - 4. to record the name of each bidder and the amount(s) bid;
 - 5. to determine the lowest responsive and responsible bidder, including, in the event two or more responsible bidders submit identical bids which are the lowest bids, to award the Service Contract to any of such bidders or obtain new bids from such bidders;
 - 6. to reject all bids when it is determined to be in the public interest to do so; and
 - 7. to award the Service Contract.
- E. to determine whether a bidder is responsible pursuant to the All-Agency Responsibility Guidelines.

Article III - Selection of Personal and Miscellaneous Service Contractors

A. Requirements for Selection of Personal Service Contractors

The following are the requirements to be followed for selection of contractors for Personal Services, except for:

- i) contracts for architectural, engineering, and survey services (which are subject to Article III(B);
- ii) contracts equal to or less than \$100,000 (which may be entered into pursuant to the provisions of this Article III(A) or pursuant to procedures established

by an Authorized Officer which shall be competitive to the extent deemed practicable by the Authorized Officer); and

- iii) Service Contracts for which a competitive selection process is inappropriate pursuant to the provisions of Article III(C).
- 1. The Division/Department of the Authority requiring the services shall prepare a written statement containing a description of the services, the reasons why they are required, and the required or estimated schedule or duration of the services.
- 2. A request for proposals ("**RFP**") to perform the required services shall be sent by mail or electronically to three or more firms to invite competition, including any DBE, MWBE or SDVOB (as such terms are hereinafter defined) firms selected to receive the RFP pursuant to applicable Authority or New York State DBE, MWBE or SDVOB programs, unless there are only two qualified firms or unless competition is waived as hereinafter provided. The RFP or notice thereof shall also be provided by mail or electronically to professional and other organizations, if any, that represent or regularly notify MWBEs and SDVOBs of the type of procurement opportunity that is the subject of the RFP notice.
- 3. The RFP shall describe the services to be performed, any completion dates or time requirements, DBE/WBE/MBE/SDVOB requirements, if applicable, and the criteria to be utilized by the Authority in evaluating proposals and shall contain a requirement for technical and cost proposals and the date, time and place when proposals must be received.
- 4. The Authority may select one or more proposers with which to negotiate after evaluation of the proposals received. The award shall be made to the proposer or proposers whose proposal(s) will be the most advantageous to the Authority, price, qualifications and other factors considered, using the evaluation criteria specified in the RFP as the basis for the decision.

B. Architectural- Engineering and Survey Contracts

- 1. In the procurement of architectural, engineering and surveying services, the Authority shall determine whether to comply with the RFP procedures set forth in Article III(A) or the "Brooks" method set forth in this paragraph, provided that, if federal assistance is involved, the decision shall take into account applicable federal requirements.
- 2. The Authority shall encourage professional firms engaged in the lawful practice of the profession to submit an annual statement of qualifications and performance data. For each proposed project identified in accordance with Article III(A)(1), the Authority shall evaluate current statements of qualifications and performance data on file with the Authority. If desired

and to the extent appropriate if federal assistance is involved, the Authority may conduct discussions with three or more professional firms regarding anticipated design concepts and proposed methods of approach to the assignment.

3. The Authority shall then evaluate whether a modification to the written statement prepared in accordance with subparagraph 1 of Article III(A)(iii) is appropriate, and shall then comply with the provisions of subparagraphs 2 and 3 of Article III(A)(iii).
 4. The Authority shall select from the proposals submitted, in order of preference, based upon the criteria established by the Authority, no less than three professional firms deemed to be the most highly qualified to provide the services required.
 5. The Authority shall negotiate a contract with the best qualified professional firm for architectural, engineering or surveying services at compensation which the Authority determines in writing to be fair and reasonable. In making this decision, the Authority shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. Should the Authority be unable to negotiate a satisfactory contract with the professional firm considered to be the most qualified, at a fee it determines to be fair and reasonable, negotiations with that professional firm shall be formally terminated. The Authority shall then undertake negotiations with the second most qualified professional firm. Failing to come to accord with the second most qualified professional firm, the Authority shall formally terminate negotiations. The Authority shall then undertake negotiations with the third most qualified professional firm. Should the Authority be unable to negotiate a satisfactory contract with any of the selected professional firms it shall select additional professional firms, in order of their competence and qualification and it shall continue negotiations in accordance with this subparagraph until an agreement is reached.
 6. The provisions of this Article III(B) shall apply only to engineering, architectural, or surveying services contracts in excess of \$100,000. Contracts for engineering, architectural or surveying services involving lesser amounts may be entered into pursuant to the provisions of this paragraph or pursuant to procedures established by an Authorized Officer which shall be competitive to the extent deemed practicable by the Authorized Officer.
- C. It is hereby determined that a competitive selection process is inappropriate and that a competitive process shall not be required in the following instances:
1. When the services are obtainable from one source only.

2. When the provider of the Personal and Miscellaneous Services has unique or otherwise outstanding qualifications.
 3. When an emergency or other circumstances exist which make competition impracticable or inappropriate.
 4. Legal services.
- D. A Service Contract, in an amount not to exceed \$400,000, that is not federally funded, may be awarded pursuant to Section 2879(3)(b)(i) of the Public Authorities Law without competitive bidding or other formal competitive process, notwithstanding any other provision of law or these Guidelines, where either (i) the proposed award is to a small business concern, a certified minority or women-owned business enterprise (“**MWBE**”) or a certified service disabled veteran owned business (“**SDVOB**”).

The relevant Authority Chief Procurement Officer or his/her designee (the “**CPO**”) shall determine which Service Contracts are appropriate for such types of procurements. In the case of Service Contracts that are eligible pursuant to Section 2879(3)(b)(i) for award to SBCs, MWBEs or SDVOBs, the CPO may make a determination that any such Service Contract may only be awarded to an MWBE, or only to an SDVOB, or only to an MWBE or an SDVOB. The basis for such a determination must be to promote participation of MWBEs and SDVOBs in Authority contracts, as mandated by Articles 15-A and 17-B of the Executive Law, and to assist the Authorities in achieving their MWBE and SDVOB goals. Notice of such procurements shall be placed on the Authority website inviting responsive proposals from qualified SBCs, MWBEs or SDVOBs. At least three bids or proposals, or quotes if the contract is estimated to involve the expenditure of less than \$100,000, must be solicited, and there must be a determination that the price is fair and reasonable. Awards pursuant to this process shall be made to the bidder or proposer determined to have submitted the bid or proposal that is most advantageous to the Authority, price and any other relevant factors considered. An award proposed to be made to a bidder or proposer other than the lowest responsible, responsive bidder or proposer, shall require approval by a majority of the Board at which a quorum is present. The CPO may reject all offers and withdraw the designation of a contract as one to be awarded pursuant to this process if the CPO determines that an award will result in the payment of an unreasonable price or otherwise not be advantageous to the Authority.

- E. Pursuant to Article 17-B of the Executive Law, the Authority may determine that a non-federally funded Service Contract procurement is appropriate for a set-aside contract for SDVOBs. A notice shall be placed on the MTA website and the NYSCR, stating that only SDVOBs are eligible for contract award. The MTA and its agencies will administer set-aside procurements pursuant to the laws, rules and procedures that govern contracting for each type of procurement.

- F. The Chairman, President, General Counsel, or Chief Procurement Officer of the Authority, or such individuals as they may designate, may give verbal authorization to contractors or consultants to commence the performance of contracts entered into pursuant to the provisions of this Article IV, where prior written agreement is impracticable, provided, however, that the contract shall be reduced to writing as soon as practicable. Prior to issuing a verbal authorization for a federally assisted contract, consideration should be given to the steps which may be taken to assure that federal assistance is not jeopardized.

Article IV – NYSCR Notice

In those instances where notice in the NYSCR is required under these Service Contract Guidelines:

- A. Regardless of the selection process used, notice of a Services Contract in the actual or estimated amount of \$100,000 or more shall be published at least one time in the NYSCR, except as provided in Article IV(C). The publication shall be no less than fifteen business days prior to the planned date on which a bid or proposal is due, provided that if the Services Contract is to be awarded without bids or proposals and advertising is required, the timing of the publication shall be determined by an Authorized Officer.
- B. The notice must contain, as applicable, a statement of: i) the name of the contracting Authority; ii) the contract identification number; iii) a brief description of the services sought, the location where services are to be provided and the contract term; iv) the address where bids or proposals are to be submitted; v) the date when bids or proposals are due; vi) a description of any eligibility or qualification requirement or preference; vii) a statement as to whether the contract may be fulfilled by a subcontracting, joint venture or co-production arrangement; viii) any other information which the Authority deems useful to potential contractors; ix) the name, address and the telephone number of the person to be contacted for additional information; and x) a statement as to whether the services sought had, in the immediately preceding three year period, been supplied by a foreign business enterprise as that term is defined in Article 4-C of the Economic Development Law.
- C. Notice in the NYSCR is not required under the following circumstances:
- i) In the event of an emergency or critical need for the services as determined by an Authorized Officer;
 - ii) The contract is re-bid or re-solicited for substantially the same services within forty-five business days after the date bids or proposals were originally due;
 - iii) The contract is awarded to a not-for-profit provider of human services;
 - iv) The contract is awarded pursuant to the provisions of Article III(C)(1) or (2) (single or unique source) or Article III (D) (discretionary procurements to SBCs, MWBEs or SDVOBs) of these Guidelines.

- D. In addition to the above NYSCR notice, the Authority shall provide notice to professional and other organizations, if any, that regularly notify MWBEs and SDVOBs, of the type of procurement opportunity that is the subject of the solicitation.

Article V – Minority/Women Owned and Disadvantaged Business Enterprises

The potential exists for disadvantaged/minority/women owned business enterprise involvement in Service Contracts. The Authority shall use its best efforts to maximize the utilization, as applicable, of certified disadvantaged business enterprises (“DBEs”) under the Authority's federal program, and MWBEs and SDVOBs under the New York State program set forth in Public Authorities Law §2879, Article 15-A and 17-B of the Executive Law and these Service Contract Guidelines.

- A. The MTA Chief Diversity Officer ("**Chairman's Designee**") is responsible for overseeing the programs established by the MTA to promote and assist: i) the participation by MWBEs and SDVOBs in procurement opportunities and facilitation of the award of Service Contracts to such enterprises; ii) the utilization of MWBEs and SDVOBs as subcontractors to Authority prime contractors; and iii) the utilization of partnerships, joint ventures (“JVs”) or other similar arrangements between MWBEs, SDVOBs and prime contractors. The Chief Diversity Officer reports directly to the Chairman in connection with the responsibilities set forth herein, and will participate in the procurement process either directly or through his or her designees.
- B. For contracts awarded pursuant to these Service Contract Guidelines, the Authority shall establish appropriate goals for participation by MWBEs and SDVOBs and for the utilization by prime contractors of MWBEs as subcontractors and suppliers. Statewide MWBE numerical participation target goals will be established by the Authority based on the findings of the New York State 2010 Disparity Study, or any subsequent New York State Disparity Study.
- C. The Authority will conduct non-federally funded procurements in a manner that enables the Authority to achieve the maximum feasible portion of the goals set pursuant to Article V(B) including by taking the following actions:
- i) establishing measures and procedures to ensure that MWBEs and SDVOBs are given the opportunity for maximum feasible participation in the performance of Authority contracts and to assist in the identification of those contracts that are best suited for which MWBEs and SDVOBs may best bid to actively and affirmatively promote and assist their participation in the performance of Authority contracts so as to facilitate the Authority's achievement of the maximum feasible portion of the MWBE and SDVOB goals;
 - ii) designating the New York State Division of Minority and Women-owned Business Development (“**DMWBD**”) to certify and decertify MWBEs, and

OGS Division of Service-Disabled Veterans' Business Development to certify and decertify SDVOBs, for purposes of these Service Contract Guidelines;

- iii) setting forth in each contract solicitation the expected degree of MWBE and SDVOB participation based on potential subcontracting opportunities and the availability of MWBEs and SDVOBs to respond competitively to those opportunities;
- iv) providing to prospective contractors in writing or by identifying a link to a specific web site a current list of MWBEs and SDVOBs;
- v) with regard to JVs, allowing a bidder to count toward meeting its MWBE and SDVOB participation goal, the MWBE or SDVOB portion of the JV;
- vi) waiving a contractor's obligation relating to MWBE or SDVOB participation after a showing of good faith efforts to comply with the participation goal; and
- vii) verifying that MWBEs and SDVOBs listed in a successful bid or proposal are actually participating to the extent listed in the project for which the bid or proposal was submitted.

The Authority will also consider, where practicable:

- a. the severability of service requirements and other bundled service contracts;
- b. with respect to MWBEs, the implementation of a program that will enable the Authority to evaluate each contract to determine the appropriateness of the goal pursuant to the New York State 2010 Disparity Study, or any subsequent New York State Disparity Study; and
- c. compliance with the requirements of any federal law concerning opportunities for any DBEs, MWBEs and SDVOBs which effectuates the purposes of this Article V.

- D. The Chairman's Designee is responsible for ensuring compliance with all applicable laws and regulations with regard to the utilization of DBEs on federally funded Service Contracts.

Article VI-Types of Provisions to be Contained in Service Contracts

- A. The following types of provisions shall be contained in all personal services contracts, except that it is not necessary to include any provision which is inapplicable or unnecessary because of the nature or duration of the services to be performed, the location or locations where they are to be performed or the type of compensation being paid.
 - 1. Description of services
 - 2. Compensation
 - 3. Time for performance or date of completion
 - 4. Liability of contractor or consultant; indemnification of Authority
 - 5. Reports of contractor or consultant

6. Ownership of plans, drawings or other products of the performance of the services
 7. Assignments; subcontracts
 8. Maintenance of records, accounts
 9. Right of Authority to Inspect and/or audit books and records of contractor or consultant
 10. Insurance requirements
 11. Termination
 12. Monitoring of the performance of services
 13. Use of Authority supplies, facilities or property
 14. Use of Authority personnel
 15. All provisions required to be included in Authority contracts by federal, state or local laws, ordinances, codes, rules or regulations.
 16. Such modifications and additions as are appropriate in light of the specific circumstances presented.
- B. To the extent practicable, a verbal authorization to commence work and a writing which is not intended to constitute the final agreement, at a minimum shall:
1. Describe the services to be performed;
 2. Specify the amount of compensation to be paid pursuant to the verbal authorization and writing or the rates or fees which will be utilized to determine such compensation; and
 3. Specify a date for completion or the anticipated duration of the services (except in instances where the nature of the services makes an estimate of the time required impossible or impracticable or where the contract is a retainer for the performance of services over an extended period of time on an "as-needed" basis and contains provisions allowing termination by the Authority at any time without cause).
- C. Miscellaneous service contracts shall contain those provisions of paragraph A and of other standard forms of contract deemed appropriate by an Authorized Officer.

Article VII- Responsibilities of Services Contractors

A service contractor shall have the following responsibilities:

- A. To perform the contract in accordance with its terms;
- B. To perform the services required under the contract competently, efficiently, in a timely manner, at a reasonable cost and in a manner which is satisfactory to the Authority; and
- C. To cooperate with the Authority personnel who are directing, supervising or monitoring the performance of the services or who are assisting in their performance.

Article VIII - Contracts Involving Former Officers or Employees of the Authority

The Authority may enter into contracts with any Authority's former officers or employees or with firms employing such officers or employees only to the extent permitted by Public Officers Law §73.

Article IX - Reporting of Service and Purchase Contracts

- A. Each Division/Department of an Authority shall maintain records, for each fiscal year, of the following contracts entered into by the Authority at the request of such Division/Department: i) personal service contracts in the actual or estimated amount of \$15,000 or more; ii) miscellaneous service contracts in the actual or estimated amount of \$15,000 or more; and iii) purchase contracts in an actual or estimated amount of \$15,000 or more.
- B. The Authority's Authorized Officer shall designate a Division or Department which shall be responsible for preparing a report at the end of each fiscal year with respect to the foregoing contracts. With respect to each such contract, the report shall contain the following information:
 - 1. Name of Contractor;
 - 2. Short description of the services involved;
 - 3. Amounts paid pursuant to the contract as of the end of such fiscal year;
 - 4. The selection process used;
 - 5. Status of the contract;
 - 6. If it was exempt from advertising in the NYSCR pursuant to Article IV(C) of these Guidelines:
 - i) a statement to that effect; and
 - ii) the basis for such exemption;
 - 7. Whether the contract was entered into with a New York State business enterprise or a foreign business enterprise, as those terms are defined in Public Authorities Law § 2879.
 - 8. Whether the contract was entered into with an MWBE or SDVOB
 - 9. Referrals to and penalties imposed by the Director of DMWBD pursuant to Executive Law § 316.
- C. Each Authority shall submit a copy of such report to the Board of the Authority upon its completion.

Article X-Personal Service Contracts Requiring Approval of the Board

The following Service Contracts shall require the approval of the Board of the Authority by resolution approved by a majority of the members present at a meeting at which a quorum is in attendance and shall be reviewed by the Board on an annual basis:

- A. Personal Service Contracts of all Authorities : All personal service contracts entered into by an Authority in the actual or estimated amount of \$100,000 or more, except if awarded to the lowest responsible bidder, pursuant to sealed bids, and;
- B. Miscellaneous Service Contracts: See Article II(C) of these Service Contract Guidelines.

Article XI-Change Orders

An Authority may enter into a change order or amendment to a personal service or miscellaneous service contract provided that approval of the Board of the Authority by a resolution approved by a majority of the members present at a meeting at which a quorum is in attendance, shall be required in the following circumstances:

- A. The Service Contract did not equal or exceed the applicable monetary or durational threshold for board approval set forth in Article XI or Article II of these Service Contract Guidelines and the applicable threshold is equaled or exceeded as a result of the change order or amendment. This provision applies to all contracts subject to these Service Contract Guidelines, including budget adjustments to estimated quantity contracts previously approved by the Board which exceed the threshold.
- B. The Service Contract was approved by the Board and the change order or amendment, including any change orders or amendments since Board approval was last obtained, results in a substantial change in the contract as determined by an Authorized Officer. Notwithstanding the foregoing, Board approval of change orders shall only be required if the change order is over \$750,000, or over \$250,000 if the change order exceeds 15% of the adjusted contract value, provided that a change order over \$250,000 must be approved by the Authority president or his or her designee.
- C. The Miscellaneous Service Contract was awarded pursuant to the General Contract Guidelines and the change order or amendment equals or exceeds the requirements for Board approval under Article IX of the General Contract Guidelines.
- D. Notwithstanding the foregoing, an Authorized Officer may enter into a change order or amendment in any of the following situations as determined by an Authorized Officer,
 - 1. The existence of an emergency;
 - 2. The risk of a substantial increase in cost or delay if prompt action is not taken; or
 - 3. The change order is for a Design-Build contract and such change order does not change the total contract price to exceed the project budgeted cost, including contingency.
- E. The Chairman or Chief Operating Officer shall establish policies with respect to the delegation of responsibilities set forth in this Article.

Article XII – Miscellaneous

- A. Any provision of these Service Contract Guidelines may be waived by the Chairman, an Authority President or the Board, or such individuals as they may designate, except to the extent prohibited by law. A waiver may also be in the form of a ratification. If a contract is federally assisted, prior to issuing a waiver, consideration should be given to the steps which may be taken to assure that federal assistance is not jeopardized.
- B. No Board Committee action or Authority policy, other than one approved by the Chairman, shall be inconsistent with these Service Contract Guidelines.
- C. An Authority may not divide or split any contract or series of contracts for the purpose of avoiding the requirements of these Service Contract Guidelines, provided that with regard to discretionary contracts awarded under Article III(D), an Authority may divide requirements for the purpose of unbundling contracts to create discretionary contracting opportunities.
- D. Nothing in these Service Contract Guidelines shall preclude the Authority from accepting bids or proposals utilizing an electronic bidding system that may inform bidders whether their bid is the current low bid, and allow bidders to submit new bids before the date and time assigned for the opening of bids. Such procedure shall not constitute disclosure in violation of Section 2878 of the Public Authorities Law.
- E. A Service Contract awarded by an Authority pursuant to the provisions of these Service Contract Guidelines may provide that the Service Contract includes the requirements of one or more other Authorities.
- F. The Authority shall prepare a publicly available report no less frequently than annually, summarizing procurement activity by the Authority for the period of the report, in accordance with the reporting requirements of Section 2879(6) of the Public Authorities Law.
- G. These Service Contract Guidelines are intended for the guidance of officers and employees of the Authority only. Nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under or by reason, of any requirement or provision thereof.
- H. An Authority may contract for a service available through an existing contract between a contractor and the State of New York or the City of New York or another Authority if: i) the existing contract, if not awarded by the State of New York, was awarded pursuant to a process of competitive sealed bids or a competitive request for proposals; ii) the Authority's Authorized Officer determines that the price and other commercial terms specified in the contract are satisfactory; and iii) if Board

authorization would otherwise be required under these Guidelines, the Board adopts a resolution by a majority vote of the members of the Board present meeting at which a quorum is in attendance which sets forth the reasons why a competitive process is impractical or inappropriate and authorizes the Authority to enter into the Service Contract.

- I. Nothing contained in these Service Contract Guidelines shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of these Service Contract Guidelines.
- J. Where applicable federal, state or local laws, ordinances, codes, rules or regulations contain requirements which are in conflict with or which impose greater obligations upon the Authority than these Service Contract Guidelines, then such requirements shall take precedence over those contained herein.



ALL AGENCY GUIDELINES FOR SERVICE CONTRACT PROCUREMENT OF SERVICES GUIDELINES

Adopted by the Board on ~~March 25, 2015~~ June 22, 2016

These guidelines (the "Service Contract Guidelines") apply to the Metropolitan Transportation Authority ("~~"MTA"~~"), the New York City Transit Authority ("~~Transit~~NYCT"), the Long Island Rail Road Company ("~~LIRR"~~"), ~~the~~The Metro-North Commuter Railroad Company ("~~MNCR~~R"~~"MNR"~~"), Staten Island Rapid Transit Operating Authority ("SIRTOA"), Manhattan and Bronx Surface Transit Operating Authority ("MaBSTOA"), MTA Capital Construction ("MTACC"), MTA Bus Company ("~~MTA Bus"~~"), First Mutual Transportation Assurance Co. ("FMTAC"), and to the Triborough Bridge and Tunnel Authority ("Bridges and Tunnels") insofar as they are consistent with the provisions of law applicable to Bridges and Tunnels (each of which is referred to severally and together, as the "Authority").

Article ~~II~~ Applicability of ~~guidelines~~ Service Contract Guidelines

~~—This policy applies to contracts for services. A contract for services is either a personal service contract or a miscellaneous service contract. It is the policy of the Authority to contract for services when, because of factors such as timing, costs, qualifications or availability of Authority staff, or the nature of the services to be rendered, it is more beneficial for such services to be contracted for than performed by employees of the Authority. Contractors shall be selected on a competitive basis except when competition is not required pursuant to applicable law or these Service Contract Guidelines or is waived as impractical or inappropriate.~~

These Service Contract Guidelines apply to

- i) personal service contracts ("Personal Service Contracts"); and
 - ii) miscellaneous service contracts ("Miscellaneous Service Contracts", and collectively with Personal Service Contracts, "Service Contracts").
- A. Personal ~~services~~ Services Contracts involve contracts for the provision of personal services ("Personal Services") which generally involve retaining a consultant who specializes in one of the following:
- ~~(1) — Legal~~
 - ~~(2) — Financial~~
 - ~~(3) — Accounting and auditing~~
 - ~~(4) — Auditing~~ (2) — Advertising
 - ~~(5) — Management~~
 - ~~(6) — Human Resources~~
 - ~~(7) — Investment~~
 - ~~(8) — Bonds~~
 - ~~(9) — Planning~~

~~(10)~~ 3) Analysis
~~(11)~~ 4) Appraisal
~~(12)~~ Data Processing
~~(13)~~ Computer Systems
~~(14)~~ Statistics
~~(15)~~ Research
~~(16)~~ Public and corporate relations
~~(17)~~ 5) Architecture and design
~~(18)~~ 6) Bonds and financial management
~~(7)~~ Commissioning of original art
~~(8)~~ Dispute resolution
~~(9)~~ Engineering
~~(19)~~ 10) Financial
~~(11)~~ Human resources
~~(12)~~ Information technology
~~(13)~~ Investment
~~(20)~~ 14) Labor Relations relations

~~(21)~~ Real Estate
~~(22)~~ 15) Legal
~~(23)~~ 16) Legislation
~~(24)~~ 17) Management
~~(25)~~ Marketing
~~(26)~~ Advertising
~~(27)~~ Records Management
~~(28)~~ 19) Office services requiring specialized skills
~~(20)~~ Other consulting, professional or technical services
~~(21)~~ Planning
~~(22)~~ 28) Printing where editorial services predominate
~~(29)~~ Other Consulting, Professional or Technical Services
~~(23)~~ Public affairs and corporate relations
~~(24)~~ Real estate
~~(25)~~ Records management, including electronic data storage and retrieval and discovery
~~(26)~~ Research
~~(27)~~ Security, including cybersecurity
~~(28)~~ Statistics
~~(29)~~ Surveying
~~(30)~~ Training

- B. A ~~miscellaneous service contract~~ Miscellaneous Service Contract is any contract for services which is not: a- i) ~~personal service contract~~; ii) ~~public work contract~~; or iii) ~~a miscellaneous procurement contract~~.

- i) a Personal Service Contract; or
- ii) a General Contract (capitalized terms not defined in these Service Contract Guidelines shall have the meaning ascribed thereto in the All Agency General Contract Procurement Guidelines (the "**General Contract Guidelines**" and collectively with these Service Contract Guidelines, the "**Guidelines**").

Examples of miscellaneous services ("**Miscellaneous Services**") include but are not limited to ~~contracts for~~ guard service, custodial service and maintenance work performed by laborers, workers or mechanics which does not result in a substantial improvement to a building or other fixed asset.

- C. In the event a proposed contract contains elements of more than one type of contract under these ~~guidelines~~Service Contract Guidelines or the ~~All Agency Procurement~~General Contract Guidelines, the elements which predominate shall determine the type of contract for purposes of ~~both the~~ Guidelines.

Article II - Delegation of Authority

The Chairman, the ~~presidents~~President of the ~~Authorities~~respective Authority or the designated representative or representatives thereof (each defined for purposes of these ~~guidelines~~Service Contract Guidelines as an "Authorized Officer") are hereby empowered with respect to ~~service contracts~~Service Contracts to be entered into by ~~his/her~~the respective Authority acting on its own behalf or as agent for the MTA, as follows:

- ~~A.~~ to implement these ~~guidelines~~Service Contract Guidelines.
- ~~B.~~ to establish procedures which shall be ~~in accordance with these guidelines~~competitive to the extent deemed practicable by the Authorized Officer, for the award of: ~~(i) a miscellaneous service contract~~ Service Contracts estimated to involve the expenditure of ~~\$15,000 or less; and (ii) a personal service contract estimated to involve the~~ more than \$100,000.
- C. to establish procedures, to the extent not otherwise covered herein, for the award of Service Contracts regardless of the estimated expenditure of \$25,000 or less, provided that the contract, which procedures shall be advertised, provide for Board approval of the award ~~obtained and reported if otherwise required under these guidelines.~~
- ~~C.~~ to determine whether a miscellaneous service contract shall be awarded pursuant to the provisions of these guidelines or the provisions of the All Agency Procurement Guidelines, provided that, notwithstanding the vote otherwise required by the All Agency Procurement Guidelines, the vote of approval of ~~aif the Services Contract provides for the estimated expenditure of \$100,000 or more is not awarded pursuant to sealed competitive bidding.~~ A majority of the members of the Board present in attendance

at a meeting at which a quorum is present shall ~~in any event~~ be required ~~for the award of the following miscellaneous service contracts:~~to approve the resolution authorizing such award.

~~Without regard to whether or not the contract was awarded pursuant to sealed competitive bidding, the actual or estimated amount of the contract is \$15,000 or more and the services will be rendered over a period in excess of one year:~~

~~ii) Without regard to the period of performance of the services, the miscellaneous service contract provides for the expenditure of more than \$25,000 and was not awarded pursuant to sealed competitive bidding.~~

Article III – Policy

~~It is the policy of the Authority to contract for personal and miscellaneous services when, because of factors such as timing, costs, qualifications or the nature of the services to be rendered, it is more beneficial for such services to be contracted for than performed by employees of the Authority.~~

~~Contractors shall be selected on a competitive basis except when competition is not required pursuant to these Guidelines or is waived as impractical or inappropriate.~~

Article IV – Advertising

D. for Service Contracts estimated to involve the expenditure of \$100,000 or more:

1. to determine the criteria for the evaluation of bids;

~~A. Regardless of the selection process used, notice of a contract for the acquisition of services of any kind in the actual or estimated amount of \$15,000 or more shall be published at least one time in New York State Contract Reporter, except as provided in paragraph C of this Article. The publication shall be no less than fifteen business days prior to the planned date on which a bid or proposal is due, provided that if the contract is to be awarded without bids or proposals and advertising is required, the timing of the publication shall be, determined by an Authorized Officer.~~2. to determine whether a Services Contract required to be advertised in the New York State Contract Reporter (“NYSCR”) is exempt from such requirement on the basis of a need to award such contract on an emergency or critical basis;

~~B. The notice must contain, as applicable, a statement of: i) the name of the contracting Authority; ii) the contract identification number; iii) a brief description of the services sought, the location where services are to be provided and the contract term; iv) the address where bids or proposals are to be submitted; v) the date when bids or proposals are due; vi) a description of any eligibility or qualification requirement or preference; vii) a statement as to whether the contract may be fulfilled by a subcontracting, joint venture or co-production arrangement; viii) any other information which the Authority deems useful to potential contractors; ix) the~~

~~name, address and the telephone number of the person to be contacted for additional information; and x) a statement as to whether the services sought had, in the immediately preceding three year period, been supplied by a foreign business enterprise as that term is defined in Article 4-C of the Economic Development Law.~~

~~C. The advertisement is not required under the following circumstances:~~

- ~~3. to advertise for, solicit and open bids;~~
 - ~~4. to record the name of each bidder and the amount(s) bid;~~
 - ~~5. to determine the lowest responsive and responsible bidder, including, in the event two or more responsible bidders submit identical bids which are the lowest bids, to award the Service Contract to any of such bidders or obtain new bids from such bidders;~~
 - ~~6. to reject all bids when it is determined to be in the public interest to do so; and~~
 - ~~7. to award the Service Contract.~~
- ~~i) In the event of an emergency or critical need for the services as determined by an Authorized Officer;~~
 - ~~ii) The contract is re-bid or re-solicited for substantially the same services within forty-five business days after the date bids or proposals were originally due;~~
 - ~~iii) The contract is awarded to a not-for-profit provider of human services;~~
 - ~~iv) The contract is awardedE. to determine whether a bidder is responsible pursuant to the provisions of Article V(C)(1) or (2) (single or unique source) of theseAll-Agency Responsibility Guidelines.~~

~~D. In addition to the above advertisements, the Authority shall provide notice to professional and other organizations that regularly notify certified minority and women owned business enterprises ("MWBES") of the type of procurement opportunity that is the subject of the solicitation.~~

Article VIII - Selection of Personal Servicesand Miscellaneous Service Contractors

A. Requirements for Selection of Personal Service Contractors

The following are the requirements to be followed for selection of contractors for ~~personal services~~Personal Services, except for: i)

- i) contracts for architectural, engineering, and survey services (which are subject to ~~paragraph Article III(B)~~); ii) contracts equal to or less than \$~~25,000~~100,000 (which may be entered into pursuant to the provisions of this ~~paragraph Article III(A)~~ or pursuant to procedures established by an Authorized Officer which shall be competitive to the extent deemed practicable by the Authorized Officer); and iii) ~~contracts for services~~ Service Contracts for which a competitive selection process is inappropriate pursuant to the provisions of ~~paragraph Article III(C)~~.

1. The Division/Department of the Authority requiring the services shall prepare a written statement containing a description of the services, the reasons why they are required, and the required or estimated schedule or duration of the services.
2. A request for proposals ("RFP") to perform the required services shall be sent by mail or electronically to three or more firms to ~~assure~~invite competition, including any DBE/~~WBE/MBE~~, MWBE or SDVOB (as such terms are hereinafter defined) firms selected to receive the RFP pursuant to applicable Authority or New York State DBE/~~WBE/MBE~~, MWBE or SDVOB programs, unless there are only two qualified firms or unless competition is waived as hereinafter provided. The RFP or notice thereof shall also be provided by mail or electronically to professional and other organizations, if any, that represent or regularly notify ~~certified~~-MWBEs and SDVOBs of the type of procurement opportunity that is the subject of the RFP notice.
3. The RFP shall describe the services to be performed, any completion dates or time requirements, DBE/~~WBE/MBE~~/SDVOB requirements, if applicable, and the criteria to be utilized by the Authority in evaluating proposals and shall contain a requirement for ~~a~~technical and cost ~~proposal~~proposals and the date, time and place when proposals must be received.
4. The Authority may select one or more proposers with which to negotiate after evaluation of the proposals received. The award shall be made to the proposer or proposers whose proposal(s) will be the most advantageous to the Authority, price, qualifications and other factors considered, using the evaluation criteria specified in the RFP as the basis for the decision.

B. Architectural- Engineering and Survey Contracts

1. In the procurement of architectural, engineering and surveying services, the Authority shall determine whether to comply with the RFP procedures set forth in ~~paragraph~~ Article III(A) or the "Brooks" method set forth in this paragraph, provided that, if federal assistance is involved, the decision shall take into account applicable federal requirements.
2. The Authority shall encourage professional firms engaged in the lawful practice of the profession to submit an annual statement of qualifications and performance data. For each proposed project identified in accordance with Article ~~V~~III(A)(1), the Authority shall evaluate current statements of qualifications and performance data on file with the Authority. If desired and to the extent appropriate if federal assistance is involved, the Authority may conduct discussions with three or more professional firms regarding

anticipated design concepts and proposed methods of approach to the assignment.

3. The Authority shall then evaluate whether a modification to the written statement prepared in accordance with subparagraph 1 of ~~Paragraph A~~Article III(A)(iii) is appropriate, and shall then comply with the provisions of subparagraphs 2 and 3 of ~~Paragraph A~~Article III(A)(iii).
 4. The Authority shall select from the proposals submitted, in order of preference, based upon the criteria established by the Authority, no less than three professional firms deemed to be the most highly qualified to provide the services required.
 5. The Authority shall negotiate a contract with the ~~highest~~best qualified professional firm for architectural, engineering or surveying services at compensation which the Authority determines in writing to be fair and reasonable. In making this decision, the Authority shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. Should the Authority be unable to negotiate a satisfactory contract with the professional firm considered to be the most qualified, at a fee it determines to be fair and reasonable, negotiations with that professional firm shall be formally terminated. The Authority shall then undertake negotiations with the second most qualified professional firm. Failing ~~to come to~~ accord with the second most qualified professional firm, the Authority shall formally terminate negotiations. The Authority shall then undertake negotiations with the third most qualified professional firm. Should the Authority be unable to negotiate a satisfactory contract with any of the selected professional firms it shall select additional professional firms, in order of their competence and qualification and it shall continue negotiations in accordance with this subparagraph until an agreement is reached.
 6. The provisions of this ~~paragraph—Article III(B)~~ shall apply only to engineering, architectural, or surveying services contracts in excess of ~~\$25,000.00-100,000.~~ Contracts for engineering, architectural or surveying services involving lesser amounts may be entered into pursuant to the provisions of this paragraph or pursuant to procedures established by an Authorized Officer which shall be competitive to the extent deemed practicable by the Authorized Officer.
- C. It is hereby determined that a competitive selection process is inappropriate and that a competitive process shall not be required in the following instances:
1. When the services are obtainable from one source only.
 2. When the provider of the ~~services~~Personal and Miscellaneous Services has unique or otherwise outstanding qualifications.

3. When an emergency or other circumstances exist which make competition impracticable or inappropriate.
4. Legal ~~Services~~services.

D. ~~—Pursuant to Section 2879(3)(b)(i) of the Public Authorities Law, a contract~~A Service Contract, in an amount not to exceed ~~\$200,000,400,000~~, that is not federally funded, ~~for personal services or miscellaneous services~~ may be awarded ~~pursuant to Section 2879(3)(b)(i) of the Public Authorities Law~~ without competitive ~~procedures otherwise required by~~bidding or other formal competitive process, notwithstanding any other provision of law or these Guidelines, where ~~either (i) the proposed award is to a small business concern or, a certified minority or women-owned business enterprise (“MWBE”) or a certified service disabled veteran owned business (“SDVOB”).~~Contracts may be designated for solicitation and award

The relevant Authority Chief Procurement Officer or his/her designee (the “CPO”) shall determine which Service Contracts are appropriate for such types of procurements. In the case of Service Contracts that are eligible pursuant to Section 2879(3)(b)(i) by the Chairman or the Chairman’s designee in consultation with the Authorized Officer of the appropriate agency. In the case of contracts that are designated pursuant to Section 2879(3)(b)(i) for award to eligible small business concerns or MWBEs, there shall be notice of the proposed contract for award to SBCs, MWBEs or SDVOBs, the CPO may make a determination that any such Service Contract may only be awarded to an MWBE, or only to an SDVOB, or only to an MWBE or an SDVOB. The basis for such a determination must be to promote participation of MWBEs and SDVOBs in Authority contracts, as mandated by Articles 15-A and 17-B of the Executive Law, and to assist the Authorities in achieving their MWBE and SDVOB goals. Notice of such procurements shall be placed on the Authority website inviting responsive bids or proposals from qualified small business concerns and MWBEs. Notice of such procurements shall also be provided to identified organizations that represent or regularly notify small business concerns or MWBEs, of the type of procurement opportunity that is the subject of the award. Awards pursuant to Section 2879(3)(b)(i) proposals from qualified SBCs, MWBEs or SDVOBs. At least three bids or proposals, or quotes if the contract is estimated to involve the expenditure of less than \$100,000, must be solicited, and there must be a determination that the price is fair and reasonable. Awards pursuant to this process shall be made to the bidder or proposer determined to have submitted the bid or proposal that is most advantageous to the Authority, price and any other relevant factors considered. An award proposed to be made to a bidder or proposer other than the lowest responsible, responsive bidder or proposer, shall require approval by a majority of the Board at a meeting at which a quorum is present; in addition, the approval of the Board is required in any other instance in which it is required by law. The Chairman or his designee, in consultation with the Authorized Officer of the appropriate agency, The CPO may reject all offers and withdraw the designation of a contract as one to be awarded pursuant to Section 2879(3)(b)(i) this process if the Chairman or his designee CPO determines that an award will result in the payment of an unreasonable price or otherwise not be advantageous to the Authority. The requirements of Article IV and of Article V(B) shall not apply to contracts awarded in accordance with Section 2879(3)(b)(i).

E. Pursuant to Article 17-B of the Executive Law, the Authority may determine that a non-federally funded Service Contract procurement is appropriate for a set-aside

contract for SDVOBs. A notice shall be placed on the MTA website and the NYSCR, stating that only SDVOBs are eligible for contract award. The MTA and its agencies will administer set-aside procurements pursuant to the laws, rules and procedures that govern contracting for each type of procurement.

- ~~EF.~~ The Chairman, President, General Counsel, or Chief Procurement Officer of the Authority, or such individuals as they may designate, may give verbal authorization to contractors or consultants to commence the performance of contracts entered into pursuant to the provisions of this ~~paragraph~~ Article IV, where prior written agreement is impracticable, provided, however, that the contract shall be reduced to writing as soon as practicable. Prior to issuing a verbal authorization for a federally assisted contract, consideration should be given to the steps which may be taken to assure that federal assistance is not jeopardized.

Article VI – Minority/Women Owned and Disadvantaged Business EnterprisesIV – NYSCR

Notice

In those instances where notice in the NYSCR is required under these Service Contract Guidelines:

- A. Regardless of the selection process used, notice of a Services Contract in the actual or estimated amount of \$100,000 or more shall be published at least one time in the NYSCR, except as provided in Article IV(C). The publication shall be no less than fifteen business days prior to the planned date on which a bid or proposal is due, provided that if the Services Contract is to be awarded without bids or proposals and advertising is required, the timing of the publication shall be determined by an Authorized Officer.
- B. The notice must contain, as applicable, a statement of: i) the name of the contracting Authority; ii) the contract identification number; iii) a brief description of the services sought, the location where services are to be provided and the contract term; iv) the address where bids or proposals are to be submitted; v) the date when bids or proposals are due; vi) a description of any eligibility or qualification requirement or preference; vii) a statement as to whether the contract may be fulfilled by a subcontracting, joint venture or co-production arrangement; viii) any other information which the Authority deems useful to potential contractors; ix) the name, address and the telephone number of the person to be contacted for additional information; and x) a statement as to whether the services sought had, in the immediately preceding three year period, been supplied by a foreign business enterprise as that term is defined in Article 4-C of the Economic Development Law.

- C. Notice in the NYSCR is not required under the following circumstances:

- i) In the event of an emergency or critical need for the services as determined by an Authorized Officer;
- ii) The contract is re-bid or re-solicited for substantially the same services within forty-five business days after the date bids or proposals were originally due;
- iii) The contract is awarded to a not-for-profit provider of human services;
- iv) The contract is awarded pursuant to the provisions of Article III(C)(1) or (2) (single or unique source) or Article III (D) (discretionary procurements to SBCs, MWBEs or SDVOBs) of these Guidelines.

D. In addition to the above NYSCR notice, the Authority shall provide notice to professional and other organizations, if any, that regularly notify MWBEs and SDVOBs, of the type of procurement opportunity that is the subject of the solicitation.

Article V – Minority/Women Owned and Disadvantaged Business Enterprises

The potential exists for disadvantaged/minority/women owned business enterprise involvement in ~~personal service and miscellaneous service contracts~~ Service Contracts. The Authority shall use its best efforts to maximize the utilization, as applicable, of ~~DBEs~~ certified disadvantaged business enterprises (“DBEs”) under the Authority's federal program, and ~~MBEs/WBEs~~ MWBEs and SDVOBs under the New York State program set forth in Public Authorities Law §2879, Article 15-A and 17-B of the Executive Law and these ~~guidelines~~ Service Contract Guidelines.

- A. The MTA Chief Diversity Officer ("Chairman's Designee") is responsible for overseeing the programs established by the MTA to promote and assist: i) the participation by ~~certified~~ MWBEs and SDVOBs in procurement opportunities and facilitation of the award of ~~procurement contracts~~ Service Contracts to such enterprises; ii) the utilization of ~~certified~~ MWBEs and SDVOBs as subcontractors to Authority prime contractors; and iii) the utilization of partnerships, joint ventures (“JVs”) or other similar arrangements between ~~certified~~ MWBEs, SDVOBs and prime contractors. The Chief Diversity Officer reports directly to the Chairman in connection with the responsibilities set forth herein, and will participate in the procurement process either directly or through his or her designees.
- B. For contracts awarded pursuant to these Service Contract Guidelines, the Authority shall establish appropriate goals for participation by ~~certified~~ MWBEs and SDVOBs and for the utilization by prime contractors of MWBEs as subcontractors and suppliers. Statewide MWBE numerical participation target goals will be established by the Authority based on the findings of the New York State 2010 Disparity Study, or any subsequent New York State Disparity Study.

- ~~C.~~ The Authority will conduct non-federally funded procurements in a manner that enables the Authority to achieve the maximum feasible portion of the goals set pursuant to Article ~~VIV~~(B) including by taking the following actions: ~~(i)~~
- i) establishing measures and procedures to ensure that ~~certified~~-MWBEs and SDVOBs are given the opportunity for maximum feasible participation in the performance of Authority contracts and to assist in the identification of those contracts that are best suited for which ~~certified~~-MWBEs and SDVOBs may best bid to actively and affirmatively promote and assist their participation in the performance of Authority contracts so as to facilitate the Authority's achievement of the maximum feasible portion of the MWBE and SDVOB goals; ~~(ii)~~
 - ii) designating the New York State Division of Minority and Women-owned Business Development ("DMWBD") to certify and decertify MWBEs, and OGS Division of Service-Disabled Veterans' Business Development to certify and decertify SDVOBs, for purposes of these ~~guidelines;~~ (iii) Service Contract Guidelines;
 - iii) setting forth in each contract solicitation the expected degree of MWBE and SDVOB participation based on potential subcontracting opportunities and the availability of ~~certified~~-MWBEs and SDVOBs to respond competitively to those opportunities; ~~(iv)~~
 - iv) providing to prospective contractors in writing or by identifying a link to a specific web site a current list of MWBEs and SDVOBs; ~~(v)~~
 - v) with regard to JVs, allowing a bidder to count toward meeting its MWBE and SDVOB participation goal, the MWBE or SDVOB portion of the JV; ~~(vi)~~
 - vi) waiving a contractor's obligation relating to MWBE or SDVOB participation after a showing of good faith efforts to comply with the participation goal; and ~~(vii)~~
 - vii) verifying that MWBEs and SDVOBs listed in a successful bid or proposal are actually participating to the extent listed in the project for which the bid or proposal was submitted. The Authority will also consider, where practicable: ~~(i)~~
 - a. the severability of service requirements and other bundled service contracts; ~~(ii)~~
 - b. with respect to MWBEs, the implementation of a program that will enable the Authority to evaluate each contract to determine the appropriateness of the goal pursuant to the New York State 2010 Disparity Study, or any subsequent New York State Disparity Study; ~~(iii)and~~
 - c. compliance with the requirements of any federal law concerning opportunities for any DBEs, MWBEs and SDVOBs which effectuates the ~~purpose of this section; and (iv) consultation of the most recent disparity study purposes of this Article V.~~
- C. The Chairman's Designee is responsible for ensuring compliance with all applicable laws and regulations with regard to the utilization of DBEs on federally funded Service Contracts.

Article ~~VHVI~~-Types of Provisions to be Contained in Service Contracts

- A. The following types of provisions shall be contained in all personal services contracts, except that it is not necessary to include any provision which is inapplicable or unnecessary because of the nature or duration of the services to be

performed, the location or locations where they are to be performed or the type of compensation being paid.

1. Description of ~~Service~~services
 2. Compensation
 3. Time for ~~Performance~~performance or date of completion
 4. Liability of ~~Contractor or Consultant; Indemnification~~contractor or consultant; indemnification of Authority
 5. Reports of ~~Contractor~~contractor or ~~Consultant~~consultant
 6. Ownership of ~~Plans, Drawings or Other Products~~plans, drawings or other products of the ~~Performance~~performance of the ~~Service~~services
 7. Assignments; ~~Subcontracts~~subcontracts
 8. Maintenance of ~~Records, Accounts~~records, accounts
 9. Right of Authority to Inspect and/or ~~Audit Books~~audit books and ~~Records of Contractor or Consultant~~records of contractor or consultant
 10. Insurance ~~Requirements~~requirements
 11. Termination
 12. Monitoring of the ~~Performance~~performance of ~~Service~~services
 13. Use of Authority ~~Supplies, Facilities~~supplies, facilities or ~~Property~~property
 14. Use of Authority ~~Personnel~~personnel
 15. All ~~Provisions~~provisions required to be included in Authority contracts by ~~Federal, State or Local Laws Ordinances, Codes, Rules or Regulations~~federal, state or local laws, ordinances, codes, rules or regulations.
 16. Such modifications and additions as are appropriate in light of the specific circumstances presented.
- B. To the extent practicable, a verbal authorization to commence work and a writing which is not intended to constitute the final agreement, at a minimum shall:
1. Describe the services to be performed;
 2. Specify the amount of compensation to be paid pursuant to the verbal authorization and writing or the rates or fees which will be utilized to determine such compensation; and
 3. Specify a date for completion or the anticipated duration of the services (except in instances where the nature of the services makes an estimate of the time required impossible or impracticable or where the contract is a retainer for the performance of services over an extended period of time on an "as-needed" basis and contains provisions allowing termination by the Authority at any time without cause).
- C. Miscellaneous service contracts shall contain those provisions of paragraph A and of other standard forms of contract deemed appropriate by an Authorized Officer.

Article ~~VII~~- Responsibilities of Services Contractors

A service contractor shall have the following responsibilities:

- A. To perform the contract in accordance with its terms;
- B. To perform the services required under the contract competently, efficiently, in a timely manner, at a reasonable cost and in a manner which is satisfactory to the Authority; and
- C. To cooperate with the Authority personnel who are directing, supervising or monitoring the performance of the services or who are assisting in their performance.

Article ~~IX~~ - Contracts Involving Former Officers or Employees of the Authority

The Authority may enter into contracts with any Authority's former officers or employees or with firms employing such officers or employees only to the extent permitted by Public Officers Law §73.

Article ~~X~~ - ~~Monitoring, of Service Contracts~~

~~The Division/Department of the Authority requiring the services shall be responsible for monitoring the performance of the contract to assure that the contract is performed in accordance with its terms.~~

Article ~~XIX~~ - Reporting of Service and Purchase Contracts

- A. Each Division/Department of an Authority shall maintain records, for each fiscal year, of the following ~~contracts~~contracts entered into by the Authority at the request of such Division/Department: i) personal service contracts in the actual or estimated amount of \$15,000 or more; ii) miscellaneous service contracts in the actual or estimated amount of \$15,000 or more; and iii) purchase contracts in an actual or estimated amount of \$15,000 or more.
- B. The Authority's Authorized Officer shall designate a Division or Department which shall be responsible for preparing a report at the end of each fiscal year with respect to the foregoing contracts. With respect to each such contract, the report shall contain the following information:
 - 1. Name of Contractor;
 - 2. Short description of the services involved;
 - 3. Amounts paid pursuant to the contract as of the end of such fiscal year;
 - 4. The selection process used;
 - 5. Status of the contract;

6. If it was exempt from advertising in the ~~New York State Contract Reporter~~NYSCR pursuant to Article IV(C) of these Guidelines:
 - i) a statement to that effect; and
 - ii) the basis for such exemption; ~~and~~
 7. Whether the contract was entered into with a New York State business enterprise or a foreign business enterprise, as those terms are defined in Public Authorities Law § 2879.
 8. New York State certified minority or women-owned business enterprise.an MWBE or SDVOB
 9. Referrals to and penalties imposed by the Director of DMWBD pursuant to Executive Law § 316.
- C. Each Authority shall submit a copy of such report to the ~~board~~Board of the Authority upon its completion.

Article ~~XXX~~Personal Service Contracts Requiring Approval of the Board

The following ~~personal service contracts~~Service Contracts shall require the approval of the Board of the Authority by resolution approved by a majority of the members present at a meeting at which a quorum is in attendance and shall be reviewed by the Board on an annual basis:

- A. Personal Service Contracts of all Authorities ~~except for Bridges and Tunnels~~: All personal service contracts entered into by an Authority in the actual or estimated amount of ~~\$20,000 or more~~100,000 or more, except if awarded to the lowest responsible bidder, pursuant to sealed bids, and;
- B. ~~Personal Service Contracts of Bridges and Tunnels: All personal services contracts entered into by Bridges and Tunnels in the actual or estimated amount of \$15,000 or more where the services will be rendered over a period in excess of one year; and~~
- ~~C. ——— Miscellaneous service contracts~~Miscellaneous Service Contracts: See Article II(C) of these ~~guidelines~~Service Contract Guidelines.

Article ~~XXXX~~Change Orders

An Authority may enter into a change order or amendment to a personal service or miscellaneous service contract provided that approval of the Board of the Authority by a resolution approved by a majority of the members present at a meeting at which a quorum is in attendance, shall be required in the following circumstances:

- A. The ~~contract~~Service Contract did not equal or exceed the applicable monetary or durational threshold for board approval set forth in Article ~~XXXX~~ or Article II of these ~~guidelines~~Service Contract Guidelines and the applicable threshold is equalled

or exceeded as a result of the change order or amendment. This provision applies to all contracts subject to these Service Contract Guidelines, including budget adjustments to estimated quantity contracts previously approved by the Board which exceed the threshold.

- B. The ~~contract~~Service Contract was approved by the Board and the change order or amendment, including any change orders or amendments since Board approval was last obtained, results in a substantial change in the contract as determined by an Authorized Officer. Notwithstanding the foregoing, Board approval of change orders shall only be required if the change order is over \$750,000, or over \$250,000 if the change order exceeds 15% of the adjusted contract value, provided that a change order over \$250,000 must be approved by the Authority president or his or her designee.
- C. The ~~miscellaneous service contract~~Miscellaneous Service Contract was awarded pursuant to the ~~All Agency Procurement~~General Contract Guidelines and the change order or amendment equals or exceeds the requirements for Board approval under Article IX of the ~~All Agency Procurement~~General Contract Guidelines.
- D. Notwithstanding the foregoing, an Authorized Officer may enter into a change order or amendment in any of the following situations as determined by an Authorized Officer,
1. The existence of an emergency; ~~or~~
 2. The risk of a substantial increase in cost or delay if prompt action is not taken; ~~or~~
 3. The change order is for a Design-Build contract and such change order does not change the total contract price to exceed the project budgeted cost, including contingency.
- E. The Chairman or Chief Operating Officer shall establish policies with respect to the delegation of responsibilities set forth in this Article.

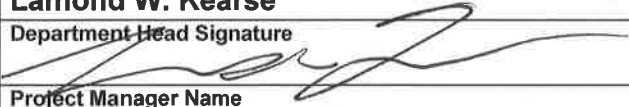
Article ~~XIV~~XII – Miscellaneous

- ~~A.~~ Any provision of these ~~guidelines~~Service Contract Guidelines may be waived by the Chairman, an Authority President or the Board, or such individuals as they may designate, except to the extent prohibited by law. A waiver may also be in the form of a ratification. If a contract is federally assisted, prior to issuing a waiver, consideration should be given to the steps which may be taken to assure that federal assistance is not jeopardized.
- ~~B.~~ No Board ~~committee procedure or~~Committee action or Authority policy, other than one approved by the Chairman, shall be inconsistent with these Service Contract Guidelines.

- D. An Authority may not divide or split any contract or series of contracts for the purpose of avoiding the requirements of these Service Contract Guidelines, provided that with regard to discretionary contracts awarded under Article III(D), an Authority may divide requirements for the purpose of unbundling contracts to create discretionary contracting opportunities.
- E. Nothing in these Service Contract Guidelines shall preclude the Authority from accepting bids or proposals utilizing an electronic bidding system that may inform bidders whether their bid is the current low bid, and allow bidders to submit new bids before the date and time assigned for the opening of bids. Such procedure shall not constitute disclosure in violation of Section 2878 of the Public Authorities Law.
- F. ~~C.~~ A contract ~~A Service Contract~~ awarded by an Authority pursuant to the provisions of these Service Contract Guidelines may provide that the ~~contract~~Service Contract includes the requirements of one or more other Authorities.
- G. The Authority shall prepare a publicly available report no less frequently than annually, summarizing procurement activity by the Authority for the period of the report, in accordance with the reporting requirements of Section 2879(6) of the Public Authorities Law.
- H. These Service Contract Guidelines are intended for the guidance of officers and employees of the Authority only. Nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under or by reason, of any requirement or provision thereof.
- ~~DH.~~ An Authority may contract for a service available through an existing contract between a contractor and the State of New York or the City of New York or another Authority if: i) the existing contract, if not awarded by the State of New York, was awarded pursuant to a process of competitive sealed bids or a competitive request for proposals; ii) the Authority's Authorized Officer determines that the price and other commercial terms specified in the contract are satisfactory; and iii) if ~~board~~Board authorization would otherwise be required under these Guidelines, the Board adopts a resolution by a majority vote of the members of the Board present meeting at which a quorum is in attendance which sets forth the reasons why a competitive process is impractical or inappropriate and authorizes the Authority to enter into the ~~contract~~Service Contract.
- ~~E.~~ These Guidelines are intended for the guidance of officers and employees of the Authority only. Nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under or by reason, of any requirement or provision thereof.






- ~~F~~I. Nothing contained in these Service Contract Guidelines shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of these Service Contract Guidelines.
- ~~G~~J. Where applicable federal, state or local laws, ordinances, codes, rules or regulations contain requirements which are in conflict with or which impose greater obligations upon the Authority than these Service Contract Guidelines, then such requirements shall take precedence over those contained herein.
- ~~H.~~ ~~The Authority shall prepare a publicly available report no less frequently than annually, summarizing procurement activity by the Authority for the period of the report, in accordance with the reporting requirements of Section 2879(6) of the Public Authorities Law.~~
- ~~I.~~ ~~Nothing in these guidelines shall preclude the Authority from accepting bids or proposals in an electronic format, to the extent permitted by law.~~

Staff Summary

Subject Revisions to Committee Charters
Department Corporate Compliance
Department Head Name Lamond W. Kearse
Department Head Signature 
Project Manager Name Lamond W. Kearse

Date June 22, 2016
Vendor Name N/A
Contract Number N/A
Contract Manager Name N/A
Table of Contents Ref #

Board Action					
Order	To	Date	Approval	Info	Other
1	Corporate Governance	6/22/16			
2	Board	6/22/16			

Internal Approvals			
Order	Approval	Order	Approval
1	Auditor General		
2	Chief Safety Officer		
3	Chief Compliance Officer		
4	Legal		
5	Chief of Staff		

Purpose:

To seek Board approval of proposed revisions to the Audit and Safety Committee charters. Copies of the Audit and Safety Committee charters with proposed revisions are provided with this staff summary.

Discussion:

A summary of the amendments are as follows:

Audit Committee: the proposed revisions to the Audit Committee charter are based upon current best practices reflected in the model Audit Committee Charter from the Institute of Internal Auditors. The substantive changes are to sections of the Audit Committee Charter dealing with the Committee's key responsibilities. These changes include requiring: (1) the Auditor General and Chief Compliance Officer to discuss with the Committee any significant deficiencies in the design or operation of the internal controls including information technology security and system controls; (2) the Committee review and discuss with the Auditor General and the outside auditor significant accounting and reporting issues; (3) the Committee to meet on a regular basis with the outside auditors to discuss any matters that the Committee or MTA Audit believes should be discussed; and (4) the Committee review the outside auditors' proposed audit scope and approach, including coordination of outside auditors' effort with MTA Audit.

Safety Committee: the proposed revisions to the Safety Committee charter are based upon the establishment of and the need for appropriate Board oversight of MTA's Safety Management System.

Recommendation:

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

The Metropolitan Transportation Authority

AUDIT COMMITTEE

This Charter for the Audit Committee was adopted by the Board Chair and a majority of the members of the 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”), ~~on the 29th day of July, 2004. This charter was amended on December 17, 2008, December 16, 2009 and further amended on November 16, 2011.~~ as amended on June 22, 2016.

I. PURPOSE

The Audit Committee (the “Committee”) shall assist and provide guidance to the Board Chair and the Board in monitoring and overseeing (a) the conduct of the MTA’s financial reporting process, the application of accounting principles, and the engagement of the MTA’s outside accountants; (b) the MTA’s internal controls and risk management systems; and (c) general matters relating to legal, regulatory and ethical compliance at the MTA (hereinafter referred to as the “Purpose”).

II. COMMITTEE AUTHORITY

The Committee’s role is one of oversight. In carrying out this oversight function, the chairperson of the Committee (the “Committee Chair”) and the vice-chairperson of the Committee (the “Committee Vice-Chair”) shall have additional responsibilities, as set forth in Section VI of this Charter. The Committee Chair and/or the Committee Vice-Chair regularly shall report to the entire Committee their findings with respect to these additional responsibilities and refer to the entire Committee for its consideration any matter relating thereto as the Committee Chair and/or the Committee Vice-Chair deem necessary or appropriate. MTA Audit Services’ organizational independence is derived from its reporting structure as it reports to the MTA Audit Committee and MTA Chairman/CEO.

Notwithstanding these oversight responsibilities, the MTA and each of its subsidiary corporations and affiliates are responsible for preparing their own financial statements and the respective outside auditors are responsible for auditing the respective financial statements. The Committee, the Committee Chair, and the Committee Vice-Chair recognize that the Auditor General and the outside auditors have more time, knowledge and detailed information about the MTA and each of its subsidiary corporations and affiliates than do Committee members. Consequently, in carrying out its oversight responsibilities, no member of the Committee shall be deemed to provide (i) any expert or special assurance as to the financial statements of the MTA or of any subsidiary corporation or affiliate or (ii) any professional certification as to the work of any outside auditor.

In discharging its role, the Committee is empowered to investigate any matter brought to its attention. To facilitate any such investigation, the Committee Chairman and/or Vice

Chairman 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. With the prior approval of the Board Chair or a majority of the Board, the Committee may retain, compensate and/or terminate outside counsel, auditors or other experts as it deems necessary and will receive adequate funding from the MTA to engage such advisors in accordance with MTA procedures.

III. COMMITTEE MEMBERSHIP

The Committee shall consist of ~~3 or more~~ at least three 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 Committee Chair and the Committee Vice-Chair. A member of the Committee may be removed, for cause or without cause, by the Board Chair. In the absence of the Committee Chair or the Committee Vice-Chair at a meeting of the Committee, the Board Chair shall appoint a temporary chairperson to chair such meeting. At least one member shall have accounting or financial management expertise. 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. ~~Members of the audit committee shall be familiar with corporate financial and accounting practices.~~

IV. COMMITTEE MEETINGS

The Committee shall meet on a regularly-scheduled basis at least 4 times per year, and more frequently as circumstances dictate. The Committee will cause to be kept adequate minutes of all its proceedings and records of any action taken and will report on its proceedings and any action taken to the next full meeting of the Board. 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, the Chief Compliance Officer, any officer or staff of the MTA, or any other persons 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 Auditor General 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 regarding the Purpose 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 Committee Chair shall report on the Committee's proceedings, and any recommendations made.

VI. KEY RESPONSIBILITIES OF COMMITTEE CHAIR AND VICE-CHAIR

The following responsibilities are set forth as a guide. The Committee Chair and the Committee Vice-Chair are authorized to carry out these and such other responsibilities assigned by the Committee, the Board Chair or the Board, from time to time, and take any actions reasonably related to the mandate of this Charter.

To assist the Committee in fulfilling its purpose, the Committee Chair and/or the Committee Vice-Chair shall:

Auditors, Financial Statements & Accounting Policies:

1. review and discuss with the Auditor General, the relevant MTA employees, ~~each~~the outside auditor, and the internal auditors any audit problems or difficulties encountered in the course of audit work, including any restrictions on the scope of activities or access to required information and advise the Committee as to how to resolve any disagreements regarding financial reporting;
2. review and discuss with the Auditor General and outside auditor significant accounting and reporting issues, including complex or unusual transactions and highly judgmental areas, and recent professional and regulatory pronouncements, and understand their impact on the financial statements;
3. inquire as to ~~each~~the outside auditor's view of the accounting treatment related to significant new transactions or other significant matters or events not in the ordinary course of business;
4. review and discuss with the Auditor General, the relevant MTA employees, and ~~each~~the outside auditor and any material financial or non-financial arrangements that do not appear on the financial statements of the MTA (or of any subsidiary corporation or affiliate);
5. review and discuss with the Auditor General and ~~each~~the outside auditor: (i) any accounting adjustments that were noted or proposed by the auditors but were "passed" (as immaterial or otherwise), (ii) any communications between the audit team and the audit firm's national office respecting auditing or accounting issues presented by the engagement and (iii) any "management" or "internal control" letter issued, or proposed to be issued, by any outside auditor to the MTA (including to any subsidiary corporation or affiliate);
6. review with the Auditor General and the outside auditor the periodic financial statements and footnotes of the MTA (and of each subsidiary corporation or affiliate, as applicable) and discussing the adequacy of the system of internal controls and the

appropriateness of the accounting principles used, and the judgments made, in the preparation of such periodic financial statements;

7. meet annually (or more frequently if necessary) with each respective outside auditor (without the Auditor General or any other officers or staff of the MTA present) to discuss the periodic financial statements of the MTA (and of each subsidiary corporation or affiliate, as applicable).

Internal Controls & Risk Management:

8. together with the Auditor General and the Chief Compliance Officer, review, discuss and (if necessary) investigate compliance with MTA policies and/or refer instances of non-compliance to the MTA Inspector General for investigation;
9. review and discuss with the Auditor General, the Chief Compliance Officer, the relevant employees of the MTA, and ~~each~~the outside auditor: (i) any significant deficiencies in the design or operation of the internal controls of the MTA, including information technology security and system controls (ii) any fraud, whether or not material, involving ~~any—MTA—employees~~ and (iii) related findings and recommendations of the outside auditors together with management's responses;
10. review the scope of the external auditors' assessment of internal controls over financial reporting, and obtain reports on significant findings and recommendations, together with management's responses.
11. review and discuss with the Auditor General, the Chief Compliance Officer, the relevant MTA employees, and ~~each~~the outside auditor the MTA's risk assessment and risk management systems, and oversee the underlying policies with respect to risk assessment and risk management;
12. together with the Auditor General and the Chief Compliance Officer, serve as the point of contact for the MTA Inspector General, including by reviewing all reports and draft reports delivered to the MTA by the MTA Inspector General, and being available to meet with the MTA Inspector General as part of the Inspector General's audits of the MTA's books and records;
13. recognizing the statutory obligations of the MTA Inspector General, and without denigrating from those obligations, seek to communicate with the MTA Inspector General with respect to any matter the Committee Chair and/or Vice Chair, the entire Committee, the Board Chair, the Board or the MTA Inspector General deem appropriate;

Miscellaneous:

14. submit to the entire Committee for its consideration any matters (including matters relating to the foregoing) that the Committee Chair and/or Committee Vice-Chair deem should appropriately be considered by the entire Committee; and

15. report regularly to the Committee on the findings and recommendations of the Committee Chair and the Committee Vice-Chair relating to the forgoing, and on any other matters the Committee Chair and/or the Committee Vice-Chair deem appropriate or the Committee, the Board Chair or the Board request.

VII. KEY RESPONSIBILITIES OF THE COMMITTEE

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:

Auditors, Financial Reporting & Accounting Policies:

1. in consultation with the Auditor General and the officer primarily responsible for the finances of the MTA and each subsidiary corporation and affiliate, oversee the work of the MTA's outside auditor and provide guidance to the Board Chair and the Board with respect to the appointment (and if appropriate dismissal), evaluation, compensation of the outside MTA's auditors;
2. review and provide guidance to the Board with respect to ~~any~~pre-approving all auditing and non-auditing services provided ~~to the MTA by any of the MTA's~~by the outside auditor to the MTA;
3. ~~review and~~ provide guidance to the Board with respect to, and approve, the annual audit plan and any subsequent major changes to it and the risk assessment as proposed by the Auditor General in consultation with the MTA Chairman/CEO and the President of each subsidiary and affiliated corporation ~~and affiliate~~;
4. review and discuss with the Auditor General, ~~the~~ relevant MTA employees, ~~each and the~~ outside auditor, ~~and the internal auditors~~: (i) any significant audit findings during the year, including the status of previous audit recommendations; (ii) internal audit's activity's performance relative to its plan; (iii) any changes required in the scope of the audit plan; ~~(iii)~~iv the audit budget and staffing; and ~~(iv)~~v the coordination of audit efforts, status of the internal audit plan and the adequacy of internal audit resources (both numbers and capabilities);
5. on a regular basis, meet with the external auditors to discuss any matters that the committee or internal audit believes should be discussed;
6. review the external auditors' proposed audit scope and approach, including coordination of audit effort with internal audit;
7. review and discuss with the Auditor General, ~~the~~ relevant MTA employees, and the outside auditor accounting policies that may be viewed as critical, all matters required

- to be communicated to the committee under generally accepted auditing standards, as well as any recent or proposed significant changes in MTA accounting policies; and inquire as to the outside auditors' views as to the application of accounting principles;
8. monitor the consistency and comparability of the financial reporting processes of the MTA;
 9. monitor the integrity, consistency and comparability of the financial reports and other financial information provided by the MTA to any other governmental or regulatory body, the public or other users thereof, including reconciliations where necessary;
 10. review and provide guidance to the Board with respect to the appointment, compensation, and (if necessary) dismissal of the Auditor General;
 11. at least annually, review with the Auditor General a report by ~~each~~the outside auditor describing: (i) such outside auditor's internal quality-control procedures; (ii) any material issues raised by the most recent internal quality-control review, or peer review, of the firm, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, regarding one or more independent audits carried out by the firm, and any steps taken to deal with any such issues; and (iii) all relationships between the outside auditor and the MTA (or any subsidiary corporation or affiliate);
 12. on an annual basis, in each case together with the Auditor General: (i) review a formal written statement from ~~each~~the outside auditor delineating all relationships between such outside auditor and the MTA; (ii) actively engage in a dialogue with ~~each~~the outside auditor with respect to any disclosed relationships or services that may impact the objectivity and independence of such outside auditor and take appropriate action in response to such outside auditor's report to satisfy itself of such auditor's independence; (iii) consider whether, in the interest of assuring continuing independence of ~~each~~the outside auditor, the MTA's respective outside auditors should be rotated; and (iv) set clear hiring policies for employees or former employees of the outside auditors;

Internal Controls & Risk Management:

13. review and discuss with the Auditor General, the Chief Compliance Officer, the relevant MTA employees, and ~~each~~the outside auditor the adequacy of the MTA's internal and disclosure controls and procedures;
14. together with the Chief Compliance Officer, review and discuss with the relevant MTA employees, and ~~each~~the outside auditor any significant risks or exposures and assess the steps such employees have taken to minimize such risks;
15. review periodically with the Chief Compliance Officer and the General Counsels of the MTA and each subsidiary corporation and affiliate: (i) legal and regulatory matters that may have a material impact on the financial statements of the MTA (or any subsidiary corporation or affiliate); and (ii) the scope and effectiveness of compliance policies and programs;

Ethics & Conflicts of Interests:

16. together with the Chief Compliance Officer, review periodically with the relevant MTA employees (i) the process for communicating the code of conduct to company personnel; (ii) the level of compliance with all applicable ethics codes, guidelines, and regulations; and, (iii) the performance of the MTA Ethics and Compliance programs.

Miscellaneous:

17. conduct an annual self-evaluation of the performance of the Committee, including its effectiveness and compliance with this Charter;
18. review and reassess the adequacy of this Charter annually;
19. approve the internal audit charter;
20. consider any matter referred to the entire Committee by the Committee Chair and/or Vice-Chair; and
21. report regularly to the Board on Committee findings and recommendations and any other matters the Committee deems appropriate, or the Board Chair or the Board request.

The Metropolitan Transportation Authority SAFETY COMMITTEE

This Charter for the Safety 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”), ~~on March 26, 2014, as amended on June 22, 2016.~~

I. PURPOSE

The Safety Committee (the “Committee”) shall assist the Board Chair and the Board by reviewing, providing guidance, and making recommendations with respect to the management of safety on an MTA-wide basis.

The MTA manages safety through its SMS or “Safety Management System,” which is a top-down, organization wide, data driven approach to managing safety risk and assuring the effectiveness of safety mitigations. SMS includes systematic policies, procedures, and practices for the management of safety risk.

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, the chairs of each operating committee of the Board, and each member of the Board recommended for appointment to the Board by a labor organization. All other members of the Committee shall be 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 4 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 Chief Safety Officer, 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 as the Committee requests. The Chief Safety Officer shall (1) furnish the Committee with all material information pertinent to matters appearing on the Committee agenda relating to safety on an MTA-wide basis, (2) provide the chairperson of the Committee with all information regarding safety on an MTA-wide basis that is material to the Committee's monitoring and oversight of safety on an MTA-wide basis, 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 safety on an MTA-wide basis.

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. Monitor the implementation and operation of the ~~annual safety goals and programs of the MTA and each of its subsidiaries and constituent agencies;~~ MTA's SMS;
2. Monitor the safety record of the MTA and each of its subsidiaries and constituent authorities, including by selecting and reviewing key safety indicators;
3. Provide a forum for the open discussion of safety issues among representatives from the MTA and each of its subsidiaries and constituent agencies;
4. Facilitate the identification of approaches and solutions that address MTA-wide safety issues;
5. Review and assess the adequacy of this Charter annually;
6. Conduct an annual self-evaluation of the performance of the Committee, including its effectiveness and compliance with this Charter; and
7. 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.