



**Metropolitan Transportation Authority**

# **Corporate Governance Committee Meeting**

---

## **MARCH 2019**

### **Committee Members**

F. Ferrer, Acting Chairman

S. Feinberg

S. Metzger

C. Moerdler

M. Pally

L. Schwartz

P. Trottenberg

P. Ward

N. Zuckerman

# **Corporate Governance Committee Meeting**

**Monday, 3/25/2019**

**3:30 - 4:30 PM ET**

## **1. PUBLIC COMMENTS PERIOD**

## **2. APPROVAL OF MINUTES- DECEMBER 10, 2018**

*Corporate Governance Minutes 12.2018 - Page 3*

## **3. APPROVAL OF 2019 COMMITTEE WORKPLAN**

*Work Plan - Page 6*

## **4. REVIEW AND APPROVE MISSION STATEMENT AND PERFORMANCE MEASUREMENT REPORT**

*Mission Statement, Measurements and Performance Ind. SS 3.2019 (00094405x7A901) - Page 7*

*Mission Statement, Measurement and Performance Indicator Report - Page 8*

## **5. REVIEW AND APPROVE PROCUREMENT GUIDELINES**

*Staff Summary All Agency Procurement Guidelines - Page 43*

*All Agency Service Procurement Guidelines 2019 Draft - Page 44*

*All Agency General Procurement Guidelines 2019 Draft - Page 58*

## **6. REVIEW AND APPROVE MTA POLICIES IN CONNECTION WITH PROVISIONS OF THE PUBLIC AUTHORITIES LAW**

*Staff Summary PAL Policies 3.2019 (00094350x7A901) - Page 72*

## **7. OTHER BUSINESS**

**MINUTES OF THE MEETING**  
**MTA Corporate Governance Committee**  
**December 10, 2018**  
**2 Broadway – 20<sup>th</sup> Floor**  
**New York, New York**

The following MTA Corporate Governance Committee members were present:

Hon. Fernando Ferrer, Acting Chairman  
Hon. Susan Metzger  
Hon. Mitchell H. Pally  
Hon. Polly Trottenberg  
Hon. Neal Zuckerman

The following MTA Corporate Governance Committee members were absent:

Hon. Charles G. Moerdler  
Hon. Lawrence Schwartz  
Hon. Peter Ward

The following MTA Board Members attended the meeting:

Hon. Norman E. Brown  
Hon. Carl Weisbrod

The following MTA staff attended the meeting:

Helene Fromm, Chief of Staff  
Thomas Quigley, General Counsel  
Monica Murray, Deputy Chief Compliance Officer  
Margaret Connor, Senior Director Human Resources and Retirement Programs  
David Cannon, Chief Procurement Officer  
Margaret Talalaj, Director Compensation, Policies, Procedures & Special Projects  
Karen Schrempp, Assistant Director, Policies, Procedures & Special Projects

\* \* \*

Acting Chairman Ferrer called the December 10, 2018 meeting of the MTA Corporate Governance Committee to order.

**Public Comments Period**

There was 1 public speaker for the public comment portion of the meeting.

**Approval of Minutes**

Upon motion duly made and seconded, the Committee approved the minutes of the Corporate Governance Committee meeting held March 19, 2018.

**1. 2018 Draft Committee Work Plan**

Ms. Murray informed the Committee that as there were no recommended changes to certain items on the Work Plan and therefore there was no need to review those items at this time. Those items included; presentation on compliance with Procurement Lobby Law, review of Compliance Principals, review of the Whistleblower Protection Policy and review of the MTA Code of Ethics.

Acting Chairman Ferrer made note that all the items should be reviewed by the Committee in 2019.

**2. 2019 Draft Committee Work Plan**

Ms. Murray advised the Committee the draft 2019 Work Plan includes recurring agenda items and that the Work Plan will be amended in 2019 to include additional topics of discussion at the tentatively scheduled March 2019 Committee meeting.

**3. Review and Approve MTA Policies in connection with provision of the Public Authorities Law**

Ms. Murray advised the Committee that the Board is required to formerly adopt certain policies pursuant to the Public Authorities Law 2824. Those policies are contained in the Exhibit Book provided for this meeting. Ms. Murray also withdrew the Reasonable Accommodation Policy from Committee consideration stating it required further review.

Upon motion duly made and seconded, the Committee recommended Board approval of the policies contained in the Exhibit Book. Those policies are:

1. All Agency Policy Directive- Interview and Relocation
2. All Agency Policy Directive- Leave for Bone Marrow or Organ Donation
3. All Agency Policy Directive- Leave for Cancer Screening
4. The Long Island Rail Road Corporate Policy & Procedure– Employee Status Changes
5. The Long Island Rail Road Corporate Policy & Procedure- Family and Medical Leave

**4. Other Business**

Ms. Trottenberg asked about a Board Assessment Survey and stated that she thought that there would be an agenda item this month about the survey results. Ms. Murray responded that it was an executive session item to be discussed when the Chief Compliance Officer returns from his leave of absence. Ms. Trottenberg requested that the Committee discuss the survey sooner. Mr. Weisbrod stated that he asked about the evaluation several months ago and stated that he was told it would be discussed at this Committee meeting. Mr. Quigley responded that we can put this survey on the agenda for March of 2019. Mr. Weisbrod stated he is concerned about the delay. Mr. Pally asked if we can have a meeting before March 2019 to review the survey. Mr. Ferrer stated that he would prefer the survey results go to the January Board meeting. Dr. Metzger identified the need for a larger group discussion. Mr. Zuckerman asked that the staff send the survey out again to those Board Members who did not complete the survey. Mr. Quigley agreed.

The additional details of Committee members' discussion are contained in the video recording of the meeting, produced by the MTA and maintained in the MTA records.

**Adjournment**

Acting Chairman Ferrer adjourned the December 10, 2018 meeting of the Corporate Governance Committee.

Respectfully submitted,

A handwritten signature in cursive script, reading "Monica A. Murray". The signature is written in dark ink and is positioned above the printed name and title.

Monica A. Murray  
MTA Deputy Chief Compliance Officer

## 2019 CORPORATE GOVERNANCE COMMITTEE WORK PLAN

---

### I. RECURRING AGENDA ITEMS


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

### II. SPECIFIC AGENDA ITEMS

<u>March 2019</u>	<u>Responsibility</u>
1. Approve 2019 Committee Work Plan_____	Committee Chair & Member
2. Review and Approve Mission Statement and Measurement Report_____	Various Staff Members
3. Review and Approve Procurement Guidelines _____	Chief Procurement Officer
4. Review and Approval MTA Policies in connection with Provisions of the Public Authorities Law_____	Various Staff Members

<u>November 2019</u>	<u>Responsibility</u>
1. Approve 2020 Committee Work Plan_____	Committee Chair & Member
Presentation on Recent Developments in	
2. Corporate Governance_____	Chief Compliance Officer
Presentation on Compliance with	
3. Procurement Lobby Law_____	Chief Compliance Officer
4. Review Governance Principles _____	Chief Compliance Officer
5. Review MTA Whistleblower Protection Policy_____	Chief Compliance Officer
6. Review and Approval MTA Policies in connection with Provisions of the Public Authorities Law_____	Various Staff Members
7. Review and Approve Any Revisions to Board Committee Charters_____	Committee Chair & Members
8. Review and Approve Any Revisions to MTA By-laws_____	General Counsel
9. Review and Approve Revisions to MTA Codes of Ethics _____	Chief Compliance Officer

# Staff Summary

<b>Subject</b> <b>Mission Statement, Measurements, and Performance Indicators Report</b>	<b>Date</b> <b>March 27, 2019</b>
<b>Department</b> <b>Chief of Staff</b>	<b>Vendor Name</b> <b>N/A</b>
<b>Department Head Name</b> <b>Helene Fromm</b>	<b>Contract Number</b> <b>N/A</b>
<b>Department Head Signature</b> 	<b>Contract Manager Name</b> <b>N/A</b>
<b>Project Manager Name</b> <b>Lamond W. Kearse</b>	<b>Table of Contents Ref #</b>

Board Action						Internal Approvals			
Order	To	Date	Approval	Info	Other	Order	Approval	Order	Approval
	Corporate Governance	3/25/19				1	Chief Compliance Officer		
	Board	3/27/19				2	Legal		
						3	Chief of Staff		

## Purpose:

To obtain Board approval of the MTA's Mission Statement and to authorize submission of the annexed 2018 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 to annually 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 operating 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 2018. 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**

**Metropolitan Transportation Authority  
Mission Statement, Measurements, and Performance  
Indicators Report Covering Fiscal Year 2018**

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

**Submitted as Part of the MTA 2018 Annual Report to the Governor**



## Note

This report reflects several new performance indicators introduced by New York City Transit (NYCT) in 2017 and 2018. These new metrics, which are meant to better reflect the customer experience, are identified in the report with footnotes. Both these new metrics and the “legacy” indicators are updated regularly on the Performance Dashboards at [www.mta.info](http://www.mta.info). Because of the timing of this report, some of the agency performance indicators are preliminary and may be subject to reconciliation and adjustment as data are finalized over the course of the year. For that reason, some of the 2017 data presented in this year's report have been adjusted and may differ from those in the 2017 report. The 2018 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 2018 preliminary data are also subject to subsequent adjustment, and the 2019 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 of our region, as well as visitors. 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"> <li>✓ Customer injury rates</li> <li>✓ Bus collision rates</li> </ul>	
Provide on-time and reliable services	<ul style="list-style-type: none"> <li>✓ Subway major incidents *</li> <li>✓ Subway service delivered *</li> <li>✓ Customer journey time performance*</li> <li>✓ Additional platform time*</li> <li>✓ Additional train time*</li> <li>✓ On-time performance (subway and commuter railroads)</li> <li>✓ Subway terminal delays</li> <li>✓ Subway wait assessment</li> <li>✓ Bus trips completed</li> <li>✓ Bus Customer journey time performance*</li> <li>✓ Bus additional bus stop time*</li> <li>✓ Bus additional travel time*</li> <li>✓ Bus service delivered **</li> <li>✓ Bus average speeds **</li> <li>✓ Bus wait assessment</li> <li>✓ Mean distance between failures (subway, railroads, buses)</li> </ul>	
Provide services to people with disabilities	<ul style="list-style-type: none"> <li>✓ Elevator availability</li> <li>✓ Escalator availability</li> <li>✓ Bus passenger wheelchair lift usage (does not include paratransit)</li> <li>✓ Paratransit ridership</li> <li>✓ Access-A-Ride on-time performance**</li> <li>✓ Access-A-Ride provider no-shows **</li> <li>✓ Access-A-Ride ride time **</li> <li>✓ Access-A-Ride call center, calls answered **</li> <li>✓ Access-A-Ride passenger complaints**</li> </ul>	
Repair, replace, and expand transportation infrastructure	<ul style="list-style-type: none"> <li>✓ Capital Program commitments</li> <li>✓ Capital Program completions</li> </ul>	

Note: \*Revised NYCT Subway service indicators were added as part of the 2017 Subway Action Plan. \*\*New NYCT Bus service indicators and Paratransit service indicators were introduced in 2018. All indicators are updated regularly on Performance Dashboards at [www.mta.info](http://www.mta.info).

## 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"> <li>✓ Farebox operating ratio</li> <li>✓ Operating cost per customer</li> <li>✓ Total support to mass transit</li> </ul>
Maximize system usage	<ul style="list-style-type: none"> <li>✓ Ridership</li> <li>✓ Traffic volume</li> </ul>
Repair, replace, and expand transportation infrastructure	<ul style="list-style-type: none"> <li>✓ Capital Program commitments</li> <li>✓ Capital Program completions</li> </ul>

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

## 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"> <li>✓ Subway major incidents *</li> <li>✓ Subway service delivered *</li> <li>✓ Customer journey time performance*</li> <li>✓ Additional platform time*</li> <li>✓ Additional train time*</li> <li>✓ On-time performance (subway and commuter railroads)</li> <li>✓ Subway terminal delays</li> <li>✓ Subway wait assessment</li> <li>✓ Bus trips completed</li> <li>✓ Bus Customer journey time performance*</li> <li>✓ Bus additional bus stop time*</li> <li>✓ Bus additional travel time*</li> <li>✓ Bus service delivered **</li> <li>✓ Bus average speeds **</li> <li>✓ Bus wait assessment</li> <li>✓ Mean distance between failures (subway, railroads, buses)</li> </ul>
Maximize system usage	<ul style="list-style-type: none"> <li>✓ Ridership</li> <li>✓ Traffic volume</li> </ul>
Perform services in an efficient manner	<ul style="list-style-type: none"> <li>✓ Farebox operating ratio</li> <li>✓ Operating cost per customer</li> </ul>
Repair, replace, and expand transportation infrastructure	<ul style="list-style-type: none"> <li>✓ Capital Program commitments</li> <li>✓ Capital Program completions</li> </ul>

## **MTA New York City Transit (“NYCT”)**

<b>Performance Indicators</b>	<b>2017 Actual</b>	<b>2018 Actual</b>
<b>NYCT Subway Service Indicators*</b>		
Weekday Major Incidents – Subways (monthly average)	68.0	68.0
Customer Journey Time Perf. (% within 5 min. of scheduled)	n/a	79.4%
Additional Platform Time (average beyond scheduled)	n/a	0:01:18
Additional Train Time (average beyond scheduled)	n/a	0:01:19
Weekday Service Delivered – Subways	94.5%	94.8%
Weekday Terminal On-Time Performance – Subways	63.4%	67.1%
Weekday Terminal Delays – Subways (monthly average)	62,479	57,774
Mean Distance Between Failures – Subways (miles)	121,220	121,116
Weekday Wait Assessment – Subways	71.3%	70.8%
Elevator Availability – Subways	95.9%	96.5%
Escalator Availability – Subways	94.5%	93.6%
Total Ridership – Subways	1,727,366,607	1,680,060,402
Weekday On-Time Performance – Staten Island Railway	96.7%	95.4%
Mean Distance Between Failures – Staten Island Railway (miles)	59,871	70,950
<b>NYCT Bus Service Indicators**</b>		
Percent of Completed Trips – NYCT Bus	99.2%	99.1%
Customer Journey Time Perf. (% within 5 min. of scheduled)	n/a	71.7%
Additional Bus Stop Time (average beyond scheduled)	n/a	0:01:47
Additional Travel Time (average beyond scheduled)	n/a	0:00:53
Bus Customer Wheelchair Lift Usage – NYCT Bus	1,432,622	1,382,447
Service Delivered NYCT & MTA Bus (% scheduled buses, peak hrs.)	97.1%	97.0%
Bus Speeds NYCT & MTA Bus (average route speed, end-to-end)	8.0 mph	8.0 mph
Total Ridership – NYCT Bus	602,620,356	569,361,238
Mean Distance Between Failures – NYCT Bus (miles)	6,225	6,244
Wait Assessment – NYCT & MTA Bus	77.7%	77.5%

*Note: \*Revised NYCT Subway service indicators were added as part of the 2017 Subway Action Plan. Some totals are not available for 2017. \*\*New NYCT Bus service indicators and Paratransit service indicators were introduced in 2018. Some totals are not available for 2017. All indicators are updated regularly on Performance Dashboards at [www.mta.info](http://www.mta.info).*

Performance Indicators	2017 Actual	2018 Actual
<b>NYCT Paratransit Service Indicators**</b>		
Total Paratransit Ridership – NYCT Bus	8,585,274	9,867,498
AAR On-Time-Performance: Pick up (30 min.) / Drop off (5 min.)	Pick up: 93% Drop off: 88%	Pick up: 95% Drop off: 91%
AAR Provider No-Shows (per 1,000 trips)	2.55	2.19
AAR Ride Time (% of ride times as scheduled or better)	67%	75%
AAR Call Center (% of calls answered)	97%	96%
AAR Passenger Complaints (per 1000 completed trips) Transportation Related / Non-Transportation Related	n/a	Trans: 2.7 Non-Trans: 1.3
<b>NYCT Safety Indicators</b>		
Customer Injury Rate – Subways (per million customers)	2.91	2.97
Customer Accident Injury Rate – NYCT Bus (per million customers)	1.37	1.51
Collisions with Injury Rate – NYCT Bus (per million vehicle miles)	6.91	6.66
Employee Lost Time and Restricted-Duty Rate NYCT Subways (per 100 employees)	2.88	2.84
Employee Lost Time and Restricted-Duty Rate NYCT Bus (per 100 employees)	5.64	5.67
<b>NYCT Workforce Indicators</b>		
Female Representatives in NYCT Workforce	18.5%	18.5%
Minority Representatives in NYCT Workforce	77.4%	78.1%
<b>NYCT Financial Indicators</b>		
Farebox Operating Ratio	56.2%	53.3%
Operating Cost per Passenger	\$3.48	n/a
<b>NYCT Capital Program Indicators*</b>		
Commitments in \$ Millions (% of annual goal)	\$4,103 (80%)	\$6,024(141%)
Completions in \$ Millions (% of annual goal)	\$2,554 (72%)	\$2,965 (82%)

*Note: Financial indicators include NYCT Subways, Buses, and Paratransit. The 2018 Farebox Operating Ratios are based on preliminary 2018 actual results and will be updated by the MTA Division of Management & Budget in April 2019. The Operating Cost per Passenger excludes debt service expenses. The preliminary 2018 Operating Cost per Passenger will be calculated in second quarter 2019, prior to the July Financial Plan. \* The Capital Program Commitments/Completions have been adjusted to include “slipped” projects from previous years that were achieved in 2017 or 2018. Projects details are available on the Capital Programs Dashboard at [www.mta.info](http://www.mta.info).*

**MTA GOAL: Ensure Customer Safety**

**PERFORMANCE INDICATORS: Customer Injury Rate**

The “customer injury rate” for NYCT Subways was 2.97 per million customers, as of December 2018, which represents an increase over the adjusted 2017 rate of 2.91 per million customers for the same period last year. The higher rate was due to an increase in the number of people struck by trains, as well as customers being dragged by objects caught in train doors. NYCT Subways continues its efforts to improve customer safety through expanded use of safety posters, train announcements, incident reports, and the training and deployment of station staff.

For NYCT Bus, the “customer accident injury rate” increased by about 10.2 percent in 2018, from 1.37 per million customers to 1.51 per million customers. The agency is studying these trends to improve its accident reduction programs and better define safety goals for agency divisions and depots. NYCT Bus saw a decrease in its 2018 “collision injury rate” of about 3.7 percent over the previous year to 6.6 injuries per million vehicle miles. Throughout the year, NYCT Bus continued to incorporate relevant accident findings into its safety and training initiatives. These initiatives focus on basic operating procedures in bus stop areas, including scanning mirrors, observing all sides of the bus, pulling in and out of bus stops properly, and positioning the bus correctly in the bus stop.

In 2018, NYCT Bus carried out its Vision Zero III program, an eight-hour training session which emphasizes challenges in dealing with pedestrians and cyclists. In addition, the agency is using indicators such as speed-camera violations, red-light violations, cellphone infractions, and customer complaints as part of its bus operator monitoring program. In Spring 2019, NYCT Bus will implement Vision Zero IV, an enhanced version of the program. This iteration of the course will focus on new bus safety technologies, as well as trends in pedestrian, bicyclist, and customer accidents. All bus operators will be cycled through this new curriculum over a two-year period. In a joint agreement with all labor unions, NYCT Bus continues its “zero-tolerance” policy on use of cellphones and electronic devices while operating a bus. Additionally, NYCT Bus worked with its labor representatives to establish a process whereby operators who receive speed-camera violations are disciplined and must pay the fine. The agency has also negotiated an Accident Review System (ARS), which now extends to bus operators in all labor bargaining units.

**MTA GOAL: Provide On-Time and Reliable Services**

**PERFORMANCE INDICATORS: On-Time Performance, Mean Distance Between Failures, Major Incidents, Service Delivered, Terminal Delays, Wait Assessment, Bus Trips Completed, Bus Average Speeds, Bus Additional Travel Time,**

As part of the Subway Action Plan (SAP) launched in 2017, NYCT Subways developed the following four new performance indicators: (1) Major Incidents (MI) are incidents that delay 50 or more trains; (2) Service Delivered (SD) measures the agency's ability to deliver scheduled subway service; (3) Additional Platform Time (APT) is the average added time customers must wait for a train, compared to the scheduled wait time; and (4) Additional Train Time (ATT) is the average added time customers spend aboard a train due to service issues. These new indicators, along with "legacy" indicators, are described in greater detail and tracked on the Subway Performance Dashboard at [www.mta.info](http://www.mta.info).

As a result of the SAP and NYCT's focus on operational excellence under its "Save Safe Seconds" program, NYCT Subways saw major improvements in key performance metrics over the course of 2018. Significantly, delays in December 2018 were the lowest in nearly four years, while weekday On-Time Performance (OTP) was the highest in four years. Weekday Terminal Delays fell from 62,479 to 57,774. On-Time Performance (OTP) rose 3.7 percent to 67.1 percent. Weekday Service Delivered rose to 94.8 percent, up 0.3 percent over the previous year. Among the agency goals for 2018 was to reduce subway delays by 10,000 per month, which was achieved in the final quarter of the year. At the Staten Island Railway (SIR) Mean Distance Between Failures (MDBF) increased from 59,871 miles to 70,950.

Several indicators remained unchanged or failed to improve in 2018. Though weekday Major Incidents averaged 58 from July to December 2018, down from 78 in the first six months of the year, the overall 2018 average remained unchanged from the previous year at 68 per month. Subway MDBF remained stable. Weekday Wait Assessment (WWA) dropped to 70.8 percent from 71.3 percent. However, WWA improved in the second half of 2018, averaging 71.7 percent for July to December, up from an average of 69.9 percent in the first six months of 2018. Weekday OTP on the SIR dropped to 95.4 percent from 96.7 percent. Subway ATT was 0:00:53 in 2018. This is a new metric for which no 2017 comparative data is available.

In April 2018, NYCT unveiled the Bus Plan, a comprehensive plan to reimagine New York's entire public bus system. As one component of the plan, NYCT launched a new Bus Performance Dashboard with metrics that better reflect the customer experience. These include: (1) Service Delivered (sometimes referred to as "throughput") measuring the ability to deliver the scheduled service; (2) Bus Speeds measuring how quickly buses travel along their routes; (3) Additional Travel Time (ATT), which is the average additional time that customers are on board the bus compared to the scheduled time. These new indicators combine NYCT Bus and MTA Bus performance and can be tracked on the Bus Performance Dashboard at the MTA public website at [www.mta.info](http://www.mta.info). Complete 2017 data was not available for all of the new indicators.

NYCT Bus posted a MDBF of 6,244 miles in 2018, a 0.3 percent improvement over the previous year. NYCT continues to replace its remaining over-age bus fleet under the 2015-2019 Capital Program. Service Delivered decreased slightly by 0.1 percent on a 12-month average in 2018 to 97 percent. The percentage of bus trips completed decreased slightly to 99.1 percent in 2018. Bus speeds remain the same at 8 mph in 2018 as compared to the previous year.

**MTA GOAL: Provide Services to People with Disabilities****PERFORMANCE INDICATORS: Elevator Availability, Escalator Availability, Bus Passenger Wheelchair Lift Usage, Paratransit Ridership, AAR Service Indicators**

In 2018, NYCT appointed its first senior advisor for accessibility, a new position reporting to the NYCT president, and launched a new Access-A-Ride (AAR) Dashboard to report metrics that are most valuable for customers. These include indicators for on-time performance for pick up and drop off, provider no-shows, ride time, customer complaints, and the performance of the AAR call center. Notably, AAR service complaints, which averaged 2.7 per 1000 completed rides for 2018, fell steadily over the course of the year from 3.8 in December 2017 to 2.1 in December 2018.

The E-Hail pilot program, which includes both advance reservation and on-demand service, remained the primary driver of ridership growth in 2018. Ridership grew to 9.9 million, a 14.9 percent increase over the previous year. Improvement of accountability through Broker Service vehicle GPS-tracking enabled the measurement of on-time performance and provider no-shows.



Pick up on-time performance less than or equal to 30 minutes improved by 2 percent in 2018, as compared to the previous year. Drop off on-time performance, within five minutes of scheduled time, also improved by 3 percent. Provider no-shows per 1,000 trips improved from 2.55 in 2017 to 2.19 in 2018. About 75 percent of ride time was as scheduled or better in 2018. The AAR Call Center answered 96 percent of calls in 2018. The agency also worked closely with the Paratransit Task Force to proactively improve the customer experience, communication, and transparency.

At NYCT Subways, Elevator Availability improved to 96.5 percent in 2018 from 95.9 percent in 2017, while Escalator Availability dropped to 93.6 percent from 94.5 percent. It is worth noting that escalators were challenged by a special inspection campaign that reduced availability in October and November. If one excludes these two months, availability systemwide was approximately 94.0 percent.

Bus Customer Wheelchair Lift Usage at NYCT Buses decreased by 3.5 percent in 2018 to a total of 1.38 million customers. The agency's new low-floor buses provide easier boarding and more reliable service for customers who use wheelchairs. In 2018, the agency piloted a new express bus design as part of the Fast Forward Plan that simplifies wheelchair access by adding a low-floor section in the middle of the bus equipped with a wheelchair ramp.

**MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure****PERFORMANCE INDICATORS: Capital Program Commitments and Completions**

NYCT committed over \$6.0 billion of its Capital Program funds in 2018, representing 141 percent of the 2018 goal. This includes the value of commitments that "slipped" from prior year goals but were committed in 2018. Major commitments in 2018 included: repair of Superstorm Sandy damage and long-term resiliency protection at the Coney Island Yard, the 148<sup>th</sup> St. Yard, and the 207<sup>th</sup> St. Yard; purchase of 535 R211 B-Division and SIR railcars; ADA accessibility projects at seven subway stations; replacement of 18 traction elevators and one hydraulic elevator at six subway stations; roof repair, boiler upgrade, and soil remediation at the 207th St. Maintenance and Overhaul Shop; renewal of two circuit breaker houses; renewal of two substations; and 20 track-replacement projects and 10 track switch-replacement projects on various lines, including SIR and the Clifton Yard. Details of all projects can be found at the Capital Program Dashboard at [www.mta.info](http://www.mta.info).

NYCT achieved capital project completions in 2018 worth nearly \$3.0 billion, representing 82 percent of the 2018 total completion goal. Completions in 2018 included: seven station renewals on the Culver Line, including two ADA accessibility projects; purchase of 231 articulated buses; purchase and acceptance of 114 R179 cars for the B Division; completion of the Beacon Train Arrival System on the B-Division; rehabilitation of the Myrtle Viaduct structure; modernization of four interlockings on the Queens Blvd. Line and the 6<sup>th</sup> Av. Line; construction of a new ventilation plant at 46th Street-Northern Boulevard on the Queens Blvd. Line; renewal of two circuit breaker houses on the White Plains Road Line; and 11 track-replacement projects and 9 track switch-replacement projects on various lines. Details can be found at the Capital Program Dashboard at [www.mta.info](http://www.mta.info).

**MTA GOAL: Perform Services in an Efficient Manner****PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Passenger**

The NYCT financial indicators combine NYCT Subways, NYCT Buses, and Paratransit. The farebox operating ratio in 2018 was 53.3 percent, down 2.9 percent from a corrected ratio of 56.2 percent in 2017.

Preliminary operating cost per passenger, or cost per ride, is calculated in the second quarter of each year, prior to the July Financial Plan. As such, the preliminary 2018 cost per passenger is not yet available for comparison. The 2017 NYCT operating cost per passenger was \$3.48, up 4.8 percent from \$3.32 the previous year. The operating cost per passenger excludes debt service.

**MTA GOAL: Maximize System Usage****PERFORMANCE INDICATORS: Ridership**

Total NYCT Subway ridership in 2018 was 1.68 billion rides, a decline of about 2.7 percent from 1.73 billion rides the previous year. The decline continues a downward trend from a record ridership of 1.76 billion in 2015, which represented the highest subway ridership since the 1940s. Total NYCT Bus ridership decreased in 2018 to 569 million riders, as compared to 603 million riders in 2017.

**MTA GOAL: Ensure Our Employees' Safety**

**PERFORMANCE INDICATORS: Employee Lost Time and Restricted-Duty Rate**

The NYCT Subways employee “lost-time and restricted-duty” accident rates fell slightly in 2018 to 2.84 per 100 employees from the adjusted rate of 2.88 per 100 employees in 2017. NYCT Subways continues to operate a robust safety program for employees, including safety communications, safety audits, training, and accident investigations. In addition, NYCT Subways continues 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.

At NYCT Bus, the lost time and restricted duty rate rose slightly to 5.67 per 100 employees from 5.64 the previous year. Both NYCT Bus and MTA Bus continued major initiatives aimed at protecting bus operators from assault, including oversight by an executive task force, enhanced training, and the ongoing installation of on-board security cameras. Additionally, the entire local fleet has been equipped with bus operator shields. Vision Zero bus operator training program also includes de-escalation tactics aimed at dealing with customer incidents and mitigating assaults. Each iteration of the training is updated with participant feedback in mind, highlighting the most recent challenges and trends.

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

Female representation agency-wide remained unchanged in 2018 at 18.5 percent, continuing 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. Minority representation grew slightly from 77.4 percent in 2017 to 78.1 percent in 2018.

## **MTA Long Island Rail Road ("LIRR")**

<b>Performance Indicators</b>	<b>2017 Actual</b>	<b>2018 Actual</b>
<b>Service Indicators</b>		
On-Time Performance	91.4%	90.4%
Elevator Availability	99.0%	99.1%
Escalator Availability	97.4%	96.9%
Total Ridership	89,158,841	89,766,050
Mean Distance Between Failures (miles)	205,270	185,217
<b>Safety Indicators</b>		
FRA-Reportable Customer Injury Rate (per million customers)	4.13	2.03
FRA-Reportable Employee Lost Time Case Rate (per 200,000 worker hours)	3.75	2.79
<b>Workforce Indicators</b>		
Female Representatives in LIRR Workforce	15.1%	14.9%
Minority Representatives in LIRR Workforce	35.8%	36.3%
<b>Financial Indicators</b>		
Farebox Operating Ratio	50.6%	47.8%
Operating Cost per Passenger	\$16.18	\$17.30
<b>Capital Program Indicators*</b>		
Commitments in \$ Millions (% of annual goal)	\$1,024.7 (149%)	\$389.2 (107%)
Completions in \$ Millions (% of annual goal)	\$354.4 (124%)	\$416.1 (68%)

*Note: MTA performance data are subject to periodic adjustment. Some 2017 data may have been updated subsequent to the 2017 PAL §1269-f report. The 2018 Farebox Operating Ratios are based on preliminary estimates from the "MTA 2018 Proposed Budget, November Financial Plan," and will be updated by the MTA Division of Management & Budget in April 2019. \*Capital Program Commitments/Completions may include "slipped" projects from prior years that were achieved in 2017 or 2018.*

**MTA GOAL: Ensure Customer Safety**

**PERFORMANCE INDICATORS: Customer Injury Rate**

In 2018, LIRR's customer injury rate decreased by 51 percent compared to the previous year. Penn Station remains the location with the greatest number of customer injuries. This can be attributed to the volume of customers traveling through the busiest terminal in the LIRR system. LIRR's "Let's Travel Safely Together" information campaign, produced in partnership with Amtrak, New Jersey Transit, and NYCT, remained an integral part of LIRR's safety program in 2018.

**MTA GOAL: Provide On-Time and Reliable Services**

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

LIRR's On-Time Performance (OTP) for 2018 was 90.4 percent, a decrease of 1.0 percent from the previous year. The decrease in OTP was due to weather-related events and service impacts caused by infrastructure fortification. The agency's 2018 Mean Distance Between Failures (MDBF) declined by 9.8 percent to 185,217 miles from 205,270 in 2017. The MDBF for diesel coaches and locomotives declined, while the MDBF for the electric M-3 and M-7 fleet improved. The year's decline was due to aging fleets, a decrease in the diesel fleet performance, and M-9 fleet delivery delays. The railroad continues to optimize fleet performance through its Reliability Centered Maintenance (RCM) program, Enterprise Asset Management (EAM) implementation, acquisition of the new M-9 fleet, and other performance initiatives.

**MTA GOAL: Provide Services to People with Disabilities**

**PERFORMANCE INDICATORS: Elevator Availability, Escalator Availability**

Elevator availability increased by 0.1 percent to 99.1 percent in 2018. Escalator availability decreased to 96.9 percent, down 0.5 percent from 2017. The improved elevator availability was due to LIRR's RCM program for elevators and escalators. The railroad's Elevator and Escalator Operations Center, staffed with certified Qualified Elevator-Escalator Inspectors further reduced breakdowns through regularly scheduled repairs and improved response times. The decrease in escalator availability was mainly due to major escalator outages at Penn Station, where an escalator/elevator renewal project is ongoing.

**MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure**

**PERFORMANCE INDICATORS: Capital Program Commitments and Completions**

The LIRR's 2018 capital commitments totaled more than \$389.2 million, or 107 percent of the year's goal. Major commitments for the year included: Long Island City Yard restoration; the 2018 Annual Track Program; rehabilitation of 14 stations; substation component replacement; signal power motor generators for Main Line Double Track; and replacement of the Meadowbrook substation.

The railroad's 2018 capital completions totaled more than \$416.1 million, or 68 percent of the year's goal. This includes "slipped" completion goals that were achieved in 2018. Major completions during the year included: Main Line Double Track Phase 2 (Central Instrument Locations (CIL) and huts, and track and systems construction); new elevators and improvements at Flushing Main St. Station; rehabilitation of Hicksville Station; platform replacement at Wantagh; Main Line Double Track to Ronkonkoma Phase 1; the 2018 Annual Track Program; and replacement of Buckram Road Bridge.

In addition, LIRR's Positive Train Control (PTC) initiatives met statutory requirements for federal compliance. Both the LIRR and Metro-North are implementing PTC programs to meet the requirements of the Rail Safety Improvement Act of 2008 (the PTC Act). The railroads' existing train-control systems cover a substantial portion of those requirements. The LIRR and Metro-North are overlaying the Advanced Civil Speed Enforcement System II (ACSES II) onto their current train-control systems to provide those required safeguards not already covered. To be in compliance at the end of 2018, the railroads were required to: (1) acquire all necessary spectrum; (2) install all required hardware; (3) train sufficient staff to support PTC operation on lines in Revenue Service Demonstration (RSD); and (4) initiate RSD on one subdivision. LIRR and MNR met all those requirements for 2018 compliance and submitted Alternative Schedules, which outline plans to fully implement PTC by the end of 2020.

**MTA GOAL: Perform Services in an Efficient Manner**

**PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Passenger**

The LIRR's farebox operating ratio decreased from 50.6 percent in 2017 to 47.8 percent in 2018, as estimated in the "MTA 2019 Final Proposed Budget, November Financial Plan." This decrease was driven by an increase in passenger expenses, partially offset by an increase in farebox revenue due to the full-year impact of the 2017 fare increase and anticipated ridership growth.

The LIRR's operating cost per passenger increased from \$16.18 in 2017 to \$17.30 in 2018. This increase stemmed largely from higher passenger expenses.

**MTA GOAL: Maximize System Usage**

**PERFORMANCE INDICATORS: Ridership**

LIRR remains the busiest commuter railroad in North America, and the LIRR finished the year with a new record in ridership, carrying 89.8 million customers compared to the post-war high of 91.8 million customers in 1949. Total ridership increased 0.7 percent for the full year in 2018 compared to 2017, while Non-Commutation ridership increased 1.3 percent for the whole year in 2018 with 38.9 million customers, outpacing the growth in the Commutation market that finished the full year 2018 slightly up 0.2 percent with 50.8 million customers, when compared to 2017.

**MTA GOAL: Ensure Our Employees' Safety**

**PERFORMANCE INDICATORS: Employee Lost Time Case Rate**

The rate of FRA-reportable employee lost-time injuries decreased 26 percent in 2018 compared to the previous year. The highest number of employee accidents continues to be in the "slips, trips, and falls" category. Most injuries are soft tissue injuries. To maximize employee safety, LIRR continues its efforts to raise awareness among employees and encourage collaborative problem solving.

## **LIRR, cont.**

These efforts have involved many labor-management initiatives, including: a Confidential Close Call Reporting System (C3RS); mechanical safety partnership meetings; monthly transportation safety meetings; and on-track safety labor-management partnership meetings. LIRR also conducts quarterly Safety FOCUS Day meetings. On a FOCUS Day, employees across the property stop work and take time to discuss specific safety topics provided by the LIRR Corporate Safety Department and the individual LIRR departments. The intent is to engage employees in conversations about how they are experiencing safety in the field and to improve safety performance based on employee feedback and ideas.

**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 women in LIRR's workforce decreased slightly in 2018 to 14.9 percent from 15.1 percent the previous year. This falls below the estimated percentage of women available for work in LIRR's recruitment area. Many of the positions available in 2018 are considered nontraditional jobs for women, and, as a result, attract a low percentage of women applicants.

The percentage of minority representation increased from 35.8 percent in 2017 to 36.3 percent in 2018. This falls below the estimated percentage of minorities available in LIRR's recruitment area. LIRR continues to focus on efforts to improve the representation of women and minorities in its workforce.



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

<b>Performance Indicators</b>	<b>2017 Actual</b>	<b>2018 Actual</b>
<b>Service Indicators</b>		
On-Time Performance (East of Hudson)	93.4%	90.1%
On-Time Performance (West of Hudson)	94.1%	90.7%
Elevator Availability	99.3%	98.7%
Escalator Availability	96.5%	94.7%
Total Rail Ridership (East & West of Hudson)	86,657,914	86,522,164
Total Ridership on Connecting Services by MNR Contractors	589,115	580,267
Mean Distance Between Failures (miles)	193,883	144,017
<b>Safety Indicators</b>		
FRA-Reportable Customer Injury Rate (per million customers)	0.83	0.84
FRA-Reportable Employee Lost Time Case Rate (per 200,000 worker hours)	2.97	2.46
<b>Workforce Indicators</b>		
Female Representatives in MNR Workforce	13%	13%
Minority Representatives in MNR Workforce	38%	38%
<b>Financial Indicators</b>		
Farebox Operating Ratio	55.9%	55.4%
Operating Cost per Passenger	\$15.20	\$15.44
<b>Capital Program Indicators*</b>		
Commitments in \$ Millions (% of annual goal)	\$684.8 (163%)	\$785.5 (100%)
Completions in \$ Millions (% of annual goal)	\$49.7 (41%)	\$146.3 (32%)

*Note: MTA performance data are subject to periodic adjustment. Some 2017 data may have been updated subsequent to the 2017 PAL §1269-f report. The 2018 Farebox Operating Ratios are based on preliminary estimates from the “MTA 2018 Adopted Budget, February Financial Plan” and will be updated by the MTA Division of Management & Budget in April 2019. \*Capital Program Commitments/Completions include projects that “slipped” from prior years but were achieved in 2017 or 2018.*

**MTA GOAL: Ensure Customer Safety**

**PERFORMANCE INDICATORS: Customer Injury Rate**

The FRA-reportable customer injury rate at Metro-North was practically unchanged in 2018, from 0.83 per million in 2017 to 0.84 per million customers. To further improve safety and decrease injury rates, Metro-North:

- Trained 2,047 first responders (police/fire/EMS) about rail safety and emergencies with both classroom and field training, including a joint emergency exercise simulating derailment and evacuation of a passenger train in the Park Avenue Tunnel.
- Continued the TRACKS (Together Railroads and Communities Keeping Safe) program to educate the public about grade-crossing awareness and rail safety, reaching 230,000 people since 2016.
- Expanded the TRACKS program with Platform Gap Safety, Bridge Plate Usage Safety, and Suicide Prevention campaigns, while also partnering with the American Foundation for Suicide Prevention and Out of the Darkness Walks to help prevent suicides.
- Participated in the second annual U.S. Rail Safety Week in September 2018 to promote safe crossing at stations and grade crossings. Also, launched the first interactive Customer Safety Day at Grand Central Terminal, reaching more than 7,400 people.
- Delivered innovative safety messaging through social media tweets and posts. Continued to distribute the railroad's "Best Foot Forward" flyers to help prevent slips, trips, and falls.
- Launched a rail safety poster contest for students, grades pre-K through 12, at schools in Metro-North territory, with winners announced in January 2019.
- Partnered with WAZE, the GPS navigation application, to add Metro-North crossings to the app, alerting drivers to the locations of railroad grade crossings.
- Appeared at seven Metro-North grade crossings on International Level Crossing Awareness Day to educate about 1,900 drivers and pedestrians about safe crossing.

**MTA GOAL: Provide On-Time and Reliable Services**

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

Metro-North's system-wide On-Time Performance (OTP) for 2018 was below goal at 90.1 percent. This was caused by the need to perform extensive infrastructure work on the Hudson and New Haven Lines without modifying the regular operating schedule. The year's performance was also affected by three significant weather events in January, March, and May. The Hudson Line performed at 90.0 percent OTP, the Harlem Line at 91.8 percent, and the New Haven Line at 88.9 percent.

Rolling Stock Mean Distance Between Failures (MDBF) declined in 2018, due largely to the implementation of new Positive Train Control (PTC) equipment, which generated additional sources of equipment failure. MDBF was 144,017 miles in 2018, about 28 percent below goal. Excluding the PTC failures, the adjusted MDBF was 195,247 miles, near the goal of 200,000 miles. Installation of the PTC equipment also impacted car availability in 2018, resulting in a 98.5 percent "consist compliance rate," which is the percentage of cars required for service and providing seats for customers each day. West-of-Hudson OTP for 2018 was 90.7 percent, which is 4.8 percent below the goal of 95.5 percent.

**MTA GOAL: Provide Services to People with Disabilities**

**PERFORMANCE INDICATORS: Elevator Availability, Escalator Availability**

Elevator availability in 2018 was 98.7 percent, down slightly from the previous year. The decline was due to difficulty in procuring key parts and to construction work affecting two elevators in Grand Central Terminal.

Escalator availability was 94.7 percent in 2018, down by 1.8 percent from 2017. The decline was caused by component failures on seven escalators, mostly during the fourth quarter of 2018. The escalator replacement project has begun, and four escalators are currently out of service during the replacements.

**MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure**

**PERFORMANCE INDICATORS: Capital Program Commitments and Completions**

Metro-North's Capital Program commitments and completions for 2018 came in at 100 percent and 32 percent of the year's goals, respectively. The missed completions in 2018 were due primarily to on-going delays related to the acceptance of shop equipment and the commissioning of the new electric service for the Consist Shop Facility in the \$316-million Harmon Shop project. In addition, one delayed project was completed against the 2016 annual goal.

Commitments in 2018 included: procurement of six additional M8 cars; installation of a new Bronx-Manhattan power cable tie system; design work for the rehabilitation of four undergrade railroad bridges and for replacing the superstructure of one undergrade bridge; installation of communication fiber optic and copper cable on a section of the Hudson Line; improvements to wayside communication and signal systems on a section of the Harlem Line; design and engineering for a joint project with LIRR for a trash handling facility in Grand Central Terminal; installation of PTC equipment on 100 railcars in the M-3 fleet; roadway work at the Croton-Harmon Yard, the Brewster Yard, and the Spring Valley Station; expansion-joint repairs at 13 stations on the Hudson and Harlem lines; replacement of Metro-North's Harmon Yard Main Shop with a new shop in Croton-Harmon; construction of a new substation on the Harlem Line; pre-construction work for a new Mid-Point Yard on the Port Jervis Line; inspection and design for the Harlem River Lift Bridge; and designs for enhancements at the Port Jervis, Purdy's, Beacon, and Southeast stations.

Completions in 2018 included: M9 specification development; Phase II of a project to remediate water leaks into the Grand Central Terminal complex; installation of employee walkways attached to various undergrade bridges; the Cyclical Track Program replacing ties and rail throughout the railroad's New York State territory east of the Hudson; design for repairs to seven undergrade

bridges on the Port Jervis Line; and the installation of five crossovers to improve capacity and accommodate 60 mph speeds on the lower Harlem Line in the Bronx.

In addition, Metro-North's Positive Train Control (PTC) initiatives met 2018 statutory requirements for federal compliance. Both the LIRR and Metro-North are implementing PTC programs to meet the requirements of the Rail Safety Improvement Act of 2008 (the PTC Act). The railroads' existing train-control systems cover a substantial portion of those requirements. The LIRR and Metro-North are overlaying the Advanced Civil Speed Enforcement System II (ACSES II) onto their current train-control systems to provide those required safeguards not already covered. To be in compliance at the end of 2018, the railroads were required to: (1) acquire all necessary spectrum; (2) install all required hardware; (3) train sufficient staff to support PTC operation on lines in Revenue Service Demonstration (RSD); and (4) initiate RSD on one subdivision. LIRR and MNR met all those requirements for 2018 compliance and submitted Alternative Schedules, which outline plans to fully implement PTC by the end of 2020.

### **MTA GOAL: Perform Services in an Efficient Manner**

#### **PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Passenger**

Metro-North's 2018 farebox operating ratio was 55.4 percent, representing a 0.5 percent decrease from the previous year. Revenues increased by 0.9 percent, with total expenses also increasing year-over-year by 1.8 percent. The higher farebox revenue was primarily driven by higher passenger revenue yields in both commutation and non-commutation ridership. Higher expenses resulted from a net staff increase of 51 positions, along with a 2.5-percent wage increase and increased overtime due to adverse weather conditions. Other cost contributors included more work on capital projects in operations, increased material usage, and higher electric and fuel rates.

The 2018 operating cost per passenger of \$15.44 was \$0.24 higher than in 2017, due mainly to the higher expenses noted above.

### **MTA GOAL: Maximize System Usage**

#### **PERFORMANCE INDICATORS: Ridership**

Total Metro-North ridership in 2018 was approximately 87.1 million rides, 144,598 rides lower than the previous year. East of Hudson ridership in 2018 was approximately 84.9 million, 0.1 percent or 125,205 rides lower than the 2017. Ridership for the year on the Harlem Line was 27.45 million, down 1.5 percent from the previous year. Ridership rose on the Hudson lines by 233,163 rides, or 1.4 percent, to a new high in 2018. The New Haven Line also saw a slight uptick to 40.3 million rides in 2018 from 40.24 million rides in 2017. West of Hudson ridership was approximately 1.61 million, which was 0.7 percent below the previous year.

Combined ridership on Metro-North's three connecting services was about 580,267, down by 8,848 rides or 1.5 percent. However, ridership increased by 0.1 percent on the Hudson Rail Link, while decreasing on the Haverstraw-Ossining and the Newburgh-Beacon ferries by 3.1 percent and 8.4 percent respectively.

### **MTA GOAL: Ensure Our Employees' Safety**

#### **PERFORMANCE INDICATORS: Employee Lost Time and Restricted-Duty Rate**

The FRA-reportable employee lost-time case rate declined by 17 percent in 2018 to 2.46 per 200,000 worker hours. The railroad continued its Confidential Close Call Reporting System (C3RS), which encourages employees to anonymously report potential safety hazards or procedural breaches. The C3RS has logged more than 3,900 calls since 2005. Metro-North also continued to carry out recommendations from the National Transportation Safety Board (NTSB) and to screen engineers and conductors for Obstructive Sleep Apnea. In addition, the railroad implemented an enterprise software system for tracking, analyzing, and reporting safety data, as well as an FRA-endorsed Safety Management System that supplements safety metrics with increased attention to the "human element." Ongoing safety programs include regular employee safety meetings, safety clean-up days, updating agency safety rules, and an employee awards programs for excellence in safety.

**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 minority employees in Metro-North's workforce remained the same in 2018 at 38 percent. The percentage of female representation also remained constant at 13 percent. The railroad maintains a program aimed at achieving workforce representation based on the availability of women and minorities within the relevant labor markets serviced by the MTA. Through targeted outreach recruitment and developmental programs, Metro-North will continue to focus on improving minority and female representation in our workforce.

## **MTA Bridges and Tunnels (“Bridges and Tunnels”)**

<b>Performance Indicators</b>	<b>2017 Actual</b>	<b>2018 Actual</b>
<b>Service Indicators</b>		
Paid Traffic	309,997,316	322,290,330
<b>Safety Indicators</b>		
Collisions with Injury Rate (per million vehicles)	0.99	1.01
Employee Lost Time Injury Rate (per 200,000 work hours)	7.2	8.0
<b>Workforce Indicators</b>		
Female Representation in B&T Workforce	23%	21%
Minority Representation in B&T Workforce	55%	55%
<b>Financial Indicators</b>		
E-ZPass Market Share	93.6%	95.2%
Total Support to Transit (\$ millions)	\$1,123	\$1,089
<b>Capital Program Indicators</b>		
Commitments in \$ Millions (% of annual goal)	\$676.1 (128%)	\$699.6 (89.3%)
Completions in \$ Millions (% of annual goal)	\$832.9 (157%)	\$1,365.7 *(96%)

*Note: MTA B&T performance data are subject to final audit. Some 2017 data may have been updated subsequent to last year's report. \* MTA B&T completed a \$10 million project in March 2018, which was originally planned for completion December 2017.*

### **MTA GOAL: Ensure Customer Safety**

#### **PERFORMANCE INDICATOR: Customer Injury Rate**

Bridges and Tunnels reported 329 customer accidents with injuries in 2018, an increase from 312 accidents in 2017. Adjusting for increased annual traffic, the rate of collisions with injuries per million vehicles increased from 0.99 in 2017 to 1.01 in 2018.



## **Bridges and Tunnels, cont.**

To address customer safety issues, Bridges and Tunnels conducts Collision Task Force meetings at each of the agency's facilities to analyze collisions locally. In addition, an interdepartmental Collision Reduction Team reviews collision data quarterly to help guide safety improvements. The agency's strategy for improving customer safety is primarily focused on identifying collision-prone locations and improving their physical characteristics, as well as targeted enforcement efforts to address unsafe driving behaviors.

### **MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure**

### **PERFORMANCE INDICATORS: Capital Program Commitments and Completions**

In 2018, Bridges and Tunnels made 150 task commitments to Capital Program projects, above its 2018 goal of 99 task commitments. The total value of the awards was \$699.6 million. This represents 89.3 percent of the 2018 goal. In 2017, by comparison, \$676.1 million of commitments were made, which was 128 percent of the 2017 goal. The actual awards in 2018 were \$83.8 million under the approved plan, primarily due to favorable bids and the reprogramming of projects. Additionally, one commitment with a total value of \$30.9 million was made against the 2017 plan. Major project commitments in 2018 included:

- Replacement of the suspended span deck and painting of the suspended span at the Throgs Neck Bridge.
- A design-build contract for the rehabilitation of the ventilation systems at the Hugh L. Carey Tunnel.
- A design-build contract for scour protection at the Cross Bay Bridge and for replacement of the pier fender systems at the Cross Bay and Marine Parkway bridges.
- Rehabilitation and sealing of the anchorages and piers at the Verrazzano-Narrows Bridge, along with a design-build contract for the tower pier rehabilitation, installation of a mooring platform, and elevator rehabilitation.
- A design-build contract for rehabilitation of the Queens Midtown Tunnel controls and communication systems.

## **Bridges and Tunnels, cont.**

The value of Capital Program projects completed in 2018 totaled \$1,365.7 million, versus planned completions of \$1,422.8 million, representing 96 percent of the 2018 goal. In 2017, by comparison, a total of \$832.9 million was completed, representing 157 percent of the goal. Additionally, one completion for \$10 million was made against the 2017 plan. Major projects completed in 2018 included: Tunnel restorations and Superstorm Sandy flood mitigation projects at the Queens Midtown and Hugh L. Carey tunnels; installation of an anchorage dehumidification system and structural painting at the Throgs Neck Bridge; miscellaneous structural rehabilitations at the Bronx-Whitestone Bridge, along with inspection and testing of cable and suspender rope; structural repairs, painting, and rehabilitation of the lift span mechanical systems at the Marine Parkway Bridge; and the structural rehabilitation of the Bronx Plaza at the Robert F. Kennedy Bridge.

### **MTA GOAL: Perform Services in an Efficient Manner**

#### **PERFORMANCE INDICATORS: Total Support to Transit**

Bridges and Tunnels provided \$1.089 billion in total support for MTA transit services in 2018. It was \$34 million below the \$1.123 billion provided in 2017 due to the inclusion of \$119 million in Pay-As-You-Go (PAYGO) funding in 2018 for Bridges and Tunnels' capital programs. Although this PAYGO contribution resulted in a year-to-year decline in mass transit support, the benefits of applying this operating funding toward capital needs were substantial. This funding helped Bridges and Tunnels meet its state-of-good-repair goals in 2018, while avoiding the additional debt service costs of traditional bond financing.

### **MTA GOAL: Maximize System Usage**

#### **PERFORMANCE INDICATORS: Traffic Volume**

Bridges and Tunnels had a record of 322 million paid crossings in 2018, an increase of about 4.0 percent or 12.3 million more crossings than in 2017. Overall, E-ZPass usage increased from 93.6 percent in 2017 to 95.2 percent of total crossings by the end of 2018, the highest year-end E-ZPass usage rate ever.

## **Bridges and Tunnels, cont.**

### **MTA GOAL: Ensure Our Employees' Safety**

#### **PERFORMANCE INDICATORS: Employee Lost Time and Restricted-Duty Rate**

Bridges and Tunnels experienced 104 lost-time injuries in 2018, compared to 101 in 2017. As a result, the employee lost-time injury rate increased to 8.0 per 200,000 work hours in 2018, up from 7.2 in 2017. Efforts are underway to address this performance decline, including:

- Continuing safety training for all field employees, including traffic management safety training for all Bridge and Tunnel Officers (BTOs) and supervisors.
- Identified and mitigating ergonomic issues that are major contributors to lost-time injuries through a range of initiatives, including a new employee wellness program.
- Utilizing joint labor-management safety task forces to address safety risks in the new operating environment.
- Intensifying effective case management of injuries on duty to minimize lost work time.
- Renewing a focus on incident investigations and condition audits to determine and address the root causes of safety issues.
- Revising and updating agency “Policies and Procedures” as part of a safety management system for all Bridges and Tunnels facilities.

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

#### **PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce**

Minority employees represented 55 percent of the Bridges and Tunnels workforce in 2018, the same percentage as last year. Women represented 21 percent of agency employees in 2018, down 2 percent from last year. Bridges and Tunnels maintains a program aimed at achieving workforce representation, based on the availability of women and minorities within the labor markets serviced by the MTA. The program includes: targeted outreach/recruitment efforts to attract qualified women and minority candidates; a monitoring program to identify and address under-representation of women and minorities; and retention and mobility programs providing the skills and opportunities women and minority employees require for successful career paths within the agency.

## **MTA Bus Company (“MTA Bus”)**

<b>Performance Indicators</b>	<b>2017 Actual</b>	<b>2018 Actual</b>
<b>Service Indicators</b>		
Percent of Completed Trips	99.2%	99.1%
Bus Passenger Wheelchair Lift Usage	86,584	86,501
Total Ridership	122,213,568	121,466,759
Mean Distance Between Failures (miles)	7,479	7,506
<b>Safety Indicators</b>		
Customer Accident Injury Rate (per million customers)	1.11	1.14
Collisions with Injury Rate (per million vehicle miles)	3.44	4.20
Employee Lost Time Rate (per 100 employees)	6.26	5.79
<b>Workforce Indicators</b>		
Female Representation in MTA Bus Workforce	13%	13%
Minority Representation in MTA Bus Workforce	77%	78%
<b>Financial Indicators</b>		
Farebox Operating Ratio	29.8%	30.3%
Operating Cost per Passenger	\$6.25	\$6.33
<b>Capital Program Indicators*</b>		
Commitments in \$ Millions (% of annual goal)	\$10.7 (37%)	\$77.5 (74.9%)
Completions in \$ Millions (% of annual goal)	\$10.6 (49%)	\$23.7 (79.9%)

*Note: MTA performance data are subject to periodic adjustment. Some 2017 data may have been updated subsequent to last year's report. The 2018 Farebox Operating Ratios are based on preliminary estimates from the "MTA 2019 Adopted Budget, February Financial Plan," and will be updated in April 2019. For the purposes of this report, NYCT Bus and MTA Bus are treated separately, though certain operations and performance indicators are combined, as noted in the NYCT data on page 4 of this report. The Performance Dashboard at [www.mta.info](http://www.mta.info) combines data for both bus operations. \*Capital Program Commitments/Completions include "slipped" projects from prior year goals achieved in 2017 or 2018.*

**MTA GOAL: Ensure Customer Safety**

**PERFORMANCE INDICATOR: Customer Injury Rate**

MTA Bus saw an increase of about 2.7 percent in its customer accident injury rate in 2018, as compared to 2017. The agency is using these recent trends to improve its customer accident reduction programs and its goals for the divisions and depots.

The collisions with injury rate increased from 3.44 per million vehicle miles in 2017 to 4.20 per million vehicle miles in 2018, up about 22.1 percent from the previous year. This increase was driven by several MTA Bus collisions with multiple injuries. MTA Bus continued to incorporate relevant accident findings into its safety and training initiatives. These initiatives focus on basic operating procedures in bus stop areas, including scanning mirrors, observing all sides of the bus, pulling in and out of bus stops properly, and positioning the bus correctly in the bus stop.

In 2018, MTA Bus—in conjunction with NYCT Bus--delivered the Vision Zero III program, an eight-hour training session that focuses on the current challenges in relation to pedestrians and cyclists. In addition, the two agencies are leveraging indicators such as speed-camera violations, red-light violations, cellphone infractions, and customer complaints as part of an enhanced bus operator monitoring program. Future iterations of the Vision Zero training series will deal with new bus safety technologies, recent accident trends, and more. All MTA and NYCT bus operators will be cycled through this new curriculum over a two-year period.

In a joint agreement with all labor unions, the MTA's bus operations continue a "zero-tolerance" policy on use of cellphones and electronic devices while operating a bus. Additionally, the two bus agencies worked with labor partners to establish a process whereby operators who receive speed-camera violations are disciplined and must pay the fine. The agencies have also negotiated an Accident Review System (ARS), which now extends to bus operators in all labor bargaining units.

## **MTA Bus, cont.**

### **MTA GOAL: Provide On-Time and Reliable Services**

#### **PERFORMANCE INDICATORS: Mean Distance Between Failures, Bus Trips Completed**

In April 2018, the MTA unveiled the Bus Plan, a comprehensive proposal to reimagine New York's entire public bus system, including both MTA Bus and NYCT Bus. As part of that plan, the MTA launched a new Bus Performance Dashboard at [www.mta.info](http://www.mta.info) which combines performance data for the two bus agencies. The dashboard also provides many new performance metrics to better reflect the customer experience. Complete 2017 data was not available for all the new indicators.

MTA Bus had a Mean Distance Between Failures (MDBF) of 7,506 miles in 2018, a slight 0.4 percent improvement over the MDBF for the previous year. The percentage of bus trips completed decreased slightly to 99.1 percent in 2018.

### **MTA GOAL: Provide Services to People with Disabilities**

#### **PERFORMANCE INDICATORS: Bus Customer Wheelchair Lift Usage**

Bus Customer Wheelchair Lift Usage on MTA buses in 2018 was 86,501 customers, relatively unchanged from 86,584 customers the previous year. The agency's new low-floor buses provide easier boarding and more reliable service for customers who use wheelchairs, contributing to the increase in customers who require the use of a lift. The agency is currently evaluating a new express bus design, as part of the Fast Forward Plan, which simplifies wheelchair access by adding a low-floor section in the middle of the bus equipped with a wheelchair ramp.

### **MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure**

#### **PERFORMANCE INDICATORS: Capital Program Commitments and Completions**

MTA Bus committed \$77.5 million in capital project funds in 2018. Notable 2018 commitments included the purchase of 53 articulated buses (\$50.2 million), security investments at the JFK and Spring Creek depots (\$8.5 million), and the bus Digital Information Screens (\$7.5 million).

## **MTA Bus, cont.**

MTA Bus completed \$23.7 million in capital projects in 2018, which represents 80 percent of the annual goal, as compared to 3 percent of planned completions in 2017. Completions included the Sandy rehab at the Far Rockaway Depot (\$11 million). The Bus Command Center (\$17.1 million) is expected to be completed in early 2019 and is not included in the total 2018 amount.

### **MTA GOAL: Perform Services in an Efficient Manner**

#### **PERFORMANCE INDICATORS: Farebox Operating Ratio, Operating Cost per Customer**

The farebox operating ratio (which includes farebox revenue, student fares and senior citizen fares) was 30.3 percent in 2018, up from 29.8 percent in 2017. Higher average fares collected in 2018 were partially offset by increased operating expenses. These were primarily attributable to higher wages and benefits costs. The operating cost per customer was \$6.33 in 2018, as compared to \$6.31 in 2017. The \$0.02 increase was the result of the increased operating costs cited above.

### **MTA GOAL: Maximize System Usage**

#### **PERFORMANCE INDICATORS: Ridership**

Total MTA Bus ridership decreased in 2018 to 121.5 million riders, as compared to 122.2 million riders in 2017.

### **MTA GOAL: Ensure Our Employees' Safety**

#### **PERFORMANCE INDICATORS: Employee Lost Time and Restricted-Duty Rate**

MTA Bus saw a 7.5 percent decrease in the employee lost-time accident rate in 2018. In 2018, MTA Bus continued its Vision Zero III training aimed at reducing collisions and improving pedestrian safety. A decrease in these incidents also reduces the instances of operators injured or traumatized by accidents. Vision Zero IV training will launch in spring 2019. This iteration of the course will focus on new bus safety technologies and trends in accidents.

**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. The percentage of women in the agency's workforce remained unchanged at 13 percent during this reporting period. MTA Bus will continue to increase its outreach and recruitment efforts to improve female representation within its workforce. The percentage of minority representation also increased slightly in 2018 from 77 percent to 78 percent, exceeding the estimated percentage of minorities available to work within MTA Bus's recruiting area.



## **MTA Capital Construction (“MTACC”)**

<b>Performance Indicators</b>	<b>2017 Actual</b>	<b>2018 Actual</b>
<b>Workforce Indicators</b>		
Female Representatives in MTACC Workforce	33%	35%
Minority Representatives in MTACC Workforce	55%	57%
<b>Capital Program Indicators*</b>		
Commitments in \$ Millions (% of planned value)	\$2,179 (408%)	\$582 (57%)
Completions in \$ Millions (% of planned value)	\$1,452 (321%)	\$204 (142%)
<i>Note: MTA performance data are subject to periodic adjustment. Some prior year data may have been updated subsequent to the 2017 PAL §1269-f report. *Capital Program Commitments/Completions include projects that “slipped” from prior year goals, but were that were achieved in 2017 or 2018.</i>		

### **MTA GOAL: Repair, Replace, and Expand Transportation Infrastructure**

#### **PERFORMANCE INDICATORS: Capital Program Commitments and Completions**

MTACC had a total commitment goal of \$1.027 billion in capital projects for 2018 and committed approximately \$582 million, or 57 percent of goal. Significant 2018 commitments included the \$73.5 million Harold Structures - Part 3A: B/C Approach contract and the \$61 million Systems Package 2: Signals Installation contract, both part of the East Side Access (ESA) project. The net commitments shortfall was necessitated by the need to modify and expand the scope and size of the M-9A Railcar Procurement, resulting in a mid-2019 timeline.

MTACC achieved 142 percent of its 2018 capital project completions goal of \$144.2 million. Completions included the opening of the secondary station entrance at 11th Avenue (Site P) of the new 34th Street Station on the 7 Line, \$102.2 million; early work on ESA’s Grand Central Terminal concourse finishes; and the ESA’s Harold Tunnel A Cut and Cover Structures project, \$42.0 million.

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

**PERFORMANCE INDICATORS: Female and Minority Representation in the Workforce**

MTACC's strong commitment to diversity is reflected by its workforce: Minorities represent 57 percent of the current workforce, 60 percent of employees promoted, and 55 percent of the new hires during fiscal year 2018. Women have made significant advancement in all areas of the construction management industry. MTACC is proud to report that 60 percent of promotions and 27 percent of new hires were female.




MTACC will continue to hire, compensate and promote individuals according to their abilities. Implied in our values is the belief that professional qualifications – not gender, race or other personal characteristics – are key to leadership potential.

# Staff Summary

<b>Subject</b> All Agency Procurement Guidelines and All Agency Guidelines for Procurement of Services
<b>Department</b> Corporate Compliance
<b>Department Head Name</b> Lamond W. Kears, Chief Compliance Officer
<b>Department Head Signature</b>
<b>Project Manager Name</b> Monica Murray

<b>Date</b> March 27, 2019
<b>Vendor Name</b> N/A
<b>Contract Number</b> N/A
<b>Contract Manager Name</b> N/A
<b>Table of Contents Ref #</b> N/A

Board Action					
Order	To	Date	Approval	Info	Other
	Corporate Governance	03/25/19			
	Board	03/27/19			

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

## Purpose:

To obtain Board approval of the MTA's All Agency Procurement Guidelines and All Agency Guidelines for Procurement of Services.

## Discussion:

Public Authorities Law Section 2879 requires the MTA to annually review and approve its All Agency Procurement Guidelines and All Agency Guidelines for Procurement of Services. These guidelines were last approved by the Board at its March 21, 2018 meeting.

There are no proposed revisions to either guidelines.

## Recommendation:

It is recommended that the MTA Board approve the annexed All Agency Procurement Guidelines and All Agency Guidelines for Procurement of Services.



## ALL AGENCY SERVICE CONTRACT PROCUREMENT GUIDELINES

Adopted by the Board on March 27, 2019

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 (including contracts for SBC, M/WBE and SDVOB ) estimated to involve the expenditure of less 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, 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 GENERAL CONTRACT PROCUREMENT GUIDELINES

Adopted by the Board on March 27~~4~~, 201~~9~~~~8~~

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 subscription, 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 (including contracts for SBC, M/WBE and SDVOB ) 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 III(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.
- 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 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.

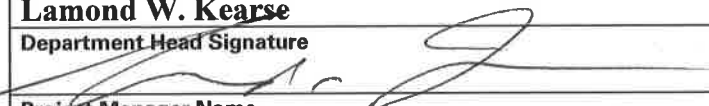
#### **Article X - Miscellaneous**

- 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.

# Staff Summary

<b>Subject</b> <b>Public Authorities Law Required Policies</b>
<b>Department</b> <b>Corporate Compliance</b>
<b>Department Head Name</b> <b>Lamond W. Kearse</b>
<b>Department Head Signature</b> 
<b>Project Manager Name</b> <b>Monica A. Murray</b>

<b>Date</b> <b>March 27, 2019</b>
<b>Vendor Name</b> <b>N/A</b>
<b>Contract Number</b> <b>N/A</b>
<b>Contract Manager Name</b> <b>N/A</b>
<b>Table of Contents Ref #</b> <b>N/A</b>

Board Action					
Order	To	Date	Approval	Info	Other
1	Governance	3/25/19	X		
2	Board	3/27/19	X		

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

## Purpose:

To obtain Board approval for revisions to certain existing policies of the MTA and its Agencies, in order to comply with Public Authorities Law Section 2824 ("PAL 2824").

## Discussion:

PAL 2824 requires formal Board adoption of certain policies. Corporate Compliance has provided an exhibit book that includes the relevant policies for your review. The policies in the exhibit book are new or revisions to existing policies which have been approved by their respective Agencies.

## Recommendation:

It is recommended that the Board approve the policies contained in the exhibit book.