



**Metropolitan Transportation Authority**

# **Corporate Governance Committee Meeting**

## **MARCH 2023**

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### **Committee Members**

J. Lieber, Chair

J. Barbas

F. Borelli

S. Chu

D. Jones

B. Lopez

D. Mack

H. Mihaltses

N. Zuckerman

# Corporate Governance Committee Meeting

Monday, 3/27/2023

12:00 - 12:45 PM ET

## 1. PUBLIC COMMENTS PERIOD

## 2. APPROVAL OF MINUTES- NOVEMBER 29, 2022

*Minutes of Meeting -November 29,2022 - Page 3*

## 3. REVIEW AND APPROVE PROCUREMENT GUIDELINES

*Staff Summary Procurement Guidelines - Page 5*

*All Agency General Contract Procurement Guidelines 2023 Revision (Blackline) - Page 8*

*All Agency Service Contract Procurement Guidelines March 29,2023 - Page 23*

## 4. REVIEW AND APPROVE MTA CODES OF ETHICS

*Staff Summary Code of Ethics March 2023 - Page 37*

*All Agency Code of Ethics 2023 Revisions (Blackline) - Page 39*

*Draft Board Members Code of Ethics Board 2023 Revisions (Blacklined)) - Page 81*

## 5. REVIEW AND APPROVE MISSION STATEMENT AND PERFORMANCE MEASUREMENT REPORT

*Staff Summary Mission Statement and Measurement Report - Page 97*

*2022 Mission Statement and Performance Management Report - Page 98*

## 6. REVIEW AND APPROVE REVISIONS TO RULES OF CONDUCT

*Staff Summary Revisions of Rules of Conduct Governing Firearms and Weapons - Page 130*

*NYCT MaB Gun Rule - proposed changes - Page 132*

*MTA BUS Gun Rule - proposed changes - Page 133*

*SIRTOA Gun Rule - proposed changes - Page 134*

*LIRR Gun Rule - proposed changes - Page 135*

*MNR Gun Rule - proposed changes - Page 136*

## 7. REVIEW MTA WHISTLEBLOWER POLICY

*Whistleblower Protection Policy - Page 137*

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

## 9. OTHER BUSINESS

**MINUTES OF THE MEETING**  
**MTA Corporate Governance Committee**  
**November 29, 2022**  
**2 Broadway – 20<sup>th</sup> Floor**  
**New York, New York**

The following MTA Corporate Governance Committee members were present:

Hon. Janno Lieber, Chairman  
Hon. Frank Borelli  
Hon. Gerard Bringmann  
Hon. Samuel Chu  
Hon. Blanca Lopez

The following MTA Corporate Governance Committee members were absent:

Hon. David Mack  
Hon. Haeda Mihaltses  
Hon. Neal Zuckerman  
Hon. David Jones  
Hon. Jamey Barbas

The following MTA staff attended the meeting:

Lamond W. Kearse, Chief Compliance Officer  
Paige Graves, General Counsel

\* \* \*

Chairman Lieber called the November 29, 2022, meeting of the MTA Corporate Governance Committee to order at 1:17p.m.

**Public Comments Period**

The following speaker commented during the public speaker's session: Christopher Greif and Charlton D'souza.

Refer to the video recording of the meeting produced by the MTA and maintained in MTA records for the content of speakers' statements.

**Approval of Minutes**

Upon motion duly made and seconded, the Committee approved the minutes of the Committee meeting held on March 28, 2022.

**1. 2023 Draft Committee Work Plan**

Upon motion duly made and seconded the Committee approved the 2023 Committee Work Plan.

**2. Review of MTA By-Laws**

Mr. Kears advised the Committee that each year this Committee must review the By-Laws of the MTA and its Agencies. Mr. Kears advised the Committee that there were no recommended changes at this time.

**3. Review and Approve Board Committee Charters**

Mr. Kears advised the Committee that each year this Committee must review the Board Committee Charters. Mr. Kears advised the Committee that there were no recommended changes at this time.

**4. Review of Governance Guidelines**

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

**5. Review MTA Codes of Ethics**

Mr. Kears informed the Committee that each year they are required to review the MTA Codes of Ethics. The Committee was advised that there are no recommended changes to the Code of Ethics at this time.

**6. Review and Approve MTA Policies in Connection with Provisions of Public Authorities Law**

Mr. Kears informed the Committee that Public Authorities Law Section 2824 requires that the Board adopt certain polices. The Committee was advised that the staff was recommending non substantive revisions to the MTA Travel and Business Expense which could be found in the exhibit book.

**7. Review and Approve Revisions to the Responsibility Guidelines**

Mr. Kears informed the Committee that paragraphs 5 and 6 of the current Guidelines outline the way contractor evaluations from the MTA's existing All Agency Contractor Evaluation Program ("ACE") are used in connection with the responsibility determination. Changes have been made to these Guidelines to incorporate the use of MTA Construction & Development's contractor evaluation program ("CEP"), evaluations and MTA's VENDEVAL program evaluations in responsibility determinations

Upon motion duly made and seconded, the Committee approved the revisions to the Responsibility Guidelines.

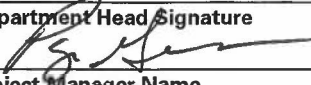
**Adjournment**

Chairman Lieber adjourned November 29, 2022, meeting of the Corporate Governance Committee at 1:27pm.

Respectfully submitted,

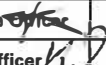


Lamond W. Kears  
MTA Chief Compliance Officer

# Staff Summary

<b>Subject</b> All Agency General Contract Procurement Guidelines and All Agency Service Contract Procurement Guidelines
<b>Department</b> MTA Office of the General Counsel
<b>Department Head Name</b> Paige A. Graves
<b>Department Head Signature</b> 
<b>Project Manager Name</b> Paige A. Graves

<b>Date</b> March 27, 2023
<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
	Governance	03/27/23	x		
	Board	03/29/23	x		

Internal Approvals			
Order	Approval	Order	Approval
1	Chief Procurement Officer	4	Chief Administrative Officer
2	Chief Compliance Officer 	5	Chief of Staff 
3	Chief Financial Officer 		

**Purpose:**

To obtain Board approval of the MTA’s revised All Agency General Contract Procurement Guidelines and revised All Agency Service Contract Procurement Guidelines (collectively, the “Guidelines”).

**Discussion:**

The Guidelines were last substantively revised and approved by the Board at its June 29, 2022, meeting.

The MTA Construction & Development Contracts Department and the MTA Procurement Department, in consultation with MTA Legal, have reviewed the Guidelines and made the changes in the attached revised All Agency General Contract Procurement Guidelines, annexed as Attachment 1. No changes are proposed to the All Agency Service Contract Procurement Guidelines, annexed as Attachment 2. The changes are intended to promote efficiency by reducing unnecessary notifications and streamlining the procurement and management of contracts. The proposed changes are:

1. Exclude Small Business Mentor Program (“SBMP”) contracts from the requirement in Article VIII.D to notify the Finance Committee Chair about change orders that increase the total contract price by more than ten percent of the original value or increase the contract duration by more than ten percent of the original contract duration. Article VIII.D was intended to provide notice to the Chair of the Finance Committee of significant changes to MTA contracts that would not otherwise be brought to the attention of the Board. The SBMP contracts are typically lower dollar and shorter duration contracts, created in an effort to mentor small businesses on doing business with the MTA with the goal of having them ultimately competing for MTA work. Because of the low dollar amount and short duration of these contracts, relatively minor changes trigger the notice requirement. Indeed, approximately one third of the required notifications to the Finance Committee Chair are for SBMP contracts, which was not the intent of the provision. This change will exclude the SBMP contracts from this reporting requirement.
2. Modify the requirement in Article XII.J.3 to use a contracting approach that considers factors other than just price (e.g., competitive RFP or A+B bidding) in selecting a contractor to apply only where practicable. This will allow some flexibility to use traditional low price sealed bids for appropriate

contracts, such as those where schedule and other factors are outside of the Contractor's control.

3. A typographical error was corrected in the definition of Miscellaneous Procurement Contracts in Article I.

The revised Guidelines, once approved, will be implemented by the agencies, as required.

**Recommendation:**

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

## BOARD RESOLUTION

WHEREAS, pursuant to Public Authorities Law Section 2879, the Board must approve the All Agency General Contract Procurement Guidelines and All Agency Service Contract Procurement Guidelines (collectively, the “Guidelines”) on an annual basis;

WHEREAS, the Board approved the last revisions to the Guidelines in June 2022; and

WHEREAS, certain revisions have been proposed in the interest of efficiency;

NOW, THEREFORE, BE IT RESOLVED, that the BOARD acting as the Board of each agency of the MTA, adopts the attached Guidelines, which shall supersede the All Agency General Contract Procurement Guidelines and All Agency Service Contract Procurement Guidelines previously adopted by the Board in June 2022.



## ALL AGENCY GENERAL CONTRACT PROCUREMENT GUIDELINES

Adopted by the Board on ~~June~~ March 29, ~~2022~~ 2023

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**”), the Staten Island Rapid Transit Operating Authority (“**SIRTOA**”), the Manhattan and Bronx Surface Transit Operating Authority (“**MaBSTOA**”), MTA Construction and Development (“**MTAC&D**”), MTA Bus Company (“**MTA Bus**”), First Mutual Transportation Assurance Co. (“**FMTAC**”), Grand Central Madison Concourse Operating Company (“**GCMC**”), and 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 the MTA, NYCT, LIRR, MNR, SIRTOA, MaBSTOA, MTAC&D, MTA Bus, FMTAC, GCMC, and Bridges and Tunnels is referred to jointly and severally, as the “**Authority**”).

### Article I - Applicability of General Contract Guidelines

These **General Contract Guidelines** apply to

- A. purchase contracts for supplies, materials, equipment or other goods (“**Purchase Contracts**”);
- B. public work contracts (“**Public Work Contracts**”); and
- C. “Miscellaneous Procurement Contracts” 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 Managing Director, the President, or chief procurement officer (“**CPO**”) of the relevant Authority thereof, and any further delegations that the Chairman or relevant Authority President may make for those specified delegated purposes only (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 relevant Authority acting on its own behalf or as agent for MTA, as follows:

- A. To implement these General Contract Guidelines.



- B. To establish procedures for the award of General Contracts estimated to involve the expenditure of \$1.0 million or less and including contracts for a small business concern (“SBC”), a certified minority or women-owned business enterprise (“MWBE”) or a certified service disabled veteran owned business (“SDVOB”) involving an expenditure of \$1.5 million or less, which procedures shall be competitive to the extent deemed practicable by the Authorized Officer;
- C. To do the following for the award of Purchase Contracts and Public Work Contracts estimated to involve the expenditure in excess of \$1 million:
  - 1. to determine the criteria for the evaluation of bids/proposals, 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 due to the need to award such contract on an emergency or other critical basis;
  - 3. to advertise for, solicit and open bids/proposals;
  - 4. to record the name of each bidder and the amounts of the bid/proposal;
  - 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/proposer is responsible pursuant to the All-Agency Responsibility Guidelines; and
- E. In addition to the other authorizations set forth elsewhere in these General Contract Guidelines, 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 - Selection of General Contractors Without Competitive Sealed Bidding**

- A. A competitively bid Miscellaneous Procurement Contract may be awarded without Board approval. No Board approval shall be required for a Miscellaneous Procurement Contract ride pursuant to Article III.B.5.
- B. Except as otherwise provided in Article III.C. or Article VII., a General Contract estimated to involve the expenditure in excess of \$1 million 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, Critical Need or Unforeseen Circumstances. The existence of an emergency involving danger to life, safety or property, or a critical need or unforeseen circumstance 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 in a timely manner, 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 Article III.B.2. shall a. set forth the Authority's intent to purchase the item without competitive bidding because the item is available from only one source, and b. invite 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 the firm 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 General 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 governmental entities listed below and the resolution adopted by the Board, if Board authorization would otherwise be required under these General Contract Guidelines, includes a determination that,

and the reasons, why, it is in the public interest to do so. Such rationale shall include a determination of need, a consideration of the procurement method by which the contract was awarded, an analysis of alternative procurement sources including an explanation why a competitive procurement or the use of a centralized contract let by the commissioner of the office of general services is not in the best interest of the authority, and the reasonableness of cost:

- a. Any public authority (not New York State) provided such General Contract had been awarded through a process of competitive sealed bidding or a competitive request for proposals (“RFP”);
- b. The United States general services administration (“GSA”) provided such General Contract had been awarded through a process of competitive bidding or a competitive RFP;
- c. A New York State agency or authority (including the New York State Office of General Services (“OGS”), the City of New York, or Nassau County.

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, and included in the contract file.

6. Request For Proposals. The Authority determines that it is in the public interest to award the General Contract through a competitive RFP.
  - a. For purposes of this Article III.B.6., an 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 General 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 General Contracts awarded under this Article III.B.6., (1) such contracts 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 General 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 MWBEs or certified 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 interest, 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:
    - i) 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;
    - ii) request that any of the proposers make a presentation. If it does so, it is not required to afford such opportunity to all proposers;
    - iii) negotiate with any of the proposers. If it does so, it is not required to negotiate with all proposers;
    - iv) reject any proposal at any time; and
    - v) 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 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. Pursuant to the SBMP procedures, the Chairman or Authority President designates members of an SBMP steering committee, which includes diversity, engineering and procurement

personnel. Such SBMP steering committee 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, not estimated to involve the expenditure in excess of \$1.5 million, that is not federally funded, may be awarded pursuant to Section 1209.7(b) or Section 1265-a.2(b) of the Public Authorities Law without competitive sealed bidding or other formal competitive process, notwithstanding any other provision of law or these General Contract Guidelines where the Purchase Contract or Miscellaneous Procurement Contract involves goods or technology that are recycled or remanufactured.

#### **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. An Authorized Officer 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 one time per year in order 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 sealed 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.

F. Article V – Notice and Advertising

Except as provided in Article V.C. and Article III.B.2., in those instances where advertising is required under these General Contract Guidelines:

- A. Regardless of the selection process used, for Purchase Contracts and Public Work Contracts in the actual or estimated amount in excess of \$1 million, 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. Such advertisement and notice in the NYSCR must be placed at least fifteen (15) business days prior to the planned date on which a bid/proposal is due; provided that, if the Purchase Contract or Public Work Contract is to be awarded without the solicitation of competitive sealed bids or RFP, the timing of the publication in the NYSCR shall be determined by an Authorized Officer.
- B. The advertisement and the notice in the NYSCR must contain, as applicable, a statement of: 1) the name of the contracting Authority; 2) the contract identification number; 3) a brief description of the goods, supplies, materials, or equipment sought, the location where work is to be performed or goods are to be delivered and the contract term; 4) the address where bids/proposals are to be submitted, if submitted via hard-copy; 5) the date when bids/proposals are due; 6) a description of any eligibility or qualification requirement or preference; 7) a statement as to whether the contract may be fulfilled by a subcontracting, joint venture (“JV”) or co-production arrangement; 8) any other information which the Authority deems useful to potential contractors; 9) the name, address and the telephone number of the person to be contacted for additional information; and 10) the time and place where bids received will be publicly opened and read. In addition, if a purchase contract is involved, the advertisement in the NYSCR shall also include a statement as to whether the goods, supplies, materials, or equipment 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. Where the work to be performed under a contract to be advertised is substantially the same as the work of a prior contract awarded in the last five years, the NYSCR advertisement must include the name(s) of the incumbent(s) for the prior contract pursuant to Section 142 of the Economic Development Law.
- C. 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.
- D. In addition to the above advertisements, the Authority shall provide notice to professional and other organizations, if any, that regularly notify MWBES 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 MWBEs or SDVOBs, which set forth a general description of categories of items which are regularly procured by the Authority and invites firms to utilize the MTA Business Services Center Vendor Portal to be 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 MWBEs and SDVOBs. Such effort shall include the use of the Authorities' websites, use of appropriate publications, including those, if any, that serve MWBEs and SDVOBs, 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; and
    - 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 certified 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 and the lists of SDVOBs maintained by, the OGS Division of Service-Disabled Veterans' Business Development ("**OGS DSDVBD**").
  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 Contracts and Public Work Contracts: the Authority shall establish an Outreach program, to be developed by the Chief Development Officer or his designee, to identify and attract capable U.S. and international firms to compete for MTA contracts. In addition, 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 MWBEs.

**Article VII – MWBE, SDVOB, and Disadvantaged Business Enterprise (“DBE”)**

The potential exists for MWBE, SDVOB, and DBE involvement in General Contracts. The Authority shall use its best efforts to maximize the utilization, as applicable, of 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 Article 17-B of the Executive Law and these General Contract Guidelines.

- A. The MTA Chief Diversity Officer is responsible for ensuring compliance with all applicable laws and regulations and for overseeing the programs established by the MTA to promote and assist: 1) the participation by MWBEs and SDVOBs in procurement opportunities and facilitation of the award of General Contracts to such enterprises; 2) the utilization of MWBEs and SDVOBs as subcontractors and suppliers to Authority prime contractors; and 3) the utilization of partnerships, 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. A Purchase Contract or a Miscellaneous Procurement Contract, not estimated to involve the expenditure in excess of \$1.5 million, that is not federally funded, may be awarded pursuant to Section 1209.7(b) or Section 1265-a.2(b) of the Public Authorities Law without competitive sealed bidding or other formal competitive process, notwithstanding any other provision of law or these General Contract Guidelines where the proposed award is to a SBC, MWBE or SDVOB. The MTA and its agencies will administer set-aside procurements pursuant to the laws, rules and procedures that govern small purchase contracting.

The Authority CPO or his/her designee shall determine which Purchase Contracts or Miscellaneous Procurement Contracts are appropriate for these procurements. 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, respectively, and to assist the Authorities in achieving their MWBE and SDVOB goals.

Notice of such procurements shall be placed on the Authority website inviting responsive bids/proposals from qualified SBCs, MWBEs and/or SDVOBs. Awards pursuant to this process shall be made to the bidder/proposer determined to have submitted the bid/proposal that is most advantageous to the Authority after considering price and any other relevant factors. 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.



SDVOB set aside contracts made pursuant to Article 17-B of Executive Law require notice in the NYSCR.

- C. For contracts awarded pursuant to these General Contract Guidelines, other than those whose award process is described in Article VII.B., 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 most recent New York State Disparity Study.
  
- D. 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.C., including by taking the following actions:
  - 1. 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 MWBE and SDVOB participation so as to facilitate the Authority's achievement of the maximum feasible portion of the MWBE and SDVOB goals;
  - 2. designating the New York State Division of Minority and Women-owned Business Development ("**DMWBD**") to certify and decertify MWBEs, and OGS DSDVBD to certify and decertify SDVOBs, for purposes of these General Contract Guidelines;
  - 3. 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;
  - 4. providing to prospective contractors in writing, or by identifying a link to a website containing a current list of MWBEs and SDVOBs;
  - 5. with regard to JVs, allowing a bidder/proposer to count toward meeting its MWBE and SDVOB participation goals, the MWBE or SDVOB portion of the JV;
  - 6. 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
  - 7. verifying that MWBEs and SDVOBs listed in a successful bid/proposal are actually participating to the extent listed in the project for which the bid/proposal was submitted.
  
- E. The Authority will also consider, where practicable:
  - 1. the severability of construction projects and other bundled contracts;
  - 2. 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 most recent New York State Disparity Study; and

3. compliance with the requirements of any federal law or regulations concerning opportunities for any DBEs, MWBEs and SDVOBs that effectuates the purposes of this Article VII.
- F. The Chief Diversity Officer or his/her 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 (a) exceeds \$1 million, (b) increases the total contract price by more than ten percent of the original value, or (c) increases the contract duration by more than ten percent of the original contract duration, 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. In order to avoid splitting change orders to below \$1 million for the purpose of avoiding the Board approval requirements of this Article VIII.A., the CPO of the relevant Authority must approve multiple change orders to the same contract and for the same scope of work, if all such change orders for any rolling 12-month period would equal to or be more than \$1 million.

For example only, if change order #1 is issued in March Year 1 for \$600,000, change order #2 is issued in June Year 1 for \$300,000 and change order #3 is issued in January Year 2 for \$200,000 (all for the same scope of work), then the CPO would be required to approve change order #3 because the total amount would be \$1.1 million for the rolling 12-month period from March Year 1 to March Year 2, and further the CPO would need to approve any other change order issued during any rolling 12-month period which would bring that 12-month period total to be equal to or greater than \$1 million.

- B. 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, CPO, or the Authority President's designee. This provision applies to all contracts subject to these General Contract Guidelines.
- C. Notwithstanding the foregoing, an Authorized Officer may enter into a change order without Board approval in any of the following situations as determined by an Authorized Officer:
1. The existence of an emergency, other critical need or unforeseen circumstance;
  2. There is a risk of a substantial increase in cost or delay if prompt action is not taken; or
  3. The change order does not change the total contract price to exceed the contract budgeted cost, including contingency.
- D. Change orders, except for change orders to Small Business Mentor Program Contracts, that do not require Board approval pursuant to Paragraph C above, but that (a) increases the total contract price by more than ten percent of the original value, or (b) increases the contract duration by more than ten percent of the original contract duration, shall require prior written notice to the Chairman of the Finance Committee.

- E. The Chairman 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 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 1) identify the contractor by name; 2) briefly describe the substance of the General Contract; 3) specify all the information required under the applicable provisions of these General Contract Guidelines; and 4) 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 Chairman may modify the procedures in this Article for all Authorities.

#### **Article X - Responsibilities of General Contractors**

In each General Contract, a general contractor shall have the following responsibilities:

- A. To perform the contract in accordance with its terms and to remain a responsible contractor;
- B. To provide the public work, goods, supplies, materials, or equipment required under the contract competently, efficiently, in a timely manner, at a fair and reasonable cost and in a manner which is satisfactory to the Authority; and
- C. To cooperate with Authority personnel who are directing, supervising or monitoring the performance of the general contractor or who are assisting in their performance.

#### **Article XI - Contracts Involving Former Officers or Employees of the Authority**

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

#### **Article XII - Miscellaneous**

- A. Except to the extent prohibited by law, the Chairman or Chief Executive Officer, or his/her designee, with prior notice to the Chairman of the Finance Committee, may waive the provisions of these General Contract Guidelines in the event of an emergency involving the health or safety of the public. 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 VII.B., 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 \$1 million 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: 1) such requirement shall be met pursuant to a requirements contract awarded pursuant to the applicable provisions of these General Contract Guidelines; 2) each such Purchase Contract shall be awarded pursuant to the provisions of Article II.C., Article III, Article IV, Article VI, or Article VII.B. of these General Contract Guidelines or 3) each such contract shall be awarded pursuant to the provisions of Article II.C., Article III, or Article VII.B. or a procedure determined by an Authorized Officer to be comparable to Article IV or Article VI.
- E. Nothing in these General Contract Guidelines shall preclude the Authority from accepting bids/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. Each Authority shall maintain records, for each fiscal year, of all Purchase Contracts in an actual or estimated amount of \$15,000 or more entered into by the Authority at the request of such Division/Department, and such reports shall be prepared pursuant to the specifications located in Article IX.B. and Article IX.C. of the Services Contract Guidelines.
- H. The Authority shall prepare a publicly available report no less frequently than annually, summarizing procurement activity by the Authority for the period of the report in accordance with the reporting requirements of Section 2879(6) of the Public Authorities Law.
- I. These 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.

- J. To make MTA work more appealing to contractors and thereby increase competition and reduce the costs that the MTA typically pays for its Capital Program projects, the following Cost Containment Initiatives shall be implemented on all Capital Program projects unless the Chief Development Officer grants a waiver based upon a determination that such Cost Containment Initiative is impractical for a specific project:
1. Neutral Dispute Resolution: Disputes shall be resolved by a neutral arbitrator or panel of arbitrators or in a court of competent jurisdiction.
  2. Project CEOs: The Chief Development Officer or his designee shall appoint a Project CEO (“PCEO”) for each project who shall be empowered to make project decisions and shall be accountable for the project’s budget and schedule. PCEO decisions affecting scope, budget and schedule can only be overruled or amended by the MTA Chief Development Officer.
  3. In developing the Request for Proposal or Bid documents for a project, and as part of any negotiation and contractor selection process, the PCEO shall develop a strategy designed to optimize the cost and schedule for the project. Such strategy shall be approved by the Chief Development Officer or his designee and shall establish the following:
    - a. Where practicable, A-a contracting approach that considers factors other than just price in selecting a contractor (e.g., competitive RFP or A+B bidding), even where design-build contracting is not required. Excluded from this requirement are contracts awarded under the Small Business Mentoring Program and the Small Business Federal Program for which a traditional low bid contracting approach is permissible.
    - b. Optimal turnaround times for submittals and similar documentation, which times shall be incorporated into the contract(s).
    - c. A strategy to allocate risk to the party in the best position to manage such risk. Factors to be considered in this category include but are not limited to: (i) the availability of MTA provided outages, flaggers and other services; (ii) delays by third parties such as Amtrak, utility companies, and government agencies; and (iii) existing conditions, including both structural conditions and interferences and the existence of hazardous materials. The PCEO, in consultation with the Leaders of the MTA C&D Delivery and Contracts groups and the applicable operating agencies, shall establish for each project the optimal method for incorporation of such risk allocation into the contract(s) (e.g. guaranteed number of outages subject to a contractual percentage of cancelations, allowances, etc.).
    - d. Favorable payment terms, to be established in consultation with the MTA Chief Financial Officer. Unless otherwise indicated, payment terms shall be 15 days.
    - e. Guidelines that promote the use of off-the-shelf products and components and eliminate customization to the extent practicable.
  4. Reduced Bonding Requirements: Unless otherwise prohibited by law or by MTA funding partners for specific projects (e.g., the Federal Transit Administration), the Request for Proposal or Bid documents for a project shall provide that Payment and

Performance bonds on contracts more than \$250 Million may be reduced from 100% of the contract amount provided that the Contracting entity is able to provide adequate alternative security and/or guarantees. The appropriateness of such alternative security and/or guarantees shall be approved by the MTA Chief Development Officer and/or the MTA Chief Financial Officer or his/her designees.

- K. 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.
- L. 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.
- M. 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.
- N. For those General Contracts for which the Office of the State Comptroller (“OSC”) has requested review and approval pursuant to Public Authorities Law §2879-a, if the Authority has not received OSC approval or disapproval within thirty days of submission to the OSC, the Authority may enter into such General Contract without further waiting for such review and approval.



## ALL AGENCY SERVICE CONTRACT PROCUREMENT GUIDELINES

Adopted by the Board on ~~March~~ June 29, 2023~~2~~

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**”), the Staten Island Rapid Transit Operating Authority (“**SIRTOA**”), the Manhattan and Bronx Surface Transit Operating Authority (“**MaBSTOA**”), MTA Construction and Development (“**MTAC&D**”), MTA Bus Company (“**MTA Bus**”), First Mutual Transportation Assurance Co. (“**FMTAC**”), Grand Central Madison Concourse Operating Company (“**GCMC**”), and 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 the MTA, NYCT, LIRR, MNR, SIRTOA, MaBSTOA, MTAC&D, MTA Bus, FMTAC, GCMC, and Bridges and Tunnels is referred to jointly and severally as the “**Authority**”).

### Article I - Applicability of Service Contract Guidelines

It is the policy of the Authority to contract for services that because of factors such as timing, costs, qualifications, 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, is not required pursuant to these Service Contract Guidelines or is waived as impractical or inappropriate due to an emergency, critical need or as a consequence of unforeseen circumstances.

These **Service Contract Guidelines** apply to personal service contracts (“**Personal Service Contracts**”) and 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) Finances
  - (11) Human resources
  - (12) Information technology (but not software licenses or software maintenance)
  - (13) Investments
  - (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, retrieval and discovery
- (26) Research
- (27) Risk management and related services
- (28) Security, including cybersecurity
- (29) Statistics
- (20) Surveying
- (31) Training

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

- (1) a Personal Service Contract; or
- (2) 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, human services (such as homeless services), guard service, custodial service and maintenance work performed by laborers, workers or mechanics that 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 Managing Director, the President, or chief procurement officer (“**CPO**”) of the relevant Authority thereof, and any further delegations that the Chairman or relevant Authority President may make for those specifically delegated purposes only (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 relevant 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 for the award of Service Contracts estimated to involve the expenditure of \$1.0 million or less and including contracts for a small business concern (“**SBC**”), a certified minority or women-owned business enterprise (“**MWBE**”) or a certified service disabled veteran owned business (“**SDVOB**”) involving an expenditure of \$1.5 million or less, which procedures shall be competitive to the extent deemed practicable by the Authorized Officer;



- C. to establish procedures 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 in excess of \$1 million if not awarded pursuant to competitive sealed 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. to do the following for the award of Service Contracts estimated to involve the expenditure in excess of \$1 million:
  - (1) to determine the criteria for the evaluation of bids/proposals;
  - (2) to determine whether a Services Contract required to be advertised in the New York State Contract Reporter (“**NYSCR**”) is exempt from such requirement due to the need to award such contract on an emergency or other critical basis;
  - (3) to advertise for, solicit and open bids/proposals;
  - (4) to record the name of each bidder/proposer and the amounts of the bid/proposal;
  - (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/proposers when it is determined to be in the public interest to do so; and
  - (7) to award the Service Contract; and
- E. to determine whether a bidder/proposer 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 by RFP

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

- (1) Service Contracts for architectural, engineering, and survey services, which are subject to Article III.B.;
- (2) Service Contracts in the amount of \$1 million or less, which may be entered into pursuant to the provisions of Article II.B. (or pursuant to procedures established by an Authorized Officer which shall be competitive to the extent deemed practicable by the Authorized Officer); and
- (3) Service Contracts for which a competitive selection process is inappropriate pursuant to the provisions of Article III.C.

(a) 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.

(b) 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 certified disadvantaged business enterprise (“DBE”), MWBE or SDVOB 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.

(c) 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.

(d) 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 proposals will be the most advantageous to the Authority after considering price, qualifications and other relevant factors identified as evaluation criteria in the RFP.

**B. Architectural, Engineering and Survey Services**

- (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 Article III.B., provided that, if federal funds will be utilized for such contract, the decision shall take into account applicable federal requirements.
- (2) The Authority shall encourage architectural, engineering and surveying firms 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 professional firms regarding anticipated design concepts and proposed methods of approach to the proposed project.
- (3) The Authority shall then evaluate whether a modification to the RFP documents is appropriate, and shall then solicit the RFP in compliance with the provisions of subparagraphs (b) and (c) of Article III.A(3).

- (4) Based upon the criteria established by the Authority, the Authority shall select no less than three professional firms deemed to be the most highly qualified to provide the services required from the proposals submitted, in order of preference.
  - (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 three selected professional firms it shall select additional professional firms, in order of their qualifications and it shall continue negotiations in accordance with this subparagraph until an agreement is reached.
  - (6) The provisions of this Article III.B. must apply to engineering, architectural, or surveying services contracts in excess of \$1 million. Contracts for engineering, architectural or surveying services involving lesser amounts may be entered into pursuant to the provisions of Article III.B. or pursuant to procedures established by an Authorized Officer which shall be competitive to the extent deemed practicable by the Authorized Officer, provided that a qualification based selection procedure is used when required by federal guidance.
- 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) Single Source. The service to be procured is available only from a single responsible source.
  - (2) 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.
  - (3) Emergency, Critical Need or Unforeseen Circumstances. The existence of an emergency involving danger to life, safety or property, or a critical need or unforeseen circumstance which requires immediate action and cannot await competitive bidding; or when the contract 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 in a timely manner, together with a statement of the reasons for such action and a request for ratification by the Board.

- (4) Legal Services. When the services are legal services.
- (5) Unique Source. When the provider of the services has unique or otherwise outstanding qualifications.

D. The Chairman, Managing Director, General Counsel, or President or CPO of the relevant 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 III, 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 – Notice and Advertising**

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 Service Contract in the actual or estimated amount in excess of \$1 million shall be published at least one time in the NYSCR, except as provided in Article IV.C. Such advertising must be placed at least fifteen (15) business days prior to the planned date on which a bid/proposal is due, provided that if the Services Contract is to be awarded without bids/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: (1) the name of the contracting Authority; (2) the contract identification number; (3) a brief description of the services sought, the location where services are to be provided and the contract term; (4) the address where bids/proposals are to be submitted, if submitted via hard-copy; (5) the date when bids/proposals are due; (6) a description of any eligibility or qualification requirement or preference; (7) a statement as to whether the contract may be fulfilled by a subcontracting, joint venture (“JV”) or co-production arrangement; (8) any other information which the Authority deems useful to potential bidder/proposer; (9) the name, address and the telephone number of the person to be contacted for additional information; and (10) 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. Where the work to be performed under a contract to be advertised is substantially the same as the work of a prior contract awarded in the last five years, the NYSCR advertisement must include the name(s) of the incumbent(s) for the prior contract pursuant to Section 142 of the Economic Development Law.

- C. Notice in the NYSCR is not required under the following circumstances:
- (1) In the event of an emergency or critical need for the services as determined by an Authorized Officer;
  - (2) The contract is re-solicited for substantially the same services within forty-five business days after the date bids/proposals were originally due;
  - (3) The contract is awarded to a not-for-profit provider of human services;
  - (4) The contract is awarded pursuant to the provisions of Article III.C(1) or (2) or Article V.B. of these Service Contract 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 of the type of procurement opportunity that is the subject of the solicitation.

#### **Article V – MWBEs, SDVOBs, and DBEs**

The potential exists for MWBE, SDVOB, and DBE involvement in Service Contracts. The Authority shall use its best efforts to maximize the utilization, as applicable, of 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 Article 17-B of the Executive Law and these Service Contract Guidelines.

- A. The MTA's Chief Diversity Officer is responsible for ensuring compliance with all applicable laws and regulations and for overseeing the programs established by the MTA to promote and assist: (1) the participation by MWBEs and SDVOBs in procurement opportunities and facilitation of the award of Service Contracts to such enterprises; (2) the utilization of MWBEs and SDVOBs as subcontractors to Authority prime contractors; and (3) the utilization of partnerships, 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. A Service Contract, not estimated to involve the expenditure in excess of \$1.5 million, that is not federally funded, may be awarded pursuant to Section 1209.7(b) or Section 1265-a.2(b) of the Public Authorities Law without competitive sealed bidding or other formal competitive process, notwithstanding any other provision of law or these Guidelines, where the proposed award is to a SBC, MWBE or SDVOB. The MTA and its agencies will administer set-aside procurements pursuant to the laws, rules and procedures that govern small purchase contracting.

The Authority CPO or his/her designee shall determine which Service Contracts are appropriate for these procurements. 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 Article 15-A and Article 17-B of the Executive Law, respectively, and to assist the Authorities in achieving their MWBE and SDVOB goals.

Notice of such procurements shall be placed on the Authority website inviting responsive bids/proposals from qualified SBCs, MWBEs and/or SDVOBs. Awards pursuant to this

process shall be made to the bidder/proposer determined to have submitted the bid/proposal that is most advantageous to the Authority after considering price and any other relevant factors. 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.

SDVOB set aside contracts made pursuant to Article 17-B of Executive Law require notice in the NYSCR.

- C. For contracts awarded pursuant to these Service Contract Guidelines, other than those whose award process is described in Article V.B., 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 most recent New York State Disparity Study.
- D. 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.C., including by taking the following actions:
  - (1) 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 MWBE and SDVOB participation so as to facilitate the Authority's achievement of the maximum feasible portion of the MWBE and SDVOB goals;
  - (2) designating the New York State Division of Minority and Women-owned Business Development ("**DMWBD**") to certify and decertify MWBEs, and the Office of General Services ("**OGS**") Division of Service-Disabled Veterans' Business Development to certify and decertify SDVOBs, for purposes of these Service Contract Guidelines;
  - (3) 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;
  - (4) providing to prospective contractors in writing or by identifying a link to a website containing a current list of MWBEs and SDVOBs;
  - (5) with regard to JVs, allowing a bidder/proposer to count toward meeting its MWBE and SDVOB participation goal, the MWBE or SDVOB portion of the JV;
  - (6) 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
  - (7) verifying that MWBEs and SDVOBs listed in a successful bid/proposal are actually

participating to the extent listed in the project for which the bid/proposal was submitted.

- E. The Authority will also consider, where practicable:
- (1) the severability of service requirements and other bundled service contracts;
  - (2) 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 most recent New York State Disparity Study; and
  - (3) compliance with the requirements of any federal law or regulations concerning opportunities for any DBEs, MWBEs and SDVOBs that effectuates the purposes of this Article V.
- F. The Chief Diversity Officer or his/her 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, to the extent applicable due to the specifications of such Personal Service Contract:
- (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 deliverables
  - (7) Assignments; subcontracts
  - (8) Maintenance of records, accounts
  - (9) Right of Authority to inspect and/or audit books and records
  - (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 letter of intent/notice to proceed shall be required, which 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 letter of intent/notice to proceed 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).

For the avoidance of doubt, such letter of intent/notice to proceed shall NOT constitute the final Service Contract.

- C. Miscellaneous Service Contracts shall contain those provisions of Article VI.A. and other standard forms of contract deemed appropriate by an Authorized Officer.

#### **Article VII - Responsibilities of Services Contractors**

In each Service Contract, a service contractor shall have the following responsibilities:

- A. To perform the contract in accordance with its terms and to remain a responsible contractor;
- B. To perform the services required under the contract competently, efficiently, in a timely manner, at a fair and reasonable cost and in a manner which is satisfactory to the Authority; and
- C. To cooperate with 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, former employees or with firms employing such former officers or former employees only to the extent permitted by Public Officers Law §73.

#### **Article IX - Reporting of Service Contracts**

- A. Each Authority shall maintain records, for each fiscal year, of the following contracts entered into by the Authority at the request of such Division/Department: (1) Personal Service Contracts in the actual or estimated amount of \$15,000 or more; and (2) Miscellaneous Service Contracts in the actual or estimated amount of \$15,000 or more.
- B. The 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 Service Contract Guidelines, state that and include a 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; and
- (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 – Board Approval**

The following Service Contracts shall require Board approval 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: all Personal Service Contracts entered into by an Authority in the actual or estimated amount in excess of \$1 million, except if awarded to the lowest responsible bidder pursuant to competitive sealed bids; and
- B. Miscellaneous Service Contracts: all Miscellaneous Service Contracts entered into by an Authority in the actual or estimated amount in excess of \$1 million, unless awarded pursuant to competitive sealed bids.

**Article XI - Change Orders**

An Authority may enter into a change order or amendment to a 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 initially equal or exceed the applicable monetary 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 Service Contracts subject to these Service Contract Guidelines.
- 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 \$1 million. In order to avoid splitting change orders or amendments to below \$1 million for the purpose of avoiding the Board approval requirements of this Article XI.B., the CPO of the relevant Authority must approve multiple change orders or amendments to the same contract and for the same scope of work, if all such change orders or amendments for any rolling 12-month period would equal to or be

more than \$1 million.

For example only, if change order #1 is issued in March Year 1 for \$600,000, change order #2 is issued in June Year 1 for \$300,000 and change order #3 is issued in January Year 2 for \$200,000 (all for the same scope of work), then the CPO would be required to approve change order #3 because the total amount would be \$1.1 million for the rolling 12-month period from March Year 1 to March Year 2, and further the CPO would need to approve any other change order issued during any rolling 12-month period which would bring that 12-month period total to be equal to or greater than \$1 million.

- C. Notwithstanding the foregoing, an Authorized Officer may enter into a change order or amendment without Board approval in any of the following situations as determined by an Authorized Officer,
  - (1) The existence of an emergency, other critical need or unforeseen circumstance;
  - (2) The risk of a substantial increase in cost or delay if prompt action is not taken; or
  - (3) The change order does not change the total contract price to exceed the contract budgeted cost, including contingency.
- D. The Chairman 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 V.B., 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/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 any of the governmental entities listed below:

Another public authority (not New York State) or United States general services administration (“GSA”) if: (1) the existing contract was awarded pursuant to a process of competitive sealed bids or a competitive RFP; (2) the Authority’s Authorized Officer determines that the price and other commercial terms specified in the contract are satisfactory; and (3) if Board authorization would otherwise be required under these Service Contract Guidelines, the Board adopts a resolution by a majority vote of the members of the Board present at a meeting at which a quorum is in attendance, which sets forth the reasons why obtaining such service is in the public interest and authorizes the Authority to enter into the Service Contract.

A New York State agency or authority (including OGS), the City of New York or Nassau County if: the Authority’s Authorized Officer determines that the price and other commercial terms specified in the contract are satisfactory; and (2) if Board authorization would otherwise be required under these Service Contract Guidelines, the Board adopts a resolution by a majority vote of the members of the Board present at a meeting at which a quorum is in attendance, which sets forth the reasons why obtaining such service is in the public interest and authorizes the Authority to enter into the Service Contract.

Such rationale shall include a determination of need, a consideration of the procurement method by which the contract was awarded, an analysis of alternative procurement sources including an explanation why a competitive procurement or the use of a centralized contract let by the commissioner of the office of general services is not in the best interest of the authority, and the reasonableness of cost. Such a determination shall be documented in writing by the Authorized Officer and included in the contract file.

- I. If an Authority enters into a Service Contract pursuant to these Service Contract Guidelines, and such Service Contract allows all other Authorities to utilize the same Service Contract, then no further action is required. For the avoidance of doubt, the provisions of Article II.C. and Article XI shall apply to change orders to all such Service Contracts.
- J. 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.

- 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 Service Contract Guidelines, then such requirements shall take precedence over those contained herein.
  
- L. For those Service Contracts for which the Office of the State Comptroller (“OSC”) has requested review and approval pursuant to Public Authorities Law §2879-a, if the Authority has not received OSC approval or disapproval within thirty days of submission to the OSC, the Authority may enter into such Service Contract without further waiting for such review and approval.

# Staff Summary

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

<b>Date</b> March 29, 2023
<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
1	Governance	3/27/23	X		
2	Board	3/29/23	X		

Internal Approvals			
Order	Approval	Order	Approval
1	Corporate Compliance		
2	Legal		
3	Labor & Employment Rel.		

**Purpose:**

To obtain Board authorization for proposed amendments to the existing MTA All Agency Code of Ethics and the MTA Board Members Code of Ethics as indicated in this staff summary.

**Discussion:**

These proposed revisions to the MTA All Agency Code of Ethics and the MTA Board Members Code of Ethics are to ensure compliance with the Ethics Commission Reform Act of 2022, to reflect changes resulting from MTA transformation and to strengthen the MTA Codes of Ethics.

Both the MTA All-Agency Code of Ethics as well as the MTA Board Member Code of Ethics contain mostly non substantive changes, including changing the name of the Joint Commission on Public Ethics to the Commission on Ethics and Lobbying in Government,

Among the substantive changes to the All-Agency Code of Ethics are (1) streamlining and consolidating MTA ethics program by centralizing Agencies' Ethics Officer functions under Corporate Compliance, (2) providing definition of what constitutes an outside activity requiring approval, and (3) strengthening the monitoring and detecting of conflict of interest by requiring ongoing conflict of interest disclosure and certification.

**Alternative:**

Not to adopt the revised Codes of Ethics. This alternative is not recommended because these changes will ensure compliance with the Ethics Commission Reform Act of 2022.

**Recommendation:**

It is recommended that the Board adopt the revised MTA All Agency Code of Ethics and the MTA Board Members Code of Ethics as indicated in this staff summary.

## BOARD RESOLUTION

WHEREAS, pursuant to Public Authorities Law Section 2824, the Board must adopt the MTA All-Agency and MTA Board Member Codes of Ethics (“Codes”);

WHEREAS, the Board last reviewed the Codes of Ethics in November 29, 2022; and

WHEREAS, certain revisions have been proposed in the interest of compliance and efficiency;

NOW, THEREFORE, BE IT RESOLVED, that the BOARD acting as the Board of each agency of the MTA, adopts the attached Codes, which shall supersede the current Codes adopted by the Board.

# CODE OF **ETHICS**



~~Adopted by the MTA Board  
December 16, 2015~~

Vertical line on the left side of the page.



Originally Issued

June 1, 2005

Revised

March 29, 2006

March 28, 2007

December 16, 2009

November 16, 2011

February 26, 2014

November 19, 2014

December 16, 2015

March 29, 2023

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



Internal Control Number GRC001924

## Introduction **Code of Ethics - Building Trust**

The Metropolitan Transportation Authority ~~provides services~~ is committed to more than eight million customers a day, each one of whom expects a high standard of service. As employees of the MTA, you are ~~entrusted~~ conducting all our activities with the duty to provide this high standard of service. The ability to provide a high standard of service is grounded in a strong work ethic, clear corporate policies, and the dedication of a creative work force. integrity consistent with our Code of Ethics. The adherence to a strict code of ethics is central to gaining and keeping the trust of our ~~customers.~~ stakeholders.

This Metropolitan Transportation Authority All Agency Code of Ethics (“Code of Ethics”) applies to every employee of the MTA, including its current and future subsidiaries and affiliates. For ease of reference, This Code of Ethics ~~will refer to all such employees as “Employees.”~~ In addition, persons performing services for the MTA and its subsidiaries and affiliates may be subject to the Code of Ethics by contract or agreement.

~~There is only one Code of Ethics for the entire MTA. You are expected to become familiar with this Code, and the various applicable statutes, regulations, professional codes of ethics, and disciplinary rules. You are expected to read this Code immediately upon receipt.~~

~~The Code of Ethics is intended to provide guidance~~ our combined commitment to all Employees with respect to applicable laws governing ethical ~~our stakeholders that we will conduct and the MTA’s ourselves~~ in a manner to maintain and build the public trust. Our ethical standards, ~~which sometimes exceed the requirements of State law.~~

~~While the Code of Ethics sets out specific standards, in our evolving business environment, no written code can anticipate every possible situation. However, this Code of Ethics establishes a standard against which~~



## Metropolitan Transportation Authority Code of Ethics

~~you can measure your daily decisions and actions. The~~ are based upon doing the right thing even when it is difficult or unpopular. Our Code of Ethics is not a restatement ~~guide, therefore as an Employee of all applicable laws and standards;~~ the MTA you are expected not only to be familiar with and comply with all laws and standards related to your specific job. The principal source of most New York State law governing the ethical conduct of public employees and officers is the Public Officers Law, the applicable provisions of which are available from the Law and Human Resources departments at each MTA Agency the letter of the Code but its spirit as well.

~~As an Employee, you are expected to be an ethical role model. Managers and supervisors~~ We must foster an atmosphere that encourages Employees to seek assistance if faced with ethical dilemmas. Every Employee must and to be alert to potential ethical issues and be ready to respond appropriately. I encourage you to speak up if you see something that does not seem right.

~~Responsibility for compliance with the applicable rules and standards for ethical conduct, including the related financial disclosure requirements, ultimately rests with you. If you have an ethics-related question, you should ask your supervisor or the applicable Agency Ethics Committee~~ reach out to MTA Corporate Compliance for guidance.



## Metropolitan Transportation Authority Code of Ethics

~~Violations of the Code of Ethics or applicable statutory provisions may subject an Employee to discipline up to and including dismissal and/or expose the Employee to civil or criminal penalties. (See Chapter 9)~~

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## Chapter 1: Definitions/Structure

### Section 1.01 Definitions

As used in this Code, capitalized terms shall have the following meanings:

~~Agency Ethics Committee means the ethics committee established by an individual MTA Agency.~~

~~All-Agency Ethics Committee means the committee comprised of the Agency Ethics Officers or chairpersons of each Agency Ethics Committee and the Chief Compliance Officer.~~

**Annual Statement of Financial Disclosure** means the financial disclosure statement required to be filed with the ~~Joint~~ Commission on ~~Public Ethics~~ and Lobbying in Government by certain Employees pursuant to Public Officers Law Section 73-a and this Code.

**Business** means any activity, paid or unpaid, by an Employee or any individual, firm, company, corporation or other entity, wherein the goal or objective is obtaining monetary income or other things of value or operating an enterprise. Such activity may be for profit or not-for-profit.

**Code** means this MTA All-Agency Code of Ethics.

**Confidential Information** means information, whether or not set forth in writing, that is available to an Employee only because of such Employee's position within ~~an~~ the MTA ~~Agency~~ and which is treated by ~~such~~ the MTA ~~Agency~~ as being confidential or which the Employee has reason to believe is confidential. Information does not have to be formally labeled "confidential" to be confidential.

**Conflicts of Interest** means a situation in which the financial, familial, or personal interests of an Employee come into real or apparent conflict with their duties and responsibilities to the MTA. Apparent Conflicts of Interest are situations where there is the appearance that an Employee can personally benefit from actions or decisions made in their official capacity, or where an Employee may be influenced to act in a manner that does not represent the best interests of the MTA. The appearance of a conflict may occur if circumstances would suggest to a reasonable person that an Employee may have a conflict. The appearance of a conflict and a real conflict should be treated in the same manner for the purposes of this Code.

~~Compensation mean the financial consideration benefit, gain or loss avoidance received in exchange for services rendered, e.g., wages, salaries, benefits, professional fees, royalties, bonuses, or commissions on sales. Compensation shall also include income received from any business venture, whether or not incorporated, that is owned or controlled by an Employee. Notwithstanding the foregoing, income received from transactions involving such individual's own securities, personal property, or real estate (not conduct through a business) is not included in the term Compensation.~~

**Department Head** means a Department Head as that term is generally used within the applicable MTA Agency.



## Metropolitan Transportation Authority Code of Ethics

**Employee** means an officer or employee of ~~an MTA Agency~~the MTA, including but not limited to all full time, part-time, or contingent employees.

**Employment** means performance of services, for or on behalf of any entity or individual, to obtain economic or other material benefit.

**Family Member** means (i) an Employee's spouse, domestic partner, child or sibling; (ii) a person who is a direct descendant (or the spouse of a direct descendant) of a grandparent of the Employee or a grandparent of the Employee's spouse or domestic partner; or (iii) a person living in the same household as an Employee.

**Fundraising** means the raising of funds for an organization through solicitation of funds or sale of items or participation in the conduct of an event.

**Gift(s)** means the transfer, without equivalent consideration, of anything or benefit, tangible or intangible, having more than nominal value, including, but not limited to, loans, forbearance, services, travel, gratuities of any kind, favors, money, meals, refreshments, entertainment, hospitality, promises, tickets to entertainment or sporting events, weekend trips, golf outings, loans of equipment, or other thing or benefit. **(See definition of "Items of Nominal Value" below.)** Note: The State Legislature has determined that provision of local transportation by a Prohibited Source for purposes of inspection or touring of facilities, operations or property located in New York State, where such inspection or tour is related to an Employee's official duties or responsibilities, does not constitute a Gift.

**Honorarium** means (a) payment, fee or other compensation in connection with a service rendered by an Employee not related to the person's official duties, and for which MTA ~~Agency~~ equipment or staff are not used, which is in the nature of a gratuity or as an award or an honor (e.g., for delivering a speech, for attending a conference, for writing an article); and (b) a payment, whether to a lodging site or a provider of transportation, for travel expenses made to or on behalf of an Employee, or reimbursement made to the Employee for travel expenses incurred, for services rendered by an Employee not related to their official duties.

**Items of Nominal Value** means items such as mugs, key rings, calendars, pens and the like that are of minimal value unless such items are being given under circumstances where it reasonably can be inferred that such item was intended to influence the Employee in the performance of such Employee's official duties. For purposes of determining value, an item is not deemed reduced in value by virtue of its being embossed or otherwise marked with a company logo, identification, or advertising.

~~**Joint Commission on Public Ethics and Lobbying in Government**~~ means the Commission established ~~within the New York Department of State under Section 94 of the New York Executive Law~~ pursuant to the ~~Public Integrity~~Ethics Reform Act of ~~2011~~2022.

**MTA Agency or MTA** means any or all of the following: Metropolitan Transportation Authority Headquarters, MTA New York City Transit, Manhattan and Bronx Surface Transit Operating





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Authority, MTA Long Island Rail Road, MTA Metro-North Railroad, , MTA Bus Company, MTA ~~Capital Construction and Development Company, the Grand Central Madison Concourse Operating~~ Company, the Staten Island Rapid Transit Operating Authority, the First Mutual Transportation Assurance Company, MTA Bridges and Tunnels and all future affiliated and subsidiary entities of the MTA.

**New York State Agency** means any New York State department, or division, board, commission, or bureau of any state department, any public benefit corporation, public authority, or commission at least one of whose members is appointed by the Governor, or the State University of New York, or the City University of New York, including all their constituent units except community colleges of the State University of New York and the independent institutions operating statutory or contract colleges on behalf of the State. All MTA Agencies are New York State Agencies for purposes of this Code.

**Outside Activity and Activities (“Outside Activities”)** is any employment or activity (including self-employment) performed by an MTA employee outside of their MTA job for compensation or other financial benefits. Outside Activity in some cases include volunteer work such as serving as a volunteer fire fighter or police officer when you receive benefits such as property tax breaks, health insurance, housing allowances or other benefits. In addition, serving as a member of a governing board of a charitable or civic organization may also be considered an Outside Activity. However, most volunteer work, including religious volunteer work, is not considered an Outside Activity, employees should seek guidance from Corporate Compliance if there is any question whether these provisions apply.

**Participation in the Conduct of an Event** means active and visible participation in the promotion, production or presentation of the event and includes serving as honorary chairperson or committee member or sitting at the head table during the event. The term does not mean the mere attendance at the event, provided the Employee’s attendance is not being used by the non-profit to promote the event.

**Policy-Making Position** means those management and non-management positions designated as policy-making positions by ~~each the~~ MTA ~~Agency~~, because the individual holding the position exercises responsibilities of a broad scope in the formulation of plans for the implementation of action or policy for ~~an the~~ MTA ~~Agency~~ or has an effective or substantial influence on an individual in such a position; e.g., positions in which Employees have discretion to (i) significantly influence, control, or bind ~~an the~~ MTA ~~Agency~~ in the expenditure or receipt of money, (ii) significantly influence the discretionary selection or rejection of Employees, their promotion, transfer, or salary increases, (iii) select or supervise Prohibited Sources, (iv) negotiate leases, real estate agreements, estates, purchase or sale of goods or services, or (v) supervise or approve additional work orders and progress payments to Prohibited Sources retained by ~~an the~~ MTA ~~Agency~~.

**Prohibited Source** means:

- (a) a Vendor including any person, seller of goods or services, bidder, proposer, consultant, contractor, trade, contractor or industry association, or any other person/entity with



## Metropolitan Transportation Authority Code of Ethics

which ~~your~~the MTA ~~Agency~~ is doing business, as well as those persons and business entities who have expressed an interest in doing business with ~~your~~the MTA ~~Agency~~, whose activities directly or indirectly benefit ~~your Agency~~the MTA, or who have a history of doing business with ~~your Agency~~the MTA in the recent past; or

- (b) a tenant or licensee of ~~your~~the MTA ~~Agency~~; or
- (c) any person or entity who on his, her or its own behalf, or on behalf of any other person or entity, satisfies any one of the following:
  - (1) is regulated by, negotiates with, appears before in other than a ministerial matter, seeks to contract with or has contracts with, or does other business with: (i) the Employee, in his or her official capacity; (ii) ~~your~~the MTA ~~Agency~~; or (iii) any other New York State Agency when ~~your~~the MTA ~~Agency~~ is to receive the benefits of the contract; or
  - (2) is required to be listed on a statement of registration pursuant to ~~§~~Section 1-c(a)(1) of article 1-A of the Legislative Law and lobbies or attempts to influence actions, decisions, or policies of ~~your~~the MTA ~~Agency~~; or
  - (3) is the ~~spouse or unemancipated child~~Family Member of any individual satisfying the requirements of subsection (c)(2) above; or
  - (4) is involved in any action or proceeding, in which administrative and judicial remedies thereto have not been exhausted, and which is adverse to either: (i) the Employee in his or her official capacity; or (ii) ~~your~~the MTA ~~Agency~~; or
  - (5) has received or applied for funds from ~~your~~the MTA ~~Agency~~ at any time during the previous 12 months up to and including the date of the proposed or actual receipt of the item or service of more than Nominal Value. This does not include a request for funds received by the MTA in the ordinary course of business. For example, this does not include a customer's request for a refund or MTA's purchase of tickets or a table to an event.

~~For purposes of this definition, the term "your Agency" refers to the Agency by which you are employed. However, certain Employees working on matters involving more than one MTA Agency may be considered an Employee of multiple MTA Agencies for purposes of this Code.~~

**Solicitation** means any request, invitation, or suggestion (oral or written) made under circumstances where it reasonably could be concluded that the individual or entity receiving same is being asked to, or is expected to, comply with a request, invitation, or suggestion.

**State Ethics Law** means New York Public Officers Law Sections 73, 73-a, 74 as may be amended or modified by the New York State Legislature and the rules and regulations promulgated thereunder.



~~Section 1.02 Agency Ethics Committees/All Agency Ethics Committee~~

~~The Metropolitan Transportation Authority Headquarters, MTA New York City Transit, MTA Long Island Rail Road, MTA Metro-North Railroad, MTA Bus Company, MTA Capital Construction Company, and MTA Bridges and Tunnels shall each appoint an Agency Ethics Officer and can establish an Ethics Committee to render guidance on ethics-related questions, including conflicts of interest. The procedures for the appointment of the Agency Ethics Officer shall be determined by each MTA Agency upon consultation with the Chief Compliance Officer. However, each Committee will designate one senior-level executive as Chairperson of the Agency Ethics Committee. Upon request, information disclosed to the Agency Ethics Committees and their members shall be deemed confidential, provided that appropriate disclosure of such information must be made in accordance with applicable laws, rules, and regulations.~~

~~Section 1.02 MTA's Chief Compliance Officer shall serve as Chairperson of the All-Agency Ethics Committee. The Committee will meet **Chief Compliance Officer**~~

~~MTA's Chief Compliance Officer shall designate Corporate Compliance staff members to render guidance on ethics-related matters or issues.~~

~~MTA's Chief Compliance Officer will periodically ~~to review~~ and assess the current state of ethics at the MTA and ~~to review or revise the Code of Ethics as needed~~ provide a report to the Audit Committee, pursuant to the Audit Committee Charter.~~

**Section 1.03 Ethics & Financial Disclosure Questions**

Questions concerning this Code or potential conflicts of interest may be directed to ~~the applicable Agency Ethics Officer or Ethics Committee~~ **Corporate Compliance** at the phone number ~~set forth in Appendix A listed below.~~ It is not the function of ~~a supervisor, an Agency Ethics Officer or Ethics Committee, or an MTA Agency lawyer~~ **any Corporate Compliance staff member** to act as counsel to any individual Employee.

Information regarding violations of this Code or questions concerning ethics-related matters, may also be directed to:

MTA Corporate Compliance  
Metropolitan Transportation Authority  
2 Broadway, 16<sup>th</sup> Floor  
New York, New York 10004  
888-U-ASK-MTA (888-827-5682)

Any Employee who has a complaint or allegation regarding the MTA may also contact the MTA Inspector General.

Office of the Inspector General



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Metropolitan Transportation Authority  
~~Two~~One Penn Plaza, ~~5th~~11th Floor Suite 1110  
New York, New York ~~10124~~10119  
800-MTA-IG4U (800-682-4448)

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

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

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

- (a) Employees must promptly report any violation or potential violation of the MTA's Codes of Ethics (All-Agency Code of Ethics, Board Member Code of Ethics or Vendor Code of Ethics) as well as any actual or potential violation of law, regulations, or policies and procedures, relating to the MTA, whether committed by an Employee or by a person doing business with the MTA- to Corporate Compliance. Employees should report to the MTA Inspector General allegations or information involving corruption, fraud, criminal activity or abuse.
- (b) Employees should report to ~~their Agency's Ethics Officer, their Agency General Counsel,~~ the MTA's Chief Compliance Officer or to the MTA Inspector General, all other violations or potential violations. Employees should feel free to discuss their concerns initially with their supervisor, but no supervisor may discourage an Employee from making a report.

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

### ~~Section 1.06—No Reprisals/Whistle-Blowing~~

### Section 1.06 Non-Reprisal/Whistleblower Protection

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

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



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Employees must cooperate fully and honestly with audits and investigations conducted by the MTA Inspector ~~General, Joint~~General's Office, the Commission on ~~Public Ethics and Lobbying in Government~~, Auditor ~~General, Chief~~Services, ~~Corporate~~ Compliance ~~Officer~~, other authorized ~~MTA or MTA~~ Agency ~~Ethics Officer~~personnel, or other governmental agencies. Failure to so cooperate will subject an Employee to appropriate disciplinary penalty, up to and including dismissal.

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

~~All new and current~~ Employees ~~subject to the financial disclosure requirements of Section 6.01 of this Code~~ must ~~complete a comprehensive~~attend mandatory ethics training ~~course within three months of becoming subject to that requirement.~~

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

### Section 1.09 **Ethics Certifications**

- (a) Code of Ethics Certification: Employees upon hire must certify to the MTA Code of Ethics by signing an Acknowledgment Form. Additionally, Employees are required to annually sign a certification attesting to their familiarity and compliance with the MTA Code of Ethics.
- (b) Outside Activity Certification: Employees shall complete a certification attesting to the fact (1) they are not engaged in an Outside Activity or (2) that there have been no material changes to either their approved outside activity or their current job responsibilities which would require a new evaluation of their outside activity approval. The certification will be conducted at a minimum annually for non-represented employees and at a minimum every three years for represented employees. Based upon an Employee's position certification maybe required more frequently. Failure to complete a required certification will result in the revocation of the outside activity approval.
- (c) Conflict of Interest Certification: Employee's in Policy Making positions shall complete an annual conflict of interest certification.

## Chapter 2: Gifts, Awards and Honoraria

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

- (a) Employees are prohibited from soliciting or receiving Gifts, directly or indirectly, from any Prohibited Source. The defined term "Gift" does not include items of truly nominal value. (See definitions of "Gifts" and "Items of Nominal Value.")
- (b) However, Employees may accept Gifts from employees of a Prohibited Source if these



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Gifts are reflective of a personal relationship independent of the relationship between the Prohibited Source and the MTA. For example, if the sibling of ~~an~~ MTA ~~Agency~~ Employee worked for a Prohibited Source, the ~~MTA~~ ~~Agency~~ Employee could nonetheless accept a Gift that reflects this personal relationship. In addition, an Employee can accept a modest, reasonable, and customary offering on an extraordinary occasion, such as a wedding, retirement, funeral, or serious illness. A Gift shall not be considered representative of a personal relationship— if the donor seeks to charge or deduct the value of the Gift as a business expense or seeks reimbursement from a Prohibited Source or when gifts from the same Prohibited Source are offered to multiple Employees at or about the same time.

- (c) Employees are permitted to accept discounts or special offers from a Prohibited Source so long as those discounts or special offers are generally available to similarly situated employees of other public and private sector organizations. Employees should check with ~~their Agency Ethics Officer~~ Corporate Compliance before accepting such discounts or special offers from a Prohibited Source.
- (d) Under no circumstances may an Employee accept an item, even an Item of Nominal Value, under circumstances in which it could be reasonably inferred that the item was intended to influence the Employee, or could reasonably be expected to influence the Employee, in the performance of the Employee's official duties or was intended as a reward for any official action on such Employee's part.

### Reminders:

~~(a)~~ Employees should avoid accepting numerous items of nominal value from the same Prohibited Source because their aggregate value is likely to ~~exceed the nominal threshold. The MTA will aggregate the value of items received from the same Prohibited Source in any 12 month period, make the items as a whole no longer nominal.~~

~~(b)~~ Accepting Gifts in connection with the performance of official duties from persons or entities other than Prohibited Sources could still be a violation of State law and this Code, if it could be reasonably inferred that the Gift was intended to influence the Employee, or could reasonably be expected to influence the Employee, in the performance of the Employee's official duties or was intended as a reward for any official action on such Employee's part.

~~(c)~~ Proof that an Employee was actually influenced by a Gift is not necessary for a finding of a violation of this Code or State Ethics Law.

~~(d)~~ Employees should use caution in accepting such items they believe are of nominal value because it may not always be easy to determine if an item is truly of nominal value.

~~(e)~~ An Employee may not designate a friend, Family Member, or entity (such as a charity) to receive a Gift that the Employee would not be permitted to receive.



**Examples:**

~~(a)~~ A Prohibited Source offers an Employee a briefcase with the Prohibited Source's logo embroidered on it. Because that briefcase, without such logo, would have a retail cost greater than nominal value, the Employee is prohibited from accepting it, even if the Employee considers it valueless because of the logo.

**Common Gift Issues:**

It is not practical in a code of this type to describe all of the circumstances that might give rise to a prohibited Gift. The following are some of the situations that have come up in the past and are examples of Gift-related actions that are prohibited:

- ~~(ai)~~ Any Solicitation or attempt to Solicit a job for a relative from a Prohibited Source, including a summer job; or
- ~~(bii)~~ Any Solicitation or acceptance from a Prohibited Source of:
  - ~~(1)~~ tickets to a concert, play, sporting event, or show;
  - ~~(2)~~ meals;
  - ~~(3)~~ a golf outing, a weekend trip, a vacation, use of a vacation home, or an airline ticket; or
  - ~~(4)~~ individual discounts to Employees on goods or services (such as televisions, computers, clothing, home improvements, or car or appliance repairs).

**Section 2.02 Monetary Gifts and Kickbacks**

- (a)** ~~Gifts of money~~ Monetary gifts to an Employee from a Prohibited Source are prohibited regardless of amount and shall be deemed to be a kickback or bribe intended to influence the Employee in the performance of the Employee's official duties.
- (b)** Employees may not give or promise to give any portion of their compensation or any money or valuable thing to any person, nor shall any person accept any such money, or valuable thing, in connection with appointment, employment, promotion, assignment, or reassignment by ~~an~~ the MTA ~~Agency~~. Employees may not, directly or indirectly, make (or request that other Employees make) any contribution or pay any assessment in order to secure promotion, compensation, or to affect job status, duties, or functions, or in consideration of being appointed or employed at ~~an~~ the MTA ~~Agency~~.

**Section 2.03 Tips**



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Employees are not permitted to accept tips or other gratuities in connection with the performance of their official duties ~~unless:~~

- ~~(1) the Employee is represented by a labor union;~~
- ~~(2) it has been customary in the past for MTA Agency Employees in the relevant job classification to receive tips in connection with the performance of their official duties; and~~
- ~~(3) in the private sector it would be customary for an Employee in the equivalent job classification (such as a bartender) to receive tips as part of their income.~~

### Section 2.04 Reporting Gift or Gift Offers

An Employee to whom a Gift is offered or given in violation of Section 2.01 above shall promptly report such offer or Gift to ~~the applicable Agency Ethics Officer or Ethics Committee~~ Corporate Compliance and, in the case where a Gift has been given, the Employee ~~or Agency Ethics Officer or Ethics Committee~~ shall promptly return the Gift to the person or entity giving the Gift with a copy of the MTA Gift return letter. A copy of the executed gift return letter shall be sent to MTA Corporate Compliance.

### Section 2.05 Awards, Plaques and Honors

- (a) Awards and plaques publicly presented in recognition of an Employee's service to ~~an~~ the MTA ~~Agency~~ or non-job-related public service may be accepted. Employees must notify and seek the approval of ~~their Agency Ethics Officer or Ethics Committee~~ Corporate Compliance prior to accepting an award, plaque, or honor presented by a Prohibited Source.
- (b) However, awards or plaques presented by a Prohibited Source in recognition of job-related MTA ~~Agency~~ service and valued at more than seventy-five dollars (\$75) shall become the property of the ~~applicable MTA Agency. The MTA Agency's Ethics Officer or Ethics Committee~~ MTA. Corporate Compliance can determine the disposition of the award or plaque.

### Section 2.06 Honoraria

An Employee may not accept an honorarium for services related to his or her duties for the MTA.

~~Employees must obtain written approval for each honorarium from their Agency Ethics Officer or Ethics Committee with the concurrence of Corporate Compliance prior to accepting an Honorarium. The approval request should be in writing and received by the Agency Ethics Officer or Ethics Committee no less than thirty (30) days prior to the time performance of the service for which the Honorarium is being offered is due to occur or thirty (30) days prior to the receipt of the honorarium. A detailed statement of all of the circumstances in which an Employee may accept an honorarium from a third party is set forth in Title 19 NYCRR Part 930.~~





~~The following is a summary of the rules relating to honoraria.~~

- (a) ~~Prohibited Honoraria: An Employee may not accept an Honorarium (or payment in lieu of Honorarium) that is offered for services related to his or her official duties for the MTA.~~ In such circumstances, payment for services related to official MTA duties must be made directly to the ~~applicable MTA Agency~~.
- (b) ~~In addition,~~ An Honorarium may not be accepted by any Employee from a Prohibited Source without the written approval of ~~the Chief Corporate Compliance Officer~~.
- ~~(c)~~ (d) Employees must obtain written approval from Corporate Compliance prior to accepting an Honorarium. The approval request should be submitted electronically using the MTA's Ethics and Compliance Portal no less than thirty (30) days prior to the time performance of the service for which the Honorarium is being offered is due to occur or thirty (30) days prior to the receipt of the honorarium. A detailed statement of all the circumstances in which an Employee may accept an honorarium from a third party can be found on the MTA Policy Portal.
- ~~(e)~~ Irrespective of whether approval was obtained in advance, ~~however,~~ any receipt of an Honorarium in excess of \$1000 must be included in the Employee's annual financial disclosure statement. ~~—~~

### Chapter 3: Prohibited-Source Sponsored Events, Receptions, and Meals

#### Section 3.01 Business Meals

- (a) In general, Employees are prohibited from accepting a meal from a Prohibited Source. However, an Employee may accept free modest meals or refreshments from a Prohibited Source under the following limited circumstances:
  - ~~(a)1)~~ in the course of and for the purpose of conducting ~~MTA Agency~~ business at a Prohibited Source's facility, when offered unexpectedly during a meeting which the Employee is attending for official reasons, or when offered at a company cafeteria or other company facility at the Prohibited Source's place of business and individual payment is impractical; or
  - ~~(b)2)~~ when attending a seminar or conference in connection with ~~an~~ MTA Agency business and meals or refreshments are provided to all participants.
- (b) A meal is considered modest for purposes of the foregoing if the food and beverage is valued at ~~fifteen~~ twenty dollars or less. Under the MTA Code of Ethics, an Employee may accept such a modest meal only under the circumstances noted above.
- (c) An Employee may not accept a meal from a Prohibited Source outside of a Prohibited Source's facility (except at a seminar or conference as set forth in Section 3.01(b) above).



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If an Employee has a meal with a Prohibited Source, the Employee shall pay the full value of such meal with his or her own funds with or without MTA ~~Agency~~ reimbursement.

**Reminders:** ~~If you have a meal~~

~~Simply splitting the bill~~ with a Prohibited Source ~~and simply split the bill, you,~~ may be in violation of this Code if you do not pay the full value of your meal. It is prudent for Employees to obtain proof of payment because simply putting money on the table may not provide an adequate basis for proving that an Employee paid for his or her own meal. The better practice is to get a separate check and keep the receipt.

### Section 3.02 Educational Seminars

- (a) Employees are encouraged to continue to participate in events that will enhance their professional development. In certain professions, it is customary for Prohibited Sources, including companies that do business with the MTA, and industry groups, to sponsor lectures and continuing education seminars. Occasionally, such educational events are targeted to Employees and do not include other similarly situated public or private sector employees. Employees may attend such educational events if attendance at the event would further the interests of the MTA ~~Agency~~, if the event relates to the Employee's official duties, and if the invitation does not involve recreational activities such as golf, tennis, or cruises.
- (b) However, Employees who manage the Prohibited Source's work or are involved in the review/approval of payments to the Prohibited Source must consult ~~with their Agency's Ethics Officer~~ Corporate Compliance before accepting professional continuing education credits.

### Section 3.03 Attendance at Prohibited-Source/Industry-Sponsored Events and Receptions

- (a) Employees are encouraged to continue to participate in events that will enhance their professional development. Employees frequently receive complimentary invitations to Prohibited Source/industry groups sponsored events that include receptions or hospitality suites sponsored by a Prohibited Source/industry group. Employees should evaluate any such invitations with caution and obtain prior approval from ~~their Agency Ethics Officer~~ Corporate Compliance. Employees may attend complimentary Prohibited Source/industry-sponsored events, including receptions or hospitality suites only if all of the following conditions are met:
  - (1) Attendance at the event would further the interests of the MTA ~~Agency~~;
  - (2) The event relates to the Employee's official duties or responsibilities or allows the Employee to perform a ceremonial function appropriate to his or her position;



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(3) The event is a “widely attended event” at which at least twenty-five individuals other than Employees attend or were, in good faith, invited to attend and the event is also complimentary to such other non-Employees attending or invited to attend;

(4) Any reception or hospitality suite is open to all event attendees; ~~and~~

(5) The event does not include a formal sit-down meal or involve recreational activities such as golf, tennis, or cruises; ~~and~~

(6) Approval was obtained from Corporate Compliance.

- (b) In evaluating approval of such participation, ~~your Agency Ethics Officer~~ Corporate Compliance will take into consideration a number of factors, including but not limited to: the nature of any pending matter affecting the sponsor or donor's interest, the importance of the event to the MTA, the significance of the Employee's role in the event and whether the ~~MTA Agency's~~ MTA's interest in the Employee's participation outweighs the likelihood that such participation would be perceived as improperly influencing the Employee in the performance of his or her official duties, the timing of the event, the purpose of the event, the identity of other expected participants and the monetary value of the event.
- (c) In circumstances in which a significant activity at the event will be a speaker or attendee addressing an issue of public interest or concern, the State Legislature has determined the requirement that the event “relate to official duties or responsibilities” is satisfied.
- (d) An Employee's travel expenses relating to attendance at an industry or Prohibited Source-sponsored event may not be reimbursed or paid for by the event sponsor or other Prohibited Source. (See Travel Reimbursement Section 3.08)
- (e) An Employee may attend a Prohibited Source-sponsored event at his or her own expense, but the cost paid by the Employee shall be based on the price paid by the other paying attendees or if there is no admission fee required, then based on the actual cost to the sponsor. It is prudent for Employees to obtain proof of payment.

### Section 3.04 Senior Management Attendance at Prohibited-Source Sponsored Events

- (a) The Chair/Chief Executive Officer of MTA, the President of ~~an~~ the ~~MTA Agency~~, or their designee(s) or other senior staff may attend functions sponsored and paid for by Prohibited Sources when attendance is related and appropriate to that attendee's official duties or when the purpose of attendance is the performance of a ceremonial or other function that is appropriate to that attendee's official duties with ~~their MTA Agency. The attendee shall provide advance written notice of such invitation to the MTA Chief Compliance Officer and their Agency's General Counsel.~~ the MTA.
- (b) The attendee shall provide advance written notice of such invitation to and obtain prior



approval from the Chief Compliance Officer or their designee.

(c) In evaluating approval of such participation, Corporate Compliance will take into consideration a number of factors, including but not limited to: the nature of any pending matter affecting the sponsor or donor's interest, the importance of the event to the MTA, the significance of the Employee's role in the event and whether the MTA's interest in the Employee's participation outweighs the likelihood that such participation would be perceived as improperly influencing the Employee in the performance of his or her official duties, the timing of the event, the purpose of the event, the identity of other expected participants and the monetary value of the event.

**Section 3.05 Attendance at Banquets, Galas and Fund-Raising Events**

~~(a)~~ Employees may purchase tickets using their own funds and may attend fund-raising and charitable events sponsored by Prohibited Sources on their own time, subject to compliance with the applicable provisions of the State Ethics Law, this Code, and any other applicable statutes, rules, regulations, policies, or procedures.

~~(b)~~ Employees are prohibited from using the MTA's name, resources, their official title, position or authority in any fundraising activity unless authorized by MTA's Chief Compliance Officer. Authorization may be granted only if the fundraising is in furtherance of the MTA's mission and does not create an appearance of or any actual conflict of interest.

~~(b)(c)~~ ~~(b)~~ Employees may attend fund-raising and charitable events with tickets purchased by ~~an~~the MTA Agency in compliance with the applicable policies and procedures relating to such purchases.

~~(e)(d)~~ ~~(e)~~ Employees may not accept from any individual or firm, directly or indirectly, tickets to any banquet, gala, or fund-raising event by a Prohibited Source, if those tickets were subsidized or paid for directly or indirectly by the Prohibited Source including without limitation the Transit Museum Gala. Such tickets may not be donated by an individual or firm to ~~an~~the MTA Agency and then distributed to Employees of ~~an~~the MTA Agency.

~~Section 3.06 Charitable/Political Benefits Contributions and Fundraising Activities~~

~~Solicitation by Employees of charitable or political contributions from Prohibited Sources, including giving Prohibited Sources invitations to charitable or political functions or events, is prohibited.~~

~~(a)~~ ~~Employees are prohibited from using the MTA's name, their official title, position or authority in any fundraising activity unless authorized by MTA's Chief Compliance Officer. Authorization may be granted only if the fundraising is in furtherance of the MTA's mission and does not create an appearance of or any actual conflict of interest.~~

~~(b)(e)~~ Employees may engage in fundraising in a personal capacity provided they do not use



their title, position or authority to further their fundraising activities and do not personally solicit funds from a subordinate or from persons known to the Employee to be a Prohibited Source.

~~Section 3.07~~ **Section 3.06 Charitable/Political Benefits Contributions**

Solicitation by Employees of charitable or political contributions from Prohibited Sources, including giving Prohibited Sources invitations to charitable or political functions or events, is prohibited.

~~Section 3.08~~ **Section 3.07 Events Honoring an Employee**

Prohibited Sources should only be invited to events honoring an Employee (such as an Employee's retirement dinner or an event where the Employee is one of the honored guests) if they have a personal relationship with the honored Employee and there is no actual, implied, or apparent promise of benefit from accepting, or actual, implied, or apparent threat of retaliation from refusing, such invitation. Such invitations should be made with caution.

~~Section 3.09~~ **Section 3.08 Reimbursement of Travel Expenses for Official Duties**

- (a) Under no circumstances shall an Employee accept reimbursement of travel expenses, including but not limited to, transportation costs, registration fees, food or lodging from a Prohibited Source.
- (b) Employees may accept reimbursement from entities other than Prohibited Sources for travel expenses related to the Employees' official duties if the purpose of the travel benefits the MTA ~~Agency~~ in the conduct of its business and prior approval has been received in accordance with the procedures set by the ~~applicable MTA Agency~~ and this Code.
- (c) Employees must obtain approval from ~~their Agency Ethics Officer with the concurrence of~~ Corporate Compliance prior to accepting such travel reimbursement. The approval request must be in writing and received by ~~the Agency Ethics Officer~~ Corporate Compliance reasonably in advance of the time the travel is to begin.
- (d) Employees required to file a financial disclosure statement must report any reimbursement for travel expenses which totals in excess of \$1,000.

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

### Section 4.01 Conflicts of Interest/Recusal

#### Conflict of Interest



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- (a) Employees shall not have any interest, personal, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is or may be in conflict with the proper discharge of his or her duties.
- (b) Employees must notify ~~their Agency Ethics Officer or Ethics Committee~~Corporate Compliance directly regarding any possible Conflict of Interest.
- (c) Employees must not only avoid Conflicts of Interest with the MTA but also even the appearance of a conflict.

### Reminders:

~~(a)~~ If an Employee is uncertain as to whether a given situation creates a real or apparent Conflict of Interest, such Employee should promptly disclose that situation to, and seek guidance from, his or her supervisor, Department Head, ~~the applicable Agency Ethics Officer or Ethics Committee, or MTA Chief~~Corporate Compliance Officer.

~~(b)~~ With respect to all work an Employee performs, such Employee must be vigilant about the existence of any circumstances, interests, or relationships which might create or might be reasonably perceived by others as constituting a Conflict of Interest. If an Employee is uncertain as to whether a given situation creates a real or apparent Conflict of Interest, such Employee must promptly disclose that situation to, and seek guidance from, ~~such Employee's Agency Ethics Officer, Ethics Committee, or MTA Chief Compliance Officer.~~ Corporate Compliance. In order to avoid a Conflict of Interest or the appearance of one, it may be necessary for Employees to seek recusal from involvement with a matter creating the Conflict of Interest or the appearance of a Conflict of Interest. Employees must adhere strictly to the Conflict of Interest guidance they receive from ~~their applicable Agency Ethics Officer or Ethics Committee~~Corporate Compliance.

### Example:

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

It could be a Conflict of Interest if an Employee participates in a transaction or business decision in their official capacity involving someone with whom they have a personal relationship.

### Recusal



- (d) If an Employee believes he or she has an actual or apparent Conflict of Interest involving the MTA, on a particular matter, the Employee shall not participate in the matter pending a determination by ~~their Agency Ethics Officer~~ Corporate Compliance. Recusals are at the ~~Agency's~~ MTA's discretion and shall be approved only if practical and in the best interests of the ~~applicable MTA Agency~~.
- (e) The recusal requires that the Employee not participate directly or indirectly in any discussion or decision that in any way relates to the matter that gives rise to the Conflict of Interest.
- (f) The recusal must be in writing and contain at a minimum:
  - (~~a~~1) The nature of the actual or apparent Conflict of Interest;
  - (~~b~~2) A delegation of authority to a non-subordinate employee;
  - (~~c~~3) Any requirements and conditions of the recusal;
  - (~~d~~4) The period of time the recusal will remain in effect; and
  - (~~e~~6) The approval ~~of the Agency Ethics Officer~~; and
  - (~~f~~) ~~The concurrence~~ of the Chief Compliance Officer.
- (g) A copy of the recusal must be sent to all employees who are likely to work on the matter giving rise to the recusal.

#### Section 4.02 **Public Trust**

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

#### **Example:**

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

- (b) ~~(b)~~ Employees shall not use or attempt to use their official position to secure unwarranted privileges or exemptions for themselves or others.
- (c) ~~(c)~~ Employees shall not by their conduct give reasonable basis for the impression that any person can improperly influence them or unduly enjoy their favor in the performance of their official duties, or that they are affected by the kinship, rank, position, or influence of any party or person.



**Section 4.03 Confidential Information**

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

**Section 4.04 Financial Interest**

- (a) ~~(a)~~ An Employee, or firm or association of which such Employee is a member, or corporation, ten per cent (10%) or more of the stock of which is owned or controlled directly or indirectly by such Employee, shall not (1) sell any goods or services having a value in excess of twenty-five dollars (\$25) to any New York State Agency, or (2) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a New York State Agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding.
- (b) Exception: This restriction does not apply to the publication of resolutions, advertisements, or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.
- (c) ~~(b)~~ Employees shall not knowingly engage in any transaction on behalf of ~~an~~the MTA Agency with any business entity in which they or a Family Member has a direct or indirect financial interest, excluding mutual funds or exchange traded funds, that might reasonably tend to conflict with the proper discharge of their official duties. These provisions may be waived if ~~both~~ the ~~Head of the Agency's~~Chief Procurement Department and the Agency Officer, MTA General Counsel and Chief Compliance Officer state in writing that it is in the best interests of the Agency MTA to waive the provisions.
- (d) In addition, New York Public Officers Law §74 provides for civil penalties in circumstances of self-dealing and makes it a misdemeanor offense for an Employee of NYCT to have any interest, direct or indirect, in any contract entered into by the Employee's Agency.

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

~~(a)~~ Employees shall not participate in the selection, award, or administration of a contract if the Employee knows that ~~he/she~~they or any of ~~his/her~~their Family Members, ~~his/her~~their business partner, or an organization that employs or is about to employ any of the above, has a financial or other interest, other than mutual funds or exchange traded funds, in any of the companies, their parent company, its affiliates or subsidiaries ("the company") that propose or bid on or are awarded such contract. The provisions of





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Section 4.05(a) may be waived if the ~~Head of the relevant Agency's Department, as well as the Agency Chief Procurement Officer, MTA General Counsel; and the Agency's Ethics Chief Compliance~~ Officer state in writing that it is in the best interests of the ~~Agency~~ MTA to waive the provisions of this Section for a specific procurement or contract. ~~Copies of any approved Waiver Request must also be filed with MTA Corporate Compliance.~~

- (a) ~~(b)~~ If a waiver is granted, (1) the Employee engaged in the award or selection of a contract, shall not during the selection process and for two weeks after the award of the contract buy or sell any of the company's securities or (2) the Employee engaged in the administration of a contract shall not buy or sell any of the awarded company's securities for six months after the award of the contract.
- (b) ~~(c)~~ An Employee shall not buy or sell any of the company's securities based upon information received as a result of their employment with ~~an~~ the MTA Agency or for two weeks after the public release of information by ~~any~~ the MTA Agency regarding the company.

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

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

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

Employees shall not, directly or indirectly, act or appear on behalf of any individual, firm, or corporation, in any Business dealings with, or any matter against the interests of, ~~an~~ the MTA Agency, or any other New York State Agency, other than as a fact witness. Employees of ~~an~~ the MTA Agency are prohibited from appearing for compensation of any kind before a New York State Agency in connection with the purchase or sale of real estate, any rate-making proceeding, licensing,



obtaining grants of money or loans, proceedings related to franchise(s), or the adoption or repeal of any rule having the force of law.

### Exceptions

- (a) Employees may appear before ~~an~~the MTA ~~Agency~~ or any New York State Agency or tribunal (1) in a representative capacity on behalf of an Employee organization or association or (2) in connection with a ministerial matter, such as acting as a notary or translator.
- (b) Uncompensated work by Employees for not-for-profit entities doing Business with the State or ~~City~~ New York municipality is not automatically a conflict of interest if the Employee takes no part in such Business dealings and the entity in question is not subject to supervision, control, or regulation by ~~an~~the MTA ~~Agency~~. For example, an Employee might serve, without fee, on the Board of a community or church-sponsored day-care center that receives State funds. In such a case, the Employee cannot communicate with the State concerning receipt of those funds. (See Section 4.07 Other Employment and Outside Activities)

### Section 4.07 Other Employment and Outside Activities

- (a) Outside employment/activities may pose ethical issues if there is a conflict between the Employee's duties as an Employee and the requirements of the outside employment/activity.
- (b) Employees are prohibited from engaging in outside employment, business, professional, or other outside activity (including volunteer work and service on a corporate board) that interferes or is in conflict with the proper and effective discharge of the individual's official duties or responsibilities.
- (c) ~~Each MTA Agency requires that~~ Employees are required to devote appropriate time and attention to their ~~employment duties and responsibilities~~ with ~~that agency~~the MTA. Full-time employment with ~~an~~the MTA ~~Agency~~ is deemed to be an Employee's primary employment. All Employees must be fit for duty during their work hours.
- (d) Employees who wish to engage in outside ~~employment/~~activities must obtain written approval pursuant to the MTA Outside Activity Policy. ~~Employees should~~ consult with ~~their Agency's Human Resources~~the People Department or ~~Ethics Officer or Ethics Committee to determine what dual employment or outside activity policy exists at the employing Agency.~~ Corporate Compliance if they have any questions about Outside Activities.
- (e) In general, Employees may engage in outside employment/activity provided that (1) such employment/activity does not interfere with their ability to devote appropriate time and attention to their employment with ~~their~~the MTA ~~Agency~~; (2) such employment/activity



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does not violate the specific guidelines ~~for other employment~~ set by their MTA Agency; (3) they do not use any MTA ~~Agency~~ resources (e.g., time, equipment, telephone, etc.) in connection with such employment; ~~(4) the outside activity does not create the appearance of or an actual conflict of interest; (5) the outside activity would not undermine the public's trust in the MTA;~~ and ~~(46)~~ they obtain the required approvals as set forth in the ~~specific procedures for approval of other employment set by their MTA Agency. Any Employee interested in running for elective office must also comply with the provisions of Section 4.08 of the Code~~MTA Outside Activity Policy.

(f) Employees holding Policy-Making Positions must comply with certain additional requirements in connection with engaging in outside employment/activities: see the MTA Outside Activity Policy.

~~(1) Employees holding Policy-Making Positions are prohibited from serving as a director or officer of a Prohibited Source (including nonprofit organizations) or a corporation or institution engaged in profit-making activities, holding an appointed or elected public office, or serving as a compensated director or officer of a nonprofit organization, without the prior approval of the applicable Agency Ethics Committee or Ethics Officer, and possibly the Joint Commission on Public Ethics.~~

~~(2) Employees in Policy-Making Positions shall not engage in any private employment, profession or Business or other outside activity, without the following prior approvals:~~

~~(a) Annual compensation up to \$1,000—No approval required.~~

~~(b) Annual compensation in excess of \$1,000 to \$5,000—Written approval by the applicable MTA Agency Ethics Officer.~~

~~(c) Annual compensation in excess of \$5,000—Written approval by the applicable MTA Agency and the Joint Commission on Public Ethics.~~

(g) ~~(3) Employees in Policy-Making Positions with approved outside activities must inform their Agency Ethics Officer.~~Employees with approved outside activities must inform their supervisor and Corporate Compliance if there is any material change to either their approved outside activity or their current job responsibilities which would require a new evaluation of their outside activity approval.

~~(4) In addition, employees in Policy-Making Positions with approved outside activities shall annually complete a certification attesting to the fact that there have been no material changes to either their approved outside activity or their current job responsibilities which would require a new evaluation of their outside activity approval.~~



**Remember:**

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

**Section 4.08 Political Activities of Employees**

- ~~(a)~~ An Employee interested in running for elective office shall give written notice of his or her intentions to ~~the applicable Agency Ethics Officer or Ethics Committee~~ Corporate Compliance, so that it may determine whether, and upon what conditions, seeking elective public office would be consistent with the ethics laws and regulations. Notice and approval of the ~~Joint~~ Commission on ~~Public~~ Ethics and Lobbying in Government may also be required for Employees holding Policy-Making Positions pursuant to ~~Title 19 NYCRR Part 932~~ MTA Outside Activity Policy. In advance of running as a candidate in any election, the provisions of the Hatch Act should also be evaluated to determine whether such a candidacy is permitted under its terms.
- ~~(b)~~ Employees shall not conduct political activities during work hours. MTA ~~Agency~~ property, including, without limitation, telephone, copy machines, computers, and other MTA ~~Agency~~ equipment, vehicles, office space, and services may not be used for political activities under any circumstances.
- ~~(c)~~ Employees are prohibited from using federal funds for partisan political purposes of any kind in the administration of MTA ~~Agency~~ programs, either directly or through individuals or organizations with whom the MTA ~~Agency~~ contracts.
- ~~(d)~~ Employees shall not use their positions or influence for the purpose of interfering with or affecting the result of an election. No Employee shall, directly or indirectly, use his or her official authority to compel or induce any other Employee or state official to make or promise to make any political contribution, whether by gift of money, service



or other thing of value.

- (e) ~~(e)~~ Employees holding Policy-Making Positions shall not serve as: (1) officers of any political party or political organization or (2) members of any political party committee, including political party district leaders or as members of a political party national committee. "Political organization" means any organization affiliated with a political party but does not include a judicial nominating committee, an organization supporting a particular cause with no partisan activities, a campaign or fundraising committee, or serving as a delegate to a state or national party convention.
- (f) ~~(f)~~ Consistent with this Code, Employees are otherwise free to participate in the political process on their own time, but there must be a clear separation between their political activities and the discharge of their duties as Employees of ~~anthe~~ MTA ~~Agency~~.
- (g) ~~(g)~~ No Employee may during the consideration of an employment decision ask any applicant to disclose: (i) their political party affiliation; (ii) whether they made campaign contributions to any party, elected official or candidate for elective office; or (iii) whether the applicant cast a vote for or against any elected official, candidate or political party. The provisions of this paragraph shall not apply where such inquiry is necessary for the proper application of any state law or regulation.
- (h) No Employee may decline to hire or promote, discharge, discipline, or in any manner change the official rank or compensation of any Employee, or applicant for employment, or promise or threaten to do so, based upon a refusal to answer any inquiry prohibited by this section or for giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.
- (i) ~~(h)~~ The MTA's ~~Chairman~~ Chair and Chief Executive Officer and Agency Presidents shall not seek nomination or election to any compensated federal, state or local public office, or shall become a candidate for such office, unless such individual first resigns from ~~his or her~~ their MTA employment, or requests and is granted a leave of absence without pay, such resignation or leave must commence before such individual engages in any campaign activities, including but not limited to, announcing a candidacy, circulating petitions, soliciting contributions, distributing literature, or taking any other action to actively promote oneself as a candidate for elective office.

#### Section 4.09 Other State Employment

Employees who are subject to the New York State Civil Service Law shall not accept appointment or employment on a full-time or part-time basis, in a State department or agency, or in the Legislature or the judiciary, for which compensation is payable, without the prior consent in writing of the Agency President and ~~Agency Ethics Officer. The written consent shall be filed with the NYS Office of the Comptroller and MTA Corporate Compliance~~ the Chief Compliance Officer.

#### Chapter 5: Future Employment Restrictions



### Section 5.01 Restrictions on Future Employment-Purpose

Employment with ~~anthe~~ MTA ~~Agency~~ restricts to a degree the type of employment one may accept upon leaving ~~anthe~~ MTA ~~Agency~~. These restrictions are based upon statutory requirements. Both this Code and applicable statutes seek to discourage actual conflicts of interest and conduct from which reasonable inferences may be drawn that Employees of ~~anthe~~ MTA ~~Agency~~ might not have been loyally serving ~~such MTA Agency's~~ MTA's interests during their employment or, thereafter, might be taking undue advantage of inside information or positioning derived from their former employment with ~~anthe~~ MTA ~~Agency~~.

### Section 5.02 Restrictions on Future Employment – Limited and Lifetime Bars

(a) Two-Year Bar

No former Employee shall, within two (2) years after termination of employment with an MTA Agency, appear before such agency or receive compensation for, or render compensated services on behalf of, any person, firm, corporation, or association in relation to any case, proceeding or application or any other matter before such MTA Agency.

(b) Lifetime Bar

No former Employee shall ever appear, practice, communicate, or otherwise render any services or receive compensation for such services rendered before an MTA Agency or any New York State Agency for, or on behalf of, any person, firm, corporation, or other entity in relation to any case, proceeding, or transaction with respect to which such person was directly concerned and in which he or she personally participated during the period of service or employment, or which was under their active consideration. The definition of what constitutes “ever appear, practice, communicate or otherwise render any services” is given a broad interpretation. Employees should contact ~~their Agency~~ Ethics Officer/Corporate Compliance regarding this definition before rendering any such service.

#### Exceptions:

~~(1)~~ These restrictions on future employment do not apply to subsequent services rendered in an official capacity as an elected official or an Employee of another governmental entity.

~~(2)~~ The ~~Agency~~ MTA may seek a waiver with respect to a former Employee pursuant to Public Officer Law Section 73 if the Employee has expertise, knowledge, or experience with respect to a particular matter that meets the needs of the ~~agency~~ MTA and is otherwise unavailable at a comparable cost.



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~~(3)~~ The ~~Agency~~MTA may seek a waiver with respect to a former Employee pursuant to Public Officer Law Section 73 if the services of such former officer or Employee are required in connection with the ~~agency's~~MTA's response to a disaster emergency declared by the Governor pursuant to section twenty-eight of the Executive Law.

### Reminders:

~~(4)~~ For purposes of the post-employment bars, certain Employees, particularly those at MTA Headquarters and MTA ~~Capital Construction and Development~~, may be considered ~~to be~~ Employees of multiple MTA Agencies based on the scope of their job responsibilities. For clarification of their particular circumstances, the Employees may seek guidance from ~~their former Agency Ethics Officer or MTA~~ Corporate Compliance.

~~(2)~~ The ~~Joint~~ Commission on ~~Public Ethics and Lobbying in Government~~ may not consider not-for-profit entities in the transportation field and certain quasi-governmental organizations as governmental entities for purposes of the exception noted above and employment at such entities may be subject to the post-employment bars described above.

The following are examples of the application of the two-year and lifetime bars:

~~Example 1: A former Construction Manager in the Department of Capital Program Management at New York City Transit (NYCT) may not, within two years after termination of NYCT employment, render services on behalf of a contractor in connection with any Business the contractor has with NYCT.~~

~~Example 2~~ **Example 1:** No former Metro-North Employee, for a period of two years subsequent to his or her termination from employment (including retirement) may contract with Metro-North as a consultant to perform services of any kind on behalf of Metro-North, unless MNR has obtained a waiver from the Joint Commission on Public Ethics as set forth above.

**Example 32:** A former procurement representative in the procurement department at LIRR who was directly concerned with, or was responsible for, the negotiation of a contract during his or her LIRR employment may never appear before an MTA Agency or any other New York State Agency or render services on behalf of any outside person or firm, such as a contractor or subcontractor with regard to that contract, including but not limited to, the preparation or evaluation of claims, or the negotiations of change orders, relating to the contract.

### Section 5.03 Negotiations for Future Employment

(a) Solicited

Employees are prohibited from soliciting, negotiating or having any arrangement concerning



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an employment opportunity with a non-governmental individual or entity that has a specific pending matter before the Employee.

Those Employees seeking employment outside of government with an entity or individual that has a specific pending matter before the Employee may only solicit an employment opportunity with the non-governmental individual or entity after waiting:

- (1) 30 days from the time the matter before the Employee is closed, or
- (2) 30 days from the time the Employee has no further involvement with the matter because of recusal or reassignment.

### (b) Unsolicited

Employees who receive an unsolicited post-government employment-related communication from a non-governmental individual or entity that has a specific pending matter before the Employee cannot pursue employment with the non-governmental entity or individual unless the following occurs:

- (1) they are recused from the matter and any further official contact with the entity or individual and
- (2) they wait 30 days from such recusal to enter into post-government employment communications with the entity or individual.

### (c) Notification

Employees must promptly notify their supervisor and ~~Agency Ethics Officer~~ Corporate Compliance of such outside employment related communications whether or not they intend to pursue the post-government employment opportunity.

~~In the event of such notification of a solicitation and Employee's desire to pursue the solicitation, the Employee's supervisor is obligated to advise such supervisor's superiors, in writing, up to and including the Department Head, of the Employee's desire to pursue the solicitation and the manager's intention to establish recusal procedures, if practical, to reassign the individual or to refuse reassignment.~~

### (d) Recusal

~~Recusal~~ Recusals, pursuant to Section 4.01, shall be granted only if practical and in the best interests of the ~~applicable MTA Agency.~~ ~~Reassignment shall be refused when the manager determines that reassignment would be impractical or inappropriate. The manager may not take action with respect to notifying the Employee of such manager's decision until approved by the Department Head.~~ MTA. If recusal is not practical, and in the best interests of the ~~applicable MTA Agency,~~ or ~~if reassignment is refused,~~ the Employee is prohibited from pursuing the solicitation.





(c) Exception

⚡ This provision does not apply to employment negotiations with other government agencies.

Remember:

**Remember:** The higher the level of responsibility which an Employee holds within ~~an~~the MTA Agency, the greater the number of matters which are likely to be deemed as specific pending matters before him or her. Employees should take an expansive view as to the existence of possible conflicts when deciding whether to give notice as described in this Section.

~~The following are examples of the application of the employment negotiation procedures:~~

~~**Example 1:** A Deputy Vice President in the Department of Capital Program Management at NYCT who receives an unsolicited job offer from a Prohibited Source with specific pending matters before such Employee may not negotiate for such position without full compliance with the notice, approval, and recusal procedures set forth above.~~

~~**Example 2:** A manager at LIRR whose duties include procurement is approached by a firm with which he or she has a specific pending matter and told "if you ever decide to leave the LIRR, we have a place for you in our firm." The LIRR manager must notify his or her supervisor and ethics officer of this conversation because it would be considered a communication intended to solicit employment.~~

Section 5.04 **Notice of Future Employment Restrictions**

(a) An Employee who provides notice of leaving service at ~~an~~the MTA Agency, either by retirement or resignation, or whose employment is terminated, will receive a memorandum summarizing the ~~future~~post-employment restrictions of the Ethics Law and of this Code.

(b) ~~Policy makers must complete a post-employment consultation with Corporate Compliance prior to their separation date.~~

(a)(c) All Employees in management and non-represented titles and Employees in certain represented titles designated by the applicable MTA Agency ~~may be~~are required to sign a certification stating that ~~they are aware of~~ the policies outlined in the memorandum ~~have been complied and will be comply with, and those restrictions. In addition, in order to state~~avoid an actual or the appearance of a conflict of interest those Employees ~~may be required to disclose~~ the name of a new employer, if applicable.



~~(b)(d)~~ Exception: From time to time, the Future-Employment restrictions have been legislatively modified to permit exceptions to these policies when Employees are laid off. An Employee in such a position should consult with ~~the applicable Agency Ethics Officer or Ethics Committee~~ Corporate Compliance if there is a question of whether such exceptions are in force.

**Section 5.05 Restrictions Related to Prior Private Sector Employer**

~~(a)~~ For two years from the commencement of employment with the MTA, an Employee shall not, directly or indirectly, do either of the following in relation to the Employee's immediate past non-governmental employer or an entity with which the employee has had a past Business relationship: (1) participate in the selection or award of a contract in which a bidder or proposer is such immediate past employer; or (2) administer a contract awarded to such immediate past employer.

~~(b)~~ For two years from the commencement of employment with the MTA, an Employee shall notify Corporate Compliance if they are required, as part of their job duties with the MTA, to deal with their immediate past non-governmental employer or an entity with which the Employee has had a past Business relationship. In such cases Corporate Compliance will determine if additional recusal is required.

**Chapter 6: Financial Disclosure**

**Section 6.01 Covered Employees**

(a) Employees must file an Annual Statement of Financial Disclosure if such Employee:

~~(a)~~ ~~1~~ Has a gross salary within the preceding calendar year that exceeded the annual salary of state employees at the SG-24 job rate as of April 1 of the year in which the Annual Statement of Financial Disclosure is to be filed, unless specifically exempted in accordance with the State Ethics in Government Act; or

~~(2)~~ Regardless of income, holds a Policy-Making Position.

**Notes:**

~~(a)~~ The ~~Joint~~ Commission on ~~Public Ethics and Lobbying in Government~~ is required to make Annual Statements of Financial Disclosure available to the public upon request, except as to values and amounts, and except to the extent the reporting individual has obtained a ruling from the ~~Joint~~ Commission on ~~Public Ethics and Lobbying in Government~~ preventing or limiting public disclosure.

~~(b)~~ Each MTA Agency shall prepare a list of Employees in Policy Making Positions and shall, during February of each year, notify the ~~Joint Commission on Public Ethics of the~~



~~identity of all such titles and persons required to file an Annual Statement of Financial Disclosure with the Commission. Procedures shall also be established for identifying to the Joint Commission on Public Ethics all Employees newly subject to the filing requirements by reason of having assumed Policy-Making Positions. The Joint Commission on Public Ethics may be asked to render advisory opinions or issue guidelines for such determinations.~~

~~(e)~~ The Annual Statement of Financial Disclosure solicits various items of information concerning the finances and employment of the Employee, the Employee's spouse, and unemancipated children.

**(b)** Exceptions:

~~(a)~~1 Non-policy making Employees, or their bargaining or other representatives, may request that the ~~Joint~~ Commission on ~~Public~~ Ethics and Lobbying in Government grant exemptions, either in whole or in part, from the reporting requirements. Appeals from denials of such an ~~exemption are to~~ exemption should be made to the ~~Joint~~ Commission on ~~Public~~ Ethics and Lobbying in Government.

~~(b)~~2 Employees who are required to file an Annual Statement of Financial Disclosure based on their gross salary but do not hold Policy-Making Positions may be entitled to an exemption from the financial disclosure requirements, on the grounds that the public interest does not require disclosure and that the Employee is not involved with the discretionary, Business, or regulatory activities of the ~~applicable~~ MTA ~~Agency~~.

~~(e)~~3 Employees may seek an exemption from any requirement to report one or more items of information pertaining to the financial status of their spouse or unemancipated child. An Employee may also request deletion of portions of information called for on the Annual Statement of Financial Disclosure form that could otherwise be publicly disclosed. Grounds supporting such requests are that the spouse or child (where applicable) objects to providing the information necessary to make such disclosure and that such information would have no material bearing on the discharge of the reporting Employee's duties.

**Section 6.02 Dates for Filing and Related Penalties**

**(a)** ~~(a)~~ Employees required to file pursuant to Section 6.01 must file their Annual Statement of Financial Disclosure by May 15th of each year, or within thirty (30) days of a covered Employee's appointment or promotion, whichever is later. An Employee may indicate with respect to any item of the Annual Statement of Financial Disclosure that information with respect thereto is lacking and will be supplied in a supplemental statement to be filed no later than the seventh (7th) day following the date to which that Employee could have received an automatic extension to file their income tax returns for that year. The ~~Joint~~ Commission on ~~Public~~ Ethics and Lobbying in Government may also grant hardship applications.



- (b) ~~(b)~~ If an Employee fails to file the Annual Statement of Financial Disclosure as required or omits relevant information, he or she shall be subject to discipline, up to and including dismissal. In addition, criminal or civil penalties may be imposed as set forth in Chapter 9 below.

## Chapter 7: Books and Records

### Section 7.01 Accuracy and Completeness of Financial Records

- (a) ~~(a)~~ Employees who are involved in the preparation of the ~~MTA Agency's~~ MTA's financial records must ensure that the accounting and financial records of ~~their MTA Agency~~ meet the highest standards of accuracy and completeness. Reporting accurate and complete information about the ~~MTA Agency's~~ MTA's financial condition is an essential responsibility of all Employees.
- (b) ~~(b)~~ If you have reason to believe that any of the ~~MTA Agency's~~ MTA's financial records are not being maintained in an accurate or complete manner, you are expected to report this immediately to ~~your Agency's~~ the Chief Financial Officer, MTA General ~~Counsel's~~ Office ~~Counsel~~, or Chief Compliance Officer ~~or your Agency's Chief Financial Officer~~ ~~or the Auditor General~~.

### Section 7.02 Financial Statements and Accounts

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

## Chapter 8: Other Ethics Issues

### Section 8.01 Nepotism

- (a) It is the policy of the MTA ~~Agencies~~ to ensure that all job opportunities at MTA ~~Agencies~~ are based on merit and qualifications. Employees are prohibited from participating in any hiring or employment decision relating to a Family Member. If a hiring or employment matter arises relating to a Family Member, then the Employee must advise his or her supervisor of the relationship; and must be recused from any and all discussions or decisions relating to the matter. There will be no preferential treatment for Family Members of current or former Employees and/or union officials.
- (b) Employees are required to comply with and should consult the All Agency Policy Directive, Anti-Nepotism Employment Procedures.



- (c) ~~MTA Agencies must ensure that~~ Contracting opportunities are based only on merit and qualifications. There will be no preferential treatment for Family Members of current or former Employees and/or union officials. Employees are prohibited from taking part in any contracting decision: (i) relating to a Family Member; or (ii) relating to any entity in which either they or a Family Member is an officer, director or partner, or in which a Family Member owns or controls 10% or more of the stock (or 1% or more if in the case of a corporation whose stock is regularly traded on an established securities exchange) of such entity. If a contracting matter arises relating to a Family Member, then the Employee must advise his or her supervisor of the relationship; and must be recused from any and all discussions or decisions relating to the matter.
- (d) An Employee cannot participate in any decision to invest MTA funds in any security of any entity in which that Employee or any Family Member of that Employee has a financial interest, is an underwriter, or receives any brokerage, origination or servicing fees.

#### Section 8.02 Business Relationships between Employees

MTA managers and supervisors are prohibited from hiring Employees whom they directly or indirectly supervise or manage to work for or with them as full-time, part-time, or temporary employees or as consultants in any outside business entity.

#### Section 8.03 Financial Transactions between Employees

MTA managers and supervisors are prohibited from engaging in financial transactions with Employees whom they directly or indirectly supervise or manage. MTA managers and supervisors may not obtain or use or attempt to use the credit of any Employee whom they directly or indirectly supervise or manage as applicant, maker, co-signer, or endorser of any credit instrument in any connection with a loan or similar transaction.

#### Section 8.04 Prohibition Against the Use of MTA Property

- (a) MTA's names, logos, ~~titles~~, supplies, equipment, computer resources, personnel, ~~funds~~, and other resources may not be utilized for non-governmental purposes, including for personal purposes or for outside activities of any kind except as may be specifically authorized herein:
  - (1) Official stationery may not be used for non-governmental purposes, nor may MTA resources be used to mail personal correspondence. The designation "personal" on MTA ~~Agency~~ stationery means only that the contents are meant for the personal viewing of the addressee and not that the sender is acting unofficially. All letters and other written materials printed on such official stationery are considered official, and thus the designation "unofficial" has no meaning and may not be used.



## Metropolitan Transportation Authority Code of Ethics

(2) Under no circumstances may MTA mail, postage, internal office mail, or inter-city couriers be used for non-governmental purposes.

(3) MTA telephones may not be used for non-governmental long-distance calls, except for toll-free calls, collect calls, and calls billed to a personal telephone number. MTA telephones may be used for incidental and necessary personal local calls that are of limited number and duration and do not conflict with the proper exercise of the duties of the Employee.

(4) MTA computer resources may be used for incidental and necessary personal purposes, such as sending personal electronic mail messages, provided that such use is in a limited amount and duration and does not conflict with the proper exercise of the duties of the Employee. (See MTA Computer Usage and Social Media Policy ~~Directive~~ Directives)

(5) MTA vehicles shall be used for official business or incidental use associated with official business away from an Employee's official work station. Individuals who are authorized by their Agency to use a vehicle for personal purposes shall keep records of such use, and the value of such personal use shall be calculated and reported as personal income to such individual for tax purposes. (Vehicle Usage Policy)

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

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

#### Section 9.01 General

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

#### Section 9.02 Civil Penalties

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



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

### Section 9.03 Criminal Penalties

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

DRAFT



**APPENDIX A: AGENCY ETHICS OFFICER CONTACT INFORMATION**

**MTA Headquarters**

Lamond Kearse

646-252-1329

**MTA New York City Transit**

Paige Graves

718-694-5719

**MTA Long Island Rail Road**

Stephen N. Papandon

718-558-8327

**MTA Metro-North Railroad**

Susan Sarch 212-340-4933

**MTA Bridges and Tunnels**

M. Margaret Terry

646-252-7619

**MTA Capital Construction**

Evan Eisland

646-252-4274

**MTA Bus Company**

Elizabeth Cooney

646-252-3754

To obtain a current list of Ethics Officers, please call the Ethics/Compliance Helpline at 888 U-ASK-MTA or go to MTA Today page and search for Code of Ethics.



## **BOARD MEMBERS**

## **CODE OF ETHICS**



**INTEGRITY**

**ACCOUNTABILITY**

**COMPLIANCE**

**TRANSPARENCY**

As Board Members of the Metropolitan Transportation Authority (“MTA”), you must be committed to fostering a climate of transparency and the highest ethical standards in MTA’s operations and in its dealings with the public.

In accordance with the Public Authorities Law, the MTA Board is required to adopt a Board Members Code of Ethics that reflects these goals. The Board Members Code of Ethics is intended to provide guidance with respect to applicable laws and standards governing ethical conduct and help Board Members recognize and deal with ethical issues that they may confront in their capacity as Board Members.

Under this Code of Ethics, no Board Member “should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of their duties in the public interest.”

Board Members are encouraged to bring questions about particular circumstances that may create the appearance of or an actual conflict of interest to the attention of the Board Chair, the MTA General Counsel or the MTA Chief Compliance Officer.

Each Board Member brings their unique personal experiences and perspectives to bear in making official decisions on behalf of the MTA. However, you have a duty to exhibit high standards of integrity and commitment in the performance of your official duties.



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## Chapter 1: DEFINITIONS/STRUCTURE

### Section 1.01 Definitions

As used in this Code, capitalized terms, except where it is clear by the context that another meaning is intended, shall have the following meanings:

**Annual Statement of Financial Disclosure** means the financial disclosure statement required to be filed with the Commission on Ethics and Lobbying in Government by certain public employees and Board Members under the State Ethics in Government Act, Public Officers Law Section 73-a and this Code.

**Board Member** means the Board Chair or any of the individuals appointed to serve as a Member of the Board, both voting and non-voting, of the Metropolitan Transportation Authority. All Board Members also serve *ex officio* as members of MTA New York City Transit, Manhattan and Bronx Surface Transit Operating Authority, MTA Long Island Rail Road, MTA Metro-North Railroad, MTA Long Island Bus, MTA Bus Company, MTA Capital Construction Company, the Staten Island Rapid Transit Operating Authority, the First Mutual Transportation Assurance Company, MTA Bridges and Tunnels, Grand Central Madison Concourse Operating Company, and all future affiliated or subsidiary entities of the MTA. All of such entities are hereinafter collectively referred to as the MTA.

**Business** means any activity, paid or unpaid, by a Board Member or any individual, firm, company, corporation or other entity, wherein the goal or objective is obtaining monetary income or other things of value or operating an enterprise. Such activity may be for profit or not-for-profit.

**Code** means this Board Members Code of Ethics.

**Confidential Information** means information, whether or not set forth in writing, that is available to a Board Member only because of such Member's position and which is treated by the MTA as being confidential or which the Board Member has reason to believe is confidential. Information does not have to be formally labeled "confidential" to be confidential. Confidential information includes information disclosed during an executive session of the MTA Board.

**Conflicts of Interest** means a situation in which the financial, familial, or personal interests of a Board Member come into real or apparent conflict with their fiduciary duties and responsibilities to the MTA. Apparent Conflicts of Interest are situations where there is the appearance that a Board Member can personally benefit from actions or discussion made in their official capacity, or where a Board Member may be influenced to act in a manner that does not represent the best interests of the MTA. The appearance of a conflict may occur if circumstances would suggest to a reasonable person that a Board Member may have a conflict. The appearance of a conflict and a real conflict should be treated in the same manner for purposes of this Code.

**Compensation** means any money, thing of value or financial benefit conferred, directly or indirectly, in whatever form, in return for services rendered or to be rendered. With regard to matters undertaken by a firm, corporation or association, compensation shall mean net revenues, as defined in accordance with generally accepted accounting principles.

**Employment** means performance of services, for or on behalf of any entity or individual, to obtain economic or other material benefit.

**Family Member** means (i) a Board Member's spouse, domestic partner, child or sibling; (ii) a person who is a direct descendant (or the spouse of a direct descendant) of a grandparent of the Board Member or a grandparent of the Board Member's spouse or domestic partner; or (iii) a person living in the same household as a Board Member.

**Fundraising** means the raising of funds for an organization through solicitation of funds or sale of items or participation in the conduct of an event.

**Gift** means the transfer, without equivalent consideration, of anything or benefit, tangible or intangible, having more than nominal value, including, but not limited to, loans, forbearance, services, travel, gratuities of any kind, favors, money, meals, refreshments, entertainment, hospitality, promises, tickets to entertainment or sporting events, weekend trips, golf outings, loans of equipment, or other thing or benefit. **(See definition of "Items of Nominal Value" below.)**

**Items of Nominal Value** means items such as mugs, key rings, calendars, pens and the like that are of minimal value unless such items are being given under circumstances where it reasonably can be inferred that such item was intended to influence the Board Member in the performance of such Board member's official duties. For purposes of determining value, an item is not deemed reduced in value by virtue of its being embossed or otherwise marked with a company logo, identification, or advertising.

**Commission on Ethics and Lobbying in Government** means the Commission established under Section 94 of the New York Executive Law pursuant to the Ethics Commission Reform Act of 2022.

**New York State Agency** means any New York State department, or division, board, commission, or bureau of any state department, any public benefit corporation, public authority, or commission at least one of whose members is appointed by the Governor, or the State University of New York, or the City University of New York, including all their constituent units except community colleges of the State University of New York and the independent institutions operating statutory or contract colleges on behalf of the State. All MTA Agencies are New York State Agencies for purposes of this Code.

**Participation in the Conduct of an Event** means active and visible participation in the promotion, production or presentation of the event and includes serving as honorary chairperson or committee member or sitting at the head table during the event. The term does not mean the mere attendance at the event, provided the Board Member's attendance is not being used by the non-profit to promote the event.

**Prohibited Source means:**

- (a) a Vendor; including any person, seller of goods or services, bidder, proposer, consultant, contractor, trade, contractor or industry association, or any other person/entity with which the MTA is doing business, as well as those persons and business entities who have expressed an interest in doing business with the MTA, whose activities directly or indirectly benefit the MTA, or who have a history of doing business with the MTA in the recent past; or
- (b) a tenant or licensee of the MTA; or
- (c) any person or entity who on their or its own behalf, or on behalf of any other person or entity, satisfies any one of the following:
  - (1) is regulated by, negotiates with, appears before in other than a Ministerial Matter, seeks to contract with or has contracts with, or does other business with: (i) the Board Member, in their official capacity as a Board Member; (ii) the MTA; or (iii) any other New York State Agency when the MTA is to receive the benefits of the contract; or
  - (2) is required to be listed on a statement of registration pursuant to §1-e(a)(1) of article 1-A of the Legislative Law and lobbies or attempts to influence actions, decisions, or policies of the MTA; or
  - (3) is the spouse or unemancipated child of any individual satisfying the requirements of subsection (c)(2) above; or
  - (4) is involved in any action or proceeding, in which administrative and judicial remedies thereto have not been exhausted, and which is adverse to either: (i) the Board Member in their official capacity as a Board Member; or (ii) the MTA; or
  - (5) has received or applied for funds from the MTA at any time during the previous 12 months up to and including the date of the proposed or actual receipt of the item or service of more than Nominal Value.

**Representative Capacity** means the representation of the interests of a client or other person pursuant to an agreement express or implied, for compensation for services.

**Regulatory Agency** shall mean the banking department, insurance department, state liquor authority, department of agriculture and markets, department of education, department of environmental conservation, department of health, division of housing and community renewal, department of state (other than the division of corporations and state records), department of public service, the industrial board of appeals in the department of labor and the department of law (other than when the attorney general or his agents or employees are performing duties specified in Section Sixty-Three of the Executive Law such as investigation, prosecution and defense of actions in which the State is interested).

**Solicitation** means any request, invitation, or suggestion (oral or written) made under circumstances where it reasonably could be concluded that the individual or entity receiving same is being asked to, or is expected to, comply with a request, invitation, or suggestion.

**State Ethics Law** means New York Public Officers Law Sections 73-a and 74 as may be amended or modified by the New York State Legislature and the rules and regulations promulgated thereunder.

### **Section 1.02 Training**

All new Board Members are required to participate in an orientation program to familiarize new members with their legal, fiduciary, financial, and ethical responsibilities.

Existing Board Members are required to participate in continuing education regarding their ethical and fiduciary obligations.

Board Members must complete an ethics training course within three months of becoming subject to the financial disclosure requirements of Public Officers Law Section 73-a and shall attend continuing ethics training as determined by the MTA Chief Compliance Officer.

### **Section 1.03 Ethics & Financial Disclosure Questions**

All Board Members are required to complete the Annual Statement of Financial Disclosure. Questions concerning the Annual Statement of Financial Disclosure may be directed to the Board Chair, the MTA General Counsel, or the MTA Chief Compliance Officer, who may direct you to the Commission on Ethics and Lobbying in Government.

Any questions regarding this Code may be directed to the Chair or to the MTA General Counsel, or the MTA Chief Compliance Officer. Any general question regarding the State Ethics Law may also be directed to the Commission on Ethics and Lobbying in Government.

## **Chapter 2: DUTIES**

### **Section 2.01 Confidentiality**

This Code, as well as, the State Ethics Law requires Board Members to maintain the confidentiality of Confidential Information entrusted to them by the MTA and any other confidential information about the MTA that comes to them, from whatever source, in their capacity as Board Members, except when disclosure is authorized or legally mandated. A Board Member shall not use Confidential Information to further their own interest. Board Members are expected to maintain this confidentiality both while Board Members and after their services to the MTA have ended.

### **Section 2.02 Compliance with Laws, Rules and Regulations**



Board Members shall comply with all applicable laws, rules and regulations applicable to the MTA.

**Section 2.03 Encouraging the Reporting of Any Illegal or Unethical Behavior**

Board Members shall encourage ethical behavior and take steps to ensure that the MTA: (a) encourages employees to report violations of laws, rules, regulations or the MTA's Code of Ethics to appropriate personnel; and (b) encourages employees to talk to supervisors, managers and other appropriate personnel when in doubt about the best course of action in a particular situation.

**Section 2.04 Duty to Disclose**

Board Members shall promptly report any violation or possible violation of this Code, as well as any actual or potential violation of laws, regulations, or policies and procedures to the Chair or the MTA General Counsel or the MTA Chief Compliance Officer.

**Chapter 3: GIFTS, EVENTS, RECEPTIONS, AND MEALS**

**Section 3.01 Gifts**

The State Ethics Law provides that Board Members should not by their conduct give reasonable basis for the impression that any person can improperly influence them or enjoy their favor in the performance of their official duties. In the Code of Ethics applicable to its employees, MTA has adopted a zero-tolerance policy for Gifts. The defined term "Gift" does not include items of truly nominal value. (See definitions of "Gifts" and "Items of Nominal Value"). Board Members are required to adhere to the zero-tolerance policy on gifts, as contained in Section 2.01 of the MTA Code of Ethics.

As is the case with employees, Board Members may accept Gifts from employees of a Prohibited Source if these Gifts are reflective of a personal relationship independent of the relationship between the Prohibited Source and the MTA.

**Section 3.02 Reporting Gift or Gift Offers**

A Board Member to whom a Gift is offered or given arising out of their affiliation with MTA shall promptly report such offer or Gift to the Chief Compliance Officer. Board Members should promptly return Gifts to the person or entity giving the Gift.

**Section 3.03 Business Meals**

It is possible that Board Members may receive invitations for business meals from Prohibited Sources. To the extent that those invitations arise out of the Board Member's affiliation with MTA, such invitations should be viewed with caution because acceptance of such invitations may create the impression that they can be improperly influenced in the performance of their official duties. Board Members may accept free, modest meals in the course of and for the purpose of conducting MTA Agency business at a Prohibited Source's facility or when

attending a seminar or conference in connection with MTA business and meals or refreshments are provided to all participants.

**Section 3.04 Awards, Plaques and Honors**

Awards and plaques publicly presented in recognition of a Board Member's service to the MTA may be accepted. However, Board Members should notify the MTA Chief Compliance Officer prior to accepting such an award, plaque, or honor presented by a Prohibited Source. The Board Member or their designee(s) may attend functions sponsored and paid for by Prohibited Sources when attendance is related and appropriate to that attendee's official duties or when the purpose of attendance is the performance of a ceremonial or other function that is appropriate to that attendee's official duties with the MTA. In such cases, however, the Board Member shall provide advance written notice of such invitation to the MTA Chief Compliance Officer.

**Chapter 4: CONFLICTS OF INTEREST AND POLITICAL ACTIVITIES**

**Section 4.01 Financial or Business Interest**

In order to preserve independence of judgment in the exercise of their official duties, Board Members shall not have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, or accept any non-governmental employment, which is in substantial conflict with the proper discharge of the Board Member's duties in the public interest.

**Section 4.02 Corporate Directorships or Board Memberships**

In order to protect against Conflicts of Interests in violation of this Code of Ethics and the State Ethics Law, Board Members must inform the MTA Chief Compliance Officer prior to accepting a position as director, officer, or board member of a corporation or charitable organization. The MTA Chief Compliance Officer shall review the business of the company or organization to determine whether a conflict of interest exists between the MTA and the company and to direct, as necessary, steps to address any such conflict. All Board Members shall cooperate fully with any inquiry by the MTA Chief Compliance Officer.

**Section 4.03 Law Firm, Consulting Firm and Other Professional Service Firms**

This Code as well as the State Ethics Law provides that Board Members are not permitted to engage in activities or employment that will impair the independence of judgement in the exercise of their official duties. Accordingly, Board Members must inform the MTA Chief Compliance Officer prior to affiliating with a law firm, consulting firm or other business that provides services to the MTA. In addition, prior to affiliating with a law firm, consulting firm or other professional service firm, Board Members should inform the MTA Chief Compliance Officer of such affiliation to determine if the firm represents any clients that sell goods, provide services, or otherwise transacts business with the MTA. If while serving on the MTA Board, any Board Member who is affiliated with a law firm, consulting firm or other professional service firm becomes aware that a client of that firm sells goods, provides services

or otherwise transacts business with the MTA, that Board Member shall promptly disclose any such actual or apparent client conflict to the MTA Chief Compliance Officer. The MTA Chief Compliance Officer shall determine whether a conflict of interest exists between the MTA and the client of the law firm, consulting firm or other professional services firm and take necessary steps to address any such conflict. All Board Members shall cooperate fully with any inquiry by the MTA Chief Compliance Officer.

**Section 4.04 Duty to Disclose Conflicts of Interests**

Board Members have an ongoing obligation to disclose actual and potential Conflicts of Interest that arise during the course of their service.

**Section 4.05 Unwarranted Privileges**

Board Members shall not use or attempt to use their official position to secure unwarranted privileges or exemption for the Board Member or others.

**Section 4.06 Undue Influence**

Board Members' conduct should not give reasonable basis for the impression that any person can improperly influence the Board Member or unduly enjoy the Board Member's favor in the performance of the Board Member's official duties, or that the Board Member is affected by the kinship, rank, position or influence of any party or person.

**Section 4.07 Course of Conduct**

Board Members should endeavor to pursue a course of conduct which will not raise suspicion among the public that they are likely to be engaged in acts that are in violation of the Board Members' trust.

**Section 4.08 Recusal/Conflict of Interest**

Board Members must not only avoid Conflicts of Interest with the MTA but also even the appearance of a conflict. If a Board Member believes he or she has an actual or potential conflict of interest with the MTA on a particular matter, or if the Board Member becomes aware that he or she has an actual or potential conflict of interest on a particular matter during a Committee or Board meeting, the Board Member shall promptly notify the Chair or the Chair of the Committee and shall immediately recuse themselves from further consideration of or action on such matter.

**NOTE:** **Recusal** requires that the Board Member not participate in any discussion, decision or vote by the Board or Committee that in any way relates to the matter that gives rise to the conflict of interest. Whenever practicable, the Board Member must leave the Board room until any discussion about the matter that gives rise to the conflict of interest has concluded.

**Section 4.09 Procurement Activity**

No Board Member or firm or association of which such Board Member is a member, or corporation, ten percent (10%) or more of the stock of which is owned or controlled directly or indirectly by such Board Member, shall sell any goods or services to the MTA, unless such goods or services are provided pursuant to an award of contract after public notice and competitive bidding or after a competitive request for proposal process. For the purposes of this paragraph, the term “services” shall not include employment as an employee.

This paragraph shall not preclude a firm, association or corporation from selling goods or services to the MTA if the interested Board Member did not participate in any way on behalf of any party in the bidding, solicitation or negotiation process, does not share in the net revenues derived from that sale and does not participate in the decision to award the contract.

Except as permitted above, no Board Member shall be in any way or any manner interested, directly or indirectly, in any contract made by the MTA.

**Section 4.010 Compensation**

No Board Member, other than in the proper discharge of official duties as a Board Member of the MTA or as an officer or employee of a federal, state or local government or agency, shall receive, directly or indirectly, or enter into any agreement, express or implied, for any compensation for the appearance or rendition of services by the Board Member or another in relation to any case, proceeding, application or other matter before the MTA.

A Board Member who is a member, associate, retired member, of counsel to, or shareholder of, any firm, association or corporation which is appearing or rendering services, with or without compensation, in connection with any matter before, or transacting any business with, the MTA shall not communicate as to the merits of such cause with an officer (including another Board Member) or employee of the MTA, without first disclosing the nature and extent of his or her interest in the matter before, or business being transacted with, the MTA.

**Section 4.011 Appearance before MTA**

A Board Member may appear before the MTA (i) in a representative capacity on behalf of an employee organization, a federal, state or local government or agency, or a transportation advocacy organization or (ii) in connection with a ministerial action.

**Section 4.012 Nepotism in Hiring and Contracting**

No person who has served as a Board Member shall take part in any hiring or employment decision relating to a family member. If such matter arises, the Board Member must notify the MTA Chief Compliance Officer and recuse themselves from any discussions or decisions related to that matter.

No person who has served as a Board Member shall take part in any contracting decision: (i) relating to a family member: or (ii) relating to any entity in which a family member is an officer, director or partner, or in which a family member owns or controls ten percent (10%) or more of the stock of such entity. If such matter arises, the Board Member must notify the MTA Chief Compliance Officer and recuse themselves from any discussions or decisions related to that matter.

**Section 4.013 Prohibition Against the Use of MTA Property**

MTA supplies, equipment, computers, personnel, and other resources may not be utilized for non-governmental purposes, including for personal purposes of any kind. This prohibition includes but is not limited to the following:

- a) Official stationery may not be used for non-governmental purposes, nor may MTA resources be used to mail personal correspondence. The designation "personal" on MTA stationery means only that the contents are meant for the personal viewing of the addressee and not that the sender is acting unofficially. All letters and other written materials printed on such official stationery are considered official, and thus the designation "unofficial" has no meaning and may not be used.
- b) Under no circumstances may MTA mail, postage, internal office mail, or inter-city couriers be used for non-governmental purposes.
- c) MTA mobile devices may not be used for non-governmental purposes. MTA mobile devices may be used for incidental and necessary personal use if limited number and duration and do not conflict with the proper exercise of the duties of the Board Member.
- d) MTA computers may be used for incidental and necessary personal purposes, such as sending personal electronic mail messages, provided that such use is in a limited amount and duration and does not conflict with the proper exercise of the duties of the Board Member.
- e) No Board Member shall use the MTA's name, position or authority in any fundraising activity unless authorized by the MTA Chief Compliance Officer. Authorization may be granted only if the fundraising is in furtherance of the MTA's mission and does not create an appearance of or any actual conflict of interest. A Board Member may engage in fundraising in a personal capacity provided they do not use their title, position or authority to further their fundraising activities and do not personally solicit funds from MTA employees or from persons known to the Board Member to be a Prohibited Source.

**Section 4.014 Political Activities**

- a) Consistent with this Code, Board Members are free to participate in the political process but there must be a clear separation between their political activities and the discharge of their duties as Board Members.

- b) Board Members shall not serve as: (1) officers of any political party or political organization or (2) members of any political party committee, including political party district leaders or as members of a political party national committee. "Political organization" means any organization affiliated with a political party but does not include a judicial nominating committee, an organization supporting a particular cause with no partisan activities, a campaign or fundraising committee, or serving as a delegate to a state or national party convention.
- c) A Board Member interested in running for elective office shall give notice of their intentions to the MTA Chief Compliance Officer so that we may determine whether, and upon what conditions, seeking elective public office would be consistent with the ethics laws and regulations. In advance of running as a candidate in any election, the provisions of the Hatch Act should also be evaluated to determine whether such a candidacy is permitted under its terms.
- d) A Board Member shall not use their position on the Board for the purpose of interfering with or affecting the result of an election.
- e) MTA property, including, without limitation, telephone, copy machines, computers, and other MTA Agency equipment, vehicles, office space, and services may not be used for political activities under any circumstances.
- f) No Board Member, pursuant to executive order, may make or offer to make any monetary contribution to the campaign of the Governor, or to any political campaign committee organized by or for the specific benefit of the Governor.
- g) No Board Member, pursuant to executive order, may request or demand that any other person make or offer to make any monetary contribution to the campaign of the Governor, or to any political campaign committee organized by or for the specific benefit of the Governor.

## **Chapter 5: POST BOARD SERVICE RESTRICTIONS**

### **Section 5.01 Two-Year Post Service Bar**

No person who has served as a Board Member shall, within a period of two years after the termination of such service, appear or practice before the MTA or receive compensation for any services rendered by such former Board Member on behalf of any person or any non-governmental firm, corporation, association or other entity in relation to any case, proceeding or application or other matter before the MTA.

### **Section 5.02 Lifetime Bar**

No person who has served as a Board Member shall, after the termination of such service, appear, practice, communicate or otherwise render services before the MTA or receive compensation for any such services rendered by such former, Board Member on behalf of any person or any non-governmental firm, corporation, association or other entity in relation to

any case, proceeding, application or transaction with respect to which such person was directly and personally concerned during the period of their service.

**Exception:** The restrictions contained in this paragraph shall not apply to any appearance, practice, communication or rendition of services before the MTA, or to the receipt of compensation for any such services rendered by a former Board Member, which is made while carrying out official duties as an elected official or employee of a federal, state or local government or one of its agencies.

**Section 5.03 Waiver of Post Service Bar**

To the extent permitted by law, nothing contained in this Code shall be construed or applied to prohibit the MTA, at any time, from contracting with or hiring any former Board Member to provide services to the MTA for a specific matter in circumstances in which contracting with or hiring such former Board Member would be in the public interest due to such former Board Member's specialized knowledge of the matter and the efficient and cost-effective results that contracting with or hiring such former Board Member would produce.

Originally Issued  
March 2006


Revised

March 2007  
December 2009  
November 2011  
November 2014  
March 29, 2023

Copies of the Code may be obtained from  
MTA Corporate Compliance

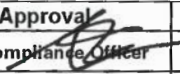
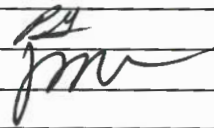


# Staff Summary

<b>Subject</b> Mission Statement, Measurements, and Performance Indicators Report
<b>Department</b> Chief Strategic Initiatives
<b>Department Head Name</b> Jon Kaufman
<b>Department Head Signature</b> 
<b>Project Manager Name</b> N/A

<b>Date</b> March 29, 2023
<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>

Board Action					
Order	To	Date	Approval	Info	Other
	Corporate Governance	3/27/23			
	Board	3/29/23			

Internal Approvals			
Order	Approval	Order	Approval
1	Chief Compliance Officer 		
2	Legal		
3	External Relations		

**Purpose:**

To obtain Board approval of the MTA’s Mission Statement and to authorize submission of the annexed 2022 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 2022. 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 2022**

**In Compliance with New York State Public Authorities Law §1269-f and §2824-a  
Submitted as Part of the MTA 2022 Annual Report to the Governor**

## **Note**

Some data in this report are preliminary and may be subject to reconciliation as data are finalized over the course of the year. For that reason, some 2021 data in this report may differ from those reported earlier in 2021, and some 2022 data may be adjusted in future reporting. Occasionally, some legacy metrics are “retired,” and new metrics may be established as needed to better gauge agency performance and customer experience. All agency performance metrics are updated regularly on the [MTA Performance Metrics](#) under the “Transparency” section at the MTA public website [new.mta.info](http://new.mta.info). The site provides detailed open data for specific months, lines, and routes, all available for spreadsheet downloads. Details on MTA Capital Program projects, managed by MTA Construction & Development (MTA C&D), can be found on the website under “Transparency” at the fully searchable [Capital Program Dashboard](#) and the chronological [Capital Program Milestone Report](#). Additional information is covered in the MTA C&D’s annual report [2022 Year in Review](#). Detailed financial information for each agency, including such indicators as ridership and farebox-recovery ratios, is reported online in the MTA’s quarterly [Financial and Budget Statements](#), which can be downloaded from the site as PDFs.

# Metropolitan Transportation Authority

## 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.

<b>Customers</b>	
<b>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.</b>	
<b>MTA Goals</b>	<b>Performance Indicators</b>
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 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>✓ 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: All indicators are updated regularly on [MTA Performance Metrics](http://www.mta.info) under Transparency at [www.mta.info](http://www.mta.info). These online sources provide extensive open data by lines and routes, downloadable as Excel spreadsheets.

## 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)

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> </ul> <ul style="list-style-type: none"> <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”)

Performance Indicators	2021 Actual	2022 Actual
<b>NYCT Subway Service Indicators</b>		
Weekday Major Incidents – Subways (monthly average)	33.5	40.9
Customer Journey Time Perf. (% within 5 min of scheduled)	83.8%	83.9%
Additional Platform Time (average beyond scheduled)	0:01:26	0:01:22
Additional Train Time (average beyond scheduled)	0:00:12	0:00:28
Weekday Service Delivered – Subways	92.2%	93.1%
Weekday Terminal On-Time Performance – Subways	85.2%	81.5%
Weekday Terminal Delays – Subways (monthly average)	25,370	31,453
Mean Distance Between Failures – Subways (miles)	150,363	145,354
Weekday Wait Assessment – Subways	68.3%	69.1%
Elevator Availability – Subways	96.6%	96.8%
Escalator Availability – Subways	91.3%	92.1%
Total Ridership – Subways	759,810,246	1,013,425,465
Weekday On-Time Performance – Staten Island Railway	96.6%	95.5%
Mean Distance Between Failures – Staten Island Railway (miles)	29,343	62,514
<b>NYCT Bus Service Indicators</b>		
Customer Journey Time Perf – NYCT & MTA Bus (% within 5 min of scheduled)	75.5%	73.3%
Additional Bus Stop Time – NYCT & MTA Bus (average beyond scheduled)	0:01:58	0:01:57
Additional Travel Time – NYCT & MTA Bus (average beyond scheduled)	0:00:00	:22
Bus Customer Wheelchair Lift Usage – NYCT Bus	952,720	1,019,598
Service Delivered – NYCT & MTA Bus (% scheduled buses, peak hrs.)	93.8%	95.0%
Bus Speeds – NYCT & MTA Bus (average route speed, end-to-end)	8.2 mph	8.1 mph
Total Ridership – NYCT Bus	311,893,589*	343,092,962
Mean Distance Between Failures – NYCT & MTA Bus (miles)	7,504*	9,929
Wait Assessment – NYCT & MTA Bus	75.9%	75.6%

Notes: Subway 2021 ridership including SIR was 761,142,069. All indicators are updated regularly on Performance Metrics under Transparency at [new.mta.info](http://new.mta.info). The legacy Bus metric “Percent of Completed Trips” is no longer collected. \*The 2021 NYCT Bus ridership was revised upward slightly from 311,711,871 reported in 2021. The 2021 Bus MDBF was revised upward slightly from 7,480 reported in 2021.

<b>Performance Indicators</b>	<b>2021 Actual</b>	<b>2022 Actual</b>
<b>NYCT Paratransit Service Indicators</b>		
Total Paratransit Ridership – NYCT Bus	7,835,975	9,153,605
AAR On-Time Performance Pick up within (30 min) / (15 min)	30 min: 93% 15 min: 80%	30 min: 94% 15 min: 81%
AAR Appointment OTP Trips (30 min early to 1 min late)	N/A	45%
AAR Actual Ride Time at or Better than Planned Ride Time	83%	99%
AAR Customer Experience – Frequent Rider Experience	n/a	98%
AAR Call Center (% of calls answered)	90%	93%
AAR Passenger Complaints (per 1000 completed trips)	7.4	5.9
AAR Registrants	163,500*	170,522
<b>NYCT Safety Indicators</b>		
Customer Injury Rate – Subways (per million customers)	4.06	3.27
Customer Accident Injury Rate – NYCT Bus (per million customers)	2.19	2.43
Collisions with Injury Rate – NYCT Bus (per million vehicle miles)	5.71	8.45
Employee Lost Time and Restricted-Duty Rate – NYCT Subways (per 100 employees)	4.05	4.21
Employee Lost Time and Restricted-Duty Rate – NYCT Bus (per 100 employees)	6.36	6.18
<b>NYCT Workforce Indicators</b>		
Female Representatives in NYCT Workforce	18.3 %	18.7%
Minority Representatives in NYCT Workforce	80.3%	81.7%
<b>NYCT Financial Indicators</b>		
Farebox Operating Ratio	28.3%	33.2%
Operating Cost per Passenger	\$9.14	\$7.85
<b>NYCT Capital Program Indicators</b>		
Commitments in \$ Millions (% of annual goal)	\$3,684 (96%)	\$8,338 (152%)
Completions in \$ Millions (% of annual goal)	\$1,781 (50%)	\$2,784 (56%)

Notes: AAR ridership includes customers, personal care attendants, and guests. AAR 2021 registrants were revised downward slightly from 166,100 reported in 2021. Financial indicators include NYCT Subways, Buses, and Paratransit and are preliminary. The Capital Program projects details are available on the Capital Programs Dashboard under Transparency at [new.mta.info](http://new.mta.info).

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

The “customer injury rate” for NYCT Subways was 3.27 per million customers in 2022, down 19.5 percent from the previous year. While a marked improvement, this remains above more typical prepandemic rates of 2.94 per million in 2019. NYCT Subways continues its efforts to improve customer safety through safety messaging, train announcements, incident reports, and the training and deployment of station staff.

For NYCT Department of Buses (NYCT DOB), the “customer accident injury rate” increased slightly in 2022 to 2.43 per million customers. The agency uses accident trends to improve safety programs, training, and messaging. As ridership increased, NYCT DOB saw an increase in its 2022 “collision injury rate” to 8.45 injuries per million vehicle miles.

NYCT DOB 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. NYCT DOB continued its Vision Zero IV class, an eight-hour training session that emphasizes the challenges in dealing with pedestrians and cyclists.

To monitor bus operators, the agency uses indicators such as speed-camera violations, red-light violations, cellphone infractions, and customer complaints. In a joint agreement with all labor unions, NYCT DOB continues its “zero-tolerance” policy on use of cellphones and electronic devices while operating a bus. The agency also worked with its labor representatives to see that operators who receive speed-camera violations are disciplined and must pay the fine.



**MTA GOAL: Provide On-Time and Reliable Services**  
**INDICATORS: OTP, MDBF, Major Incidents, Service Delivered, Terminal Delays, Wait Assess, Bus Av Speeds, Bus Add Travel Time**

NYCT service in 2022 showed continued improvement from the impacts of the Covid-19 pandemic in a number of key areas. As ridership jumped by over 30 percent, Subways on-time performance (OTP) and mean distance between failures (MDBF) fell slightly, by 3.7 percent and 3.4 percent respectively. The MDBF for MTA's combined Bus Operations jumped 32 percent, from 7,504 miles in 2021 to 9,929 miles in 2022.

Reversing a pandemic-era hiring freeze, NYCT began an aggressive recruiting and training program to rebuild operating staff for both subways and buses, with hundreds of new train operators, conductors, and bus operators graduated and onboarded during 2022 and 2021.

As a focused supplement to standard performance indicators, the MTA undertakes a bi-annual Customer Satisfaction Survey, along with monthly Pulse Surveys. Between Spring 2022 and Fall 2022, subway customer satisfaction increased 6 points to 54 percent, with steady gains continuing into early 2023. For bus customers, overall satisfaction during the same period increased slightly from 63 percent to 64 percent, and by 3 points to 79 percent for express bus customers.

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

Performance indicators in the latter half of 2022 and first quarter of 2023 showed a strong rebound from the previous year, when driver shortages during the Omicron surge posed severe challenges for AAR services. As reported on February 8, 2023, on-time performance (OTP) for primary carriers reached 98 percent in January 2023 and customer satisfaction reached a pandemic-era high on 76 percent.

Overall AAR ridership (which includes customers, personal-care attendants, and guests) jumped by 16.8 percent to about 9.2 million rides in 2022. The number of registrants increased by 4.3 percent to 170,522 in 2022. During this ridership upswing, pick-up OTP for 2022 increased to 94 percent within the 30-minute window and to 81 percent within the 15-minute window, reversing a pandemic-driven decline. The percent of “actual ride time” that was at or above “planned ride time” jumped by 16.0 percent from 83 percent in 2021 to 99 percent in 2022.

In other metrics, “wheelchair lift usage” at NYCT Buses reversed a 2021 decline, increasing by 7.0 percent to 1.02 million in 2022. Improving accessibility to the bus network remains a top priority at both bus agencies, and the MTA continues to roll out new buses with wider doors, ramps, and other accessibility features. In addition, the MTA’s new R211 subway fleet, which began entering revenue service in the first quarter of 2023, features doors 8 inches wider than existing subway doors, enabling greater accessibility.

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

Third-party construction projects in the MTA Capital Program are now managed by MTA Construction & Development (MTA C&D). The agency committed \$8.3 billion of its Capital Program funds for NYC Transit in 2022, or 152 percent of the annual goal. Major commitments included: a number of station improvements, including several major ADA projects and elevator-escalator replacements; the Flushing Line Contract 1; the Jamaica Depot replacement; the CBTC Crosstown Line; and ADA work and water mitigation at Borough Hall. Commitments in 2022 also included Sandy-related climate resiliency projects on the Rockaway Line and at various substations.

Also in 2022, MTA C&D achieved capital program completions for NYCT projects worth \$2.8 billion, representing 56 percent of the annual goal. Major completions included: ADA work at the Times Square Shuttle, Livonia Av, and other stations; phases 1 and 2 of CBTC work at Queens Blvd West; mainline track and switch work at various locations; and roof and component replacements at the 207th St Maintenance-Overhaul Shop. Completions in 2022 also encompassed various Sandy-related repair and resiliency projects, including a major mitigation and relocation project completed in 2022 at the Staten Island Railway Clifton Maintenance Shop.

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

The NYCT financial indicators combine NYCT Subways, NYCT Buses, and Paratransit. The agency's finances continue to be impacted by the dramatic drop in ridership during the 2020 and 2021 pandemic, when subways, buses, and paratransit continued to operate at normal levels. For example, the 2021 farebox operating ratio was 28.3 percent, close to half the prepandemic rates. While 2022 saw steady ridership gains, volume and related revenues remain well below prepandemic levels.

The 2022 farebox operating ratio rose by 4.9 percent to 33.2 percent, while the operating cost per passenger declined 14 percent to \$7.85. The operating cost per passenger excludes debt service.

**MTA GOAL: Maximize System Usage**

**INDICATORS: Ridership**

Accelerating its postpandemic recovery, ridership on NYCT Subways increased by a substantial 33.4 percent in 2022, as compared to a more modest 19.0 percent increase from 2020 to 2021. On December 27, 2022, NYCT cited and celebrated its one billionth subway rider of the year with a press presentation in the Bronx. By the end of 2022, ridership topped 1.013 billion and has continued its upward climb into the first quarter of 2023. These gains were earned back from an unprecedented 62-percent drop in rider volume in 2020 from a prepandemic record of 1.697 billion rides in 2019. Employing a range of new customer service initiatives and surveys, the agency continues its multipronged effort to win back customers and address longterm changes in regional commuting habits brought about by the pandemic. After a slight downtick in bus ridership between 2020 and 2021, NYCT Buses saw a 10-percent rebound in 2022 to 343.1 million rides.

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

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

The NYCT Subways employee "lost-time and restricted-duty" accident rates rose by 3.9 percent in 2022 to 4.21 per 100 employees. This remains above the prepandemic rate of 3.73 per 100 employees in 2019. Throughout the pandemic, the MTA made extensive efforts to safeguard employees, including free vaccines and boosters, teleworking programs, distribution of PPE; safety messaging and training; a Covid-19 hotline; temperature screenings; social distancing protocols; schedule adjustments; and more.

At NYCT Buses, the “lost-time and restricted-duty” rate decreased slightly to 6.18 per 100 employees from 6.36 the previous year. The agency has experienced a significant increase in injuries associated with assaults. Both NYCT and MTA Bus continue to undertake extensive efforts to safeguard employees, including safety protocols, distribution of PPE, disinfection of buses and facilities, testing and vaccination programs, and more.

Both bus agencies also continued initiatives aimed at protecting bus operators from assault, including installation of bus operator shields across the entire fleet, installation of onboard security cameras, training in de-escalation tactics, and review of customer complaints to identify employees for further counseling or training. Both agencies maintain robust safe-driving campaigns and continue to analyze employee injury data to identify trends and reduce lost-time accidents.

**MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders**  
**INDICATORS: Female and Minority Representation in the Workforce**

Female representation agency-wide rose incrementally in 2022 from 18.3 percent to 18.7 percent. This continues to fall below the estimated percentage of women available for work within NYCT’s recruiting area. A contributing factor is the low percentage of women who apply for what are generally considered non-traditional jobs. NYCT will continue to increase its outreach and recruitment efforts to improve female representation within its workforce. Minority representation grew slightly from 80.3 percent in 2021 to 81.7 percent in 2022.

# MTA Long Island Rail Road (“LIRR”)

<b>Performance Indicators</b>	<b>2021 Actual</b>	<b>2022 Actual</b>
<b>Service Indicators</b>		
On-Time Performance	96.3%	95.8%
Elevator Availability	98.7%	98.7%
Escalator Availability	95.1%*	95.5%
Total Ridership	35,036,746	52,540,523
Mean Distance Between Failures (miles)	246.946*	235,664
<b>Safety Indicators</b>		
FRA-Reportable Customer Injury Rate (per million customers)	3.94*	2.62
FRA-Reportable Employee Lost Time Rate (per 200,000 worker hours)	3.81*	4.14
<b>Workforce Indicators</b>		
Female Representatives in LIRR Workforce	13.0%	13.2%
Minority Representatives in LIRR Workforce	38.0%	39.3%
<b>Financial Indicators</b>		
Farebox Operating Ratio	19.9%*	26.4%
Operating Cost per Passenger	\$42.50*	\$32.64
<b>Capital Program Indicators</b>		
Commitments in \$ Millions (% of annual goal)	\$345.4 (71%)	\$713.1 (103%)
Completions in \$ Millions (% of annual goal)	\$364.3 (78%)	\$341.5 (82%)

Notes: LIRR ridership is calculated based on the number of tickets sold, multiplied by a factor related to each type of ticket. Monthly/weekly factor is based on the number of weekdays and weekend days per month. \*These 2021 data were revised: The 2021 Escalator availability was revised downward slightly from 95.3% reported in 2021. The 2021 MDBF was revised upward from 231,337 reported in 2021. The 2021 Customer Injury Rate was revised upward from 2.2 reported in 2021, and the 2021 Employee Lost Time Rate was revised downward from 4.0 reported in 2021. \*The 2021 farebox operating ratio was revised upward slightly since the 2021 report, and the operating cost per passenger was revised downwards slightly.

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

In 2022, LIRR’s “customer injury rate” decreased by 33 percent compared to the previous year. Penn Station remains the location with the greatest number of customer injuries. This is due to the volume of customers traveling through the busiest terminal in the LIRR system, as well as the infrastructure and operating constraints at this location. LIRR’s “Let’s Travel Safely Together” information campaign, produced in partnership with Amtrak, New Jersey Transit, and NYC Transit, remained an integral part of LIRR’s safety program in 2022.

**MTA GOAL: Provide On-Time and Reliable Services**  
**INDICATORS: On-Time Performance, Mean Distance Between Failures**

LIRR’s “on-time performance” (OTP) ticked down slightly by 0.5% to 95.8 percent in 2022 yet remains among the highest OTP rates for the railroad since 1979, when modern record keeping began. The record-high OTP can be attributed in part to progress made on infrastructure improvements, as well as to a systematic effort to identify and eliminate the root causes of train delays across the system.

The agency’s 2022 “mean distance between failures” (MDBF) decreased by 4.6 percent to 235,664 miles from 246,946 miles in 2021. This 2021 MDBF reflects an upward revision of about 6.7 percent subsequent to the 2021 report. The railroad continues to optimize fleet performance through its Reliability Centered Maintenance (RCM) program, thorough utilization of its Corporate Asset Management System, acquisition of the new M-9 fleet, and other performance initiatives.

**MTA GOAL: Provide Services to People with Disabilities**  
**INDICATORS: Elevator Availability, Escalator Availability**

Elevator availability in 2022 remained unchanged at 98.7 percent, while 2022 escalator availability increased slightly by 0.4 percent to 95.5 percent.

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

The LIRR's 2022 capital commitments totaled more than \$713.1 million, or 103 percent of the year's goal. Those included a number of major ADA upgrades. The railroad's 2022 capital completions totaled more than \$341.5 million, or 82 percent of the year's goal. Major completions included Jamaica Capacity Improvements (JCI), substation components, and the 2022 LIRR Annual Track Program.

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

The LIRR's "farebox operating ratio" increased 6.5 percent from 19.9 percent in 2021 to 26.4 percent in 2022. Note that the 2021 ratio was revised slightly upward subsequent to the 2021 report. The railroad's operating cost per passenger decreased by 23.2 percent from \$42.50 in 2021 to \$32.65 in 2022. The 2021 figure was revised downward slightly subsequent to the 2021 report. Both ratios continue to reflect the dramatic impacts of the Covid-19 pandemic. By way of comparison, the farebox operating ratio in 2019, prior to the pandemic, was 50.2 percent and operating cost per passenger was \$16.80.



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

The LIRR accelerated its postpandemic rebound, with a substantial 50-percent ridership growth to 52.5 million riders in 2022. In December 2022, LIRR assumed operational control of the new Grand Central Madison terminal, which opened for revenue service to Midtown the following quarter, inaugurating the largest service increase in the railroad's history and a 2-percent rush-hour ridership boost in the first full day of operations.

**MTA GOAL: Ensure Our Employees' Safety**  
**INDICATORS: Employee Lost Time Case Rate**

The rate of "FRA-reportable employee lost-time injuries" increased by 8.7 percent in 2022 compared to the previous year. The 2021 rate in this report was revised downward slightly subsequent to the 2021 report. The highest number of employee accidents continues to be in the "slips, trips, and falls" category, with soft tissue injuries. To maximize employee safety, LIRR continues its efforts to raise awareness among employees and encourage collaborative problem solving. These efforts have involved many labor-management initiatives, including a Confidential Close Call Reporting System (C3RS) and monthly department safety meetings. LIRR also conducts quarterly Safety FOCUS Day meetings, during which employees take time to discuss specific safety issues provided by the LIRR Corporate Safety and other departments. The aim is to engage employees in the field and improve safety performance based on their feedback.

**MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders**  
**INDICATORS: Female and Minority Representation in the Workforce**

The percentage of women in LIRR's workforce remained essentially unchanged in 2022 at 13.2 percent. This falls below the estimated percentage of women available for work in LIRR's recruitment area. Many of the positions available in 2022 are considered nontraditional jobs for women and, as a result, attract a low percentage of female applicants. The percentage of minority representation increased slightly from 38 percent in 2021 to 39.3 percent in 2022. This is above 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”)

Performance Indicators	2021 Actual	2022 Actual
<b>Service Indicators</b>		
On-Time Performance (East of Hudson)	97.1%	97.0%
On-Time Performance (West of Hudson)	93.4%	93.2%
Elevator Availability	99.8%	99.8%
Escalator Availability	99.9%	99.8%
Total Rail Ridership (East & West of Hudson)	30,759,001*	48,853,279
Mean Distance Between Failures (miles)	190,518	257,097
<b>Safety Indicators</b>		
FRA-Reportable Customer Injury Rate (per million customers)	2.17*	2.11
FRA-Reportable Employee Lost Time Rate (per 200,000 worker hours)	1.92*	2.15
<b>Workforce Indicators</b>		
Female Representatives in MNR Workforce	12%	11%
Minority Representatives in MNR Workforce	39%	40%
<b>Financial Indicators</b>		
Farebox Operating Ratio	20.4 %*	30.9%
Operating Cost per Passenger	\$40.76	\$28.95
<b>Capital Program Indicators</b>		
Commitments in \$ Millions (% of annual goal)	\$768.2 (99%)	\$688.9 (103%)
Completions in \$ Millions (% of annual goal)	525.3 (55%)	\$868.6 (73%)

Notes: Metro-North ridership is calculated based on the number of tickets sold, multiplied by a factor related to each type of ticket. Monthly/weekly factor is based on the number of weekdays and weekend days per month. \*These 2021 data were revised: Total ridership was revised upward slightly from 30,722,008 reported in 2021. Customer Injury Rate was revised upward from 1.79 reported in 2021, and Employee Lost Time rate was revised downward slightly from 1.97 reported in 2021. Subsequent to the original 2021 report, the 2021 farebox operating ratio has been revised downward from 23.6% and the 2021 operating cost per passenger has been revised downward from \$41.95.

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

The “FRA-reportable customer injury rate” at Metro-North decreased from 2.17 per one million customers in 2021 to 2.11 in 2022. The 2021 rate was revised upward slightly subsequent to the 2021 report. To support customer safety, Metro-North continued both in- person and virtual outreach through its TRACKS (Together Railroads and Communities Keeping Safe) public education program on grade-crossing and rail safety, with thousands of contacts made in 2022. Other safety efforts included employee training in mental health issues and suicide prevention, ongoing partnerships with the National Suicide Prevention Lifeline and Crisis Text Line to support suicide prevention, and a partnership with Waze to alert drivers of Metro-North grade crossings through the Waze GPS navigation app.

**MTA GOAL: Provide On-Time and Reliable Services**  
**INDICATORS: On-Time Performance, Mean Distance Between Failures**

Metro-North’s systemwide “on-time performance” (OTP) for 2022 was 97.0 percent, continuing the railroad’s record performance over the last two years. Metro-North has continued to increase and modify its postpandemic service schedules, while adjusting to shifts in regional commuting patterns. The railroad’s “mean distance between failures” (MDBF) for 2022 rose a substantial 34.9 percent to 257,097 miles.

**MTA GOAL: Provide Services to People with Disabilities**  
**INDICATORS: Elevator Availability, Escalator Availability**

Elevator and escalator availability both remained excellent in 2022. Elevator availability was steady at 99.8 percent, and escalator availability remained essentially unchanged the same in 2021 at 99.8 percent.

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

All MTA Capital Program projects for Metro-North are managed by the Metro-North Business Unit of MTA Construction & Development (MTA C&D). The Business Unit generated 2022 project commitments in the amount of \$688.9 million or 103 percent of the year's goal, including priority repairs at a number of Hudson and Harlem line stations. Completions in 2022 totaled \$868.6 million, which is 73 percent of goal. In addition to the railroad's annual Track Program, these included work on the Harlem River Lift Bridge; a number of undergrade bridge repairs; purchase of Maintenance-of-Way equipment; and a unified trash facility for East Side Access at Grand Central Terminal.

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

Metro-North's preliminary 2022 "farebox operating ratio" was 30.9 percent, representing a significant 10.5 percent increase over the previous year. However, this remained well below prepandemic levels. The 2022 "operating cost per passenger" was \$28.95, a substantial 28.9 percent improvement over the previous year, reflecting a continued increase in ridership. Note that both of the 2021 indicators were revised downward slightly subsequent to the 2021 report.

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

Metro-North's systemwide ridership increased dramatically by 58.8 percent in 2022, from 30.8 million in 2021 to 48.9 million.

**MTA GOAL: Ensure Our Employees' Safety**  
**INDICATORS: Employee Lost Time and Restricted-Duty Rate**

The “FRA-reportable employee lost-time case rate” increased from 1.92 per 200,000 worker hours in 2021 to 2.15 in 2022. Metro-North continues to participate in the Confidential Close Call Reporting System (C3RS), which has logged more than 6,300 calls since 2015, and monitor locomotive engineers and conductors for obstructive sleep apnea. Other ongoing safety programs include regular safety meetings in each district, a safety focus week held each quarter, safety cleanup days, and an employee awards program for safety excellence.

**MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders**  
**INDICATORS: Female and Minority Representation in the Workforce**

The percentage of minority employees in Metro-North’s workforce remained essentially constant in 2022, rising 1 point to 40 percent. The percentage of female representation decreased by 1 point to 11 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>2021 Actual</b>	<b>2022 Actual</b>
<b>Service Indicators</b>		
Paid Traffic	307,296,238	326,535,000
<b>Safety Indicators</b>		
Collisions with Injury Rate (per million vehicles)	0.67	0.82
Employee Lost Time Injury Rate (per 200,000 work hours)	5.6	5.4
<b>Workforce Indicators</b>		
Female Representation in B&T Workforce	21%	19.1%
Minority Representation in B&T Workforce	57%	57.6%
<b>Financial Indicators</b>		
E-ZPass Market Share	94.9%	95.1%
Total Support to Transit (\$ millions)	\$1,377.0	\$1,429.5
<b>Capital Program Indicators</b>		
Commitments in \$ Millions (% of annual goal)	\$260.3 (150.5%)	\$376.1 (73%)
Completions in \$ Millions (% of annual goal)	\$386.2 (100.5%)	\$905.9 (161%)

Notes: MTA B&T performance data are subject to final audit. Traffic numbers are preliminary, with actuals available later. The 2022 data for Paid Traffic, Safety, E-ZPass, and Support to Transit are reported from the B&T Committee Meeting Materials, February 2023, 2/21/23. Data may be subject to later reconciliation.

**MTA GOAL: Ensure Customer Safety**  
**INDICATOR: Customer Collision Injury Rate**

The rate of collisions with injuries increased slightly from 0.67 per million vehicles in 2021 to 0.82 per million in 2022. The agency’s fundamental strategy for improving customer safety is to maintain facilities in a state of good repair. Beyond this, the agency’s customer safety strategy focuses on “The Three E’s:” Engineering, Enforcement, and Education. Engineering identifies collision-prone locations and improves their physical characteristics. Enforcement targets and addresses unsafe driving behaviors. Education aims to correct unsafe driving behaviors through outreach and educational efforts. In addition, Bridges and Tunnels notifies customers of real-time traffic conditions, which helps them make informed decisions and reduces the risk of secondary collisions.

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

All MTA Capital Program infrastructure projects are now managed by MTA Construction & Development (MTA C&D). In 2022, the MTA C&D Business Unit for Bridges and Tunnels made commitments to capital projects worth \$376.1 million or 73 percent of goal. These included relocation of the refueling station at the Queens Midtown Tunnel; structural rehabilitation of Cross Bay Bridge; improvements to structural lighting, power redundancy, and resiliency at the Bronx-Whitestone Bridge; widening of Belt Parkway; and reconstruction and relocation of the RI ramps at Manhattan Plaza.

Project completions during 2022 totaled \$905.9 million, representing 161 percent of goal. These included steel repairs and overcoat painting at the Henry Hudson Bridge; structural rehabilitation at the Robert F. Kennedy Bridge; and steel repairs, safety fencing, and ramp reconstructions at the Verrazzano Narrow Bridge.



**MTA GOAL: Perform Services in an Efficient Manner**  
**INDICATORS: Total Support to Transit**

Bridges and Tunnels provided \$1,429.5 million in total support for MTA transit services in 2022. This represented a 3.8 percent increase over 2021 and indicates a robust recovery from the impacts of the pandemic. By way of comparison, the agency provided \$1,139.0 million in total support to mass transit in 2019, which fell drastically to \$830.2 million in 2020 during the height of the pandemic. The agency undertook aggressive, systemwide enforcement measures in 2022, remanding some 1,800 vehicles for unpaid tolls over the course of the year.

**MTA GOAL: Maximize System Usage**  
**INDICATORS: Traffic Volume**

Bridges and Tunnels recorded approximately 326.5 million paid crossings in 2022, approximately 19.2 million more crossings than the previous year, an increase of 6.3 percent. E-ZPass usage for 2022 ticked up slightly to 95.1 percent, as compared to 94.9 percent in 2021.

**MTA GOAL: Ensure Our Employees' Safety**  
**INDICATORS: Employee Lost Time and Restricted-Duty Rate**

The “employee lost-time injury rate” decreased slightly from 5.6 per 200,000 work hours in 2021 to 5.4 per 200,000 in 2022. Ongoing safety efforts included interdepartmental healthcare efforts relating to the Covid-19 pandemic; joint labor-management task forces to address risks in the new cashless operating environment; updated safety management system all agency facilities; and regular safety training for all field employees, including traffic management safety training for all Bridge and Tunnel Officers and supervisors.

**MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders**  
**INDICATORS: Female and Minority and Other Representation in the Workforce**

Minority employees represented 57.6 percent of the Bridges and Tunnels workforce in 2022, largely unchanged from the previous year. Women represented 19.1 percent of agency employees in 2022, down nearly 1.9 percent from the previous 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 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 need for successful career paths within the agency.

## MTA Bus Company (“MTA Bus”)

<b>Performance Indicators</b>	<b>2021 Actual</b>	<b>2022 Actual</b>
<b>Service Indicators</b>		
Bus Passenger Wheelchair Lift Usage	66,881	See NYCT Bus
Total Ridership	71,431,467*	82,609,385
Mean Distance Between Failures – NYCT & MTA Bus (miles)	7,480	See NYCT Bus
<b>Safety Indicators</b>		
Customer Accident Injury Rate (per million customers)	1.30	1.55
Collisions with Injury Rate (per million vehicle miles)	4.54	5.18
Employee Lost Time Rate (per 100 employees)	7.82	7.48
<b>Workforce Indicators</b>		
Female Representation in MTA Bus Workforce	13%	13.0%
Minority Representation in MTA Bus Workforce	81%	84.6%
<b>Financial Indicators</b>		
Farebox Operating Ratio	17.9%	17.8%
Operating Cost per Passenger	\$10.94	See NYCT Bus
<b>Capital Program Indicators*</b>		
Commitments in \$ Millions (% of annual goal)	\$113.3 (197.9%)	\$265.5 (885%)
Completions in \$ Millions (% of annual goal)	\$1.8 (2.7%)	\$166.5 (80%)

Notes: For the purposes of this report, NYCT Bus and MTA Bus, “MTA Bus Operations,” are treated separately, though certain operations and performance indicators are combined, as noted above and 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. \*The 2021 total ridership was revised upward slightly from 71,426,526 subsequent to the 2021 report. The legacy indicator “Percent of Bus Trips Completed” is no longer collected.

**MTA GOAL: Ensure Customer Safety**  
**INDICATOR: Customer Injury Rate**

MTA Bus saw a slight increase in its “customer accident injury rate,” from 1.30 per million customers in 2021 to 1.55 per million in 2022. The “collisions with injury rate” also increased slightly from 4.54 per million vehicle miles in 2021 to 5.18 per million vehicle miles in 2022. Both increases occurred within a 15.6-percent increase in ridership during the year. MTA Bus continues 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 2022, MTA Bus continued its Vision Zero IV class in collaboration with NYCT DOB. Vision Zero IV is an eight-hour training session which emphasizes the challenges in dealing with pedestrians and cyclists. In 2020, the class was combined with de-escalation training, which now addresses assaults on bus operators related to Covid-19 rules. All bus operators will be cycled through this new curriculum over a two-year period. A de-escalation “trailer” video is being circulated on the FYI Network at all MTA and NYCT locations. To monitor bus operators, the agency uses indicators such as speed-camera violations, red-light violations, cellphone infractions, and customer complaints. In a joint agreement with all labor unions, NYCT DOB continues its “zero-tolerance” policy on use of cellphones and electronic devices while operating a bus. The agency also worked with its labor representatives to see that operators who receive speed-camera violations are disciplined and must pay the fine.

**MTA GOAL: Provide On-Time and Reliable Services**  
**INDICATORS: MDBF, Bus Trips Completed**

As indicated on the performance chart above, NYCT DOB and MTA Bus report combined data in some instances. For complete MTA Bus performance data, see page 4 of this report. The combined agencies posted an MDBF of 9,929 miles in 2022, an increase of 32.3 percent from the previous year.

In 2019, the MTA launched its comprehensive Bus Plan, which entails a complete reimagining of New York's entire public bus system. As part of that plan, the MTA launched a new Bus Performance Dashboard at [www.mta.info](http://www.mta.info), which combines data for the two bus agencies. The dashboard also provides new metrics to better reflect the customer experience. For combined NYCT and MTA Bus metrics, see pages 4 and 5 of this report.

**MTA GOAL: Provide Services to People with Disabilities**  
**INDICATORS: Bus Customer Wheelchair Lift Usage**

For combined "bus passenger wheelchair lift usage" in 2022 see page 4 of this report.

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

MTA Bus committed \$265.5 million in capital project funds in 2022, representing 885 percent of goal. The works includes façade repair at the Baisley Park, JFK, and LaGuardia depots. Capital Program completions in 2022 totaled \$166.5 million or 80 percent of goal.

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

The “farebox operating ratio” (which includes farebox revenue, student fares, and senior citizen fares) was essentially unchanged in 2022 at 17.8 percent. For the “operating cost per customer,” see page 4 of this report.

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

Ridership at MTA Bus continues to rebound from the impacts of the pandemic, increasing by 15.6 percent in 2022 to 82.6 million riders. Both MTA Bus and NYCT Bus have continued an accelerated program of bus operator recruitment and training during 2022 to rebuild the workforce following a hiring pause during the financial uncertainties of the pandemic.

**MTA GOAL: Ensure Our Employees’ Safety**  
**INDICATORS: Employee Lost Time and Restricted-Duty Rate**

MTA Bus saw a slight 4.3 percent decrease in the “employee lost-time accident rate” in 2022. Both NYCT and MTA Bus undertook extensive efforts to safeguard employees during the pandemic, including safety protocols, distribution of PPE, disinfection of buses and facilities, testing and vaccination programs, and more. The agency continues a robust program of training in safe driving techniques, along with Vision Zero programs and the incorporation of accident findings into safety and training initiatives.

Efforts to protect bus operators from assault continued in 2022, including installation of bus operator shields, onboard security cameras, training in de-escalation tactics, and review of customer complaints to identify employees for further counseling or training. Both bus agencies regularly analyze employee injury data to identify trends and reduce lost-time accidents.

**MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders**  
**INDICATORS: Female and Minority Representation in the Workforce**

Female representation agencywide 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 in 2022 at 13.0 percent. MTA Bus will continue to increase its outreach and recruitment efforts to improve female representation within its workforce. The percentage of minority representation increased slightly in 2022 from 81.0 percent to 84.6 percent, exceeding the estimated percentage of minorities available to work within MTA Bus's recruiting area.

## **MTA Construction & Development (“MTA C&D”) - Expansion Projects**

<b>Performance Indicators</b>	<b>2021 Actual</b>	<b>2022 Actual</b>
<b>Workforce Indicators</b>		
Female Representatives in MTA C&D Workforce	37%	29.7%
Minority Representatives in MTA C&D Workforce	50%	64.5%
<b>Capital Program Indicators*</b>		
Commitments in \$ Millions (% of planned value)	\$2,508.5m (292%)	\$1,031.5m (151%)
Completions in \$ Millions (% of planned value)	\$804.9m (44.8%)	\$1,164.8m (62%)

Notes: MTA performance data are subject to periodic adjustment. For details on Capital Program projects visit the [Capital Programs](#) section under “Transparency” at [www.mta.info](http://www.mta.info).

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

MTA Construction & Development (MTA C&D) manages all Capital Program infrastructure projects for the MTA agencies, as reported in each agency’s section of this report. In addition, MTA C&D manages the major Expansion Projects reported in this section. For Expansion Projects, the agency committed a total of \$1,032 million in 2022 or 151 percent of goal. Significant 2022 commitments included the interim maintenance contract for East Side Access at the new Grand Central Madison terminal.

Capital Program Expansion Projects completed in 2022 totaled \$1,165 million, or 62 percent of goal, and included various Systems Package projects, as well as work on the Midday Storage Yard. For details on all of the MTA’s five-year Capital Programs and the status of current capital projects visit the Capital Programs section under “Transparency” at [www.mta.info](http://www.mta.info).




**MTA GOAL: Maintain a Workforce that Reflects Regional Availability of All Races, Nationalities, and Genders**  
**INDICATORS: Female and Minority Representation in the Workforce**

Female representation in the agency's current workforce declined 7.3 percent to 29.7 percent in 2022, while minority representation rose 14.5 percent to 64.5 percent. MTA C&D continues its outreach, recruitment, and retention efforts to support workforce diversity and inclusion.

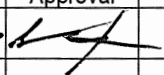


# Staff Summary

<b>Subject</b> All Agencies – Revision to Rules of Conduct
<b>Department</b> Legal
<b>Department Head Name</b> Paige Graves
<b>Department Head Signature</b> 
<b>Project Manager/Division Head</b> Theresa Murphy

<b>Date</b> March 29, 2023
<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
1	Governance	3/27/23			
2	Board	3/29/23			

Internal Approvals					
Order	To	Date	Approval	Info	Other
1	Corporate Compliance	3.29.23			

**Purpose:**

To obtain Board approval for the permanent adoption of the revision to the New York City Transit Authority (“NYCTA”), Manhattan and Bronx Operating Authority (“MaBSTOA”), MTA Bus Company (“MTA Bus”), Staten Island Rapid Transit Operating Authority (“SIRTOA”), Long Island Rail Road Company (“LIRR”) and Metro-North Railroad Company (“MNR”) rules governing the possession of firearms or other weapons in or on any facility, conveyance, terminal, station or train (“firearm rules”).

**Discussion and Background:**

In June 2022 at the request of the Governor of New York there was a change to the New York State Penal Law concerning the right to carry or possess a firearm in certain areas of New York City. To ensure the safety of the public and compliance with the new Penal Law provisions, NYCTA, MaBSTOA, MTA Bus, SIRTOA, LIRR and MNR each submitted a Notice of Emergency Adoption and Proposed Rule Making in accordance with the requirements of the New York State Administrative Procedures Act (“SAPA”). Those Notices sought the immediate temporary adoption of the firearm rules and the requisite publication of the firearm rules in the New York State Register.

The revised firearm rules prohibit the carrying of firearms or other weapons (as the term is used in the New York State Penal Code) in or on any facility, conveyance, terminal, station, or train except as permitted by law.

No public comments or objections to the firearm rules have been received since they were published in December 2022 in accordance with the SAPA requirements.

**Recommendation:**

That the Board execute the Resolution attached as Attachment A, which approves each of the firearm rules in their current form and allowing for their permanent adoption. A copy of the firearm rules for each entity are included in Attachment A.

## **BOARD RESOLUTION**

**WHEREAS**, pursuant to Sections 1204(5-a), 1266(4) and 1266(5) of the Public Authorities Law, on November 28, 2022, New York City Transit Authority (“NYCTA”), Manhattan and Bronx Operating Authority (“MaBSTOA”), MTA Bus Company (“MTA Bus”), Staten Island Rapid Transit Operating Authority (“SIRTOA”), Long Island Rail Road Company (“LIRR”) and Metro-North Railroad Company (“MNR”) each properly and duly filed a Notice of Emergency Adoption and Proposed Rule Making, seeking to publish and temporarily adopt a revision to each entity’s rules of conduct governing the possession of firearms or other weapons in or on any facility, conveyance, terminal, station or train (“firearm rules”), a copy of which are attached to this Resolution as Exhibit A;

**WHEREAS**, the revisions to the firearm rules were published in Issue 50 of the New York State Register on December 14, 2022;

**WHEREAS**, the public comment period has since elapsed and no public comments or objections to the published firearm rules has been received; and

**WHEREAS**, NYCTA, MaBSTOA, MTA Bus, SIRTOA, LIRR and MNR now seek for the MTA Board to approve and authorize the adoption of the revised firearm rules for permanent use by each entity.

**NOW**, upon motion duly made and seconded, the Board hereby resolves that the firearm rules are approved and adopted for permanent use by NYCTA, MaBSTOA, MTA Bus, SIRTOA, LIRR and MNR.

Dated: New York, New York  
March 29, 2023

RULES GOVERNING THE CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF  
THE FACILITIES OF THE NEW YORK CITY TRANSIT AUTHORITY AND  
MANHATTAN AND BRONX SURFACE TRANIST OPERATING AUTHORITY

Subdivisions (a) and (c) of section 1050.8 are amended as follows:

(a) No firearms or other weapons (as the term is used in the New York State Penal Law)[, dangerous instrument, or any other item intended for use as a weapon] may be carried in or on any facility or conveyance except as permitted by law. [This provision does not apply to law enforcement personnel and persons to whom a license for such weapon has been duly issued and is in force (provided in the latter case the weapon is concealed from view). For the purposes hereof, a weapon or dangerous instrument shall include, but not be limited to, a firearm, switchblade knife, boxcutter, straight razor or razor blades that are not wrapped or enclosed in a protective covering, gravity knife, sword, shotgun or rifle].

[(c) Subject to other provisions of the law, this section shall not apply to a rifle or shotgun which is unloaded and carried in an enclosed case, box or other container which completely conceals the item from view and identification as a weapon].

RULES GOVERNING THE CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF THE FACILITIES OF THE MTA BUS COMPANY

section 1044.11 is amended as follows:

No firearms or other weapons (as the term is used in the New York State Penal Law)[, dangerous instrument, or any other item intended for use as a weapon] may be carried in or on any facility or conveyance except as permitted by law. [This provision does not apply to law enforcement personnel and persons to whom a license for such weapon has been duly issued and is in force (provided in the latter case the weapon is concealed from view). For the purposes hereof, a weapon or dangerous instrument shall include, but not be limited to, a firearm, switchblade knife, gravity knife, box cutter, straight razor or razor blades that are not wrapped or enclosed in a protective covering, sword, shotgun or rifle.]

RULES GOVERNING THE CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF  
THE FACILITIES OF THE STATEN ISLAND RAPID TRANSIT OPERATING  
AUTHORITY

section 1040.9 is amended as follows:

No firearms or other weapons (as the term is used in the New York State Penal Law)[, dangerous instrument, or any other item intended for use as a weapon] may be carried in or on any facility or train except as permitted by law. [This provision does not apply to law enforcement personnel and persons to whom a license for such weapon has been duly issued and is in force (provided in the latter case the weapon is concealed from view). For the purposes hereof, a weapon or dangerous instrument shall include, but not be limited to, a firearm, switchblade knife, gravity knife, boxcutter, straight razor or razor blades that are not wrapped or enclosed in a protective covering, sword, shotgun or rifle.]

RULES GOVERNING THE CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF  
THE FACILITIES OF THE LONG ISLAND RAILROAD COMPANY TERMINALS,  
STATIONS AND TRAINS

section 1097.11 is amended as follows:

No [persons, except for those licensed to do so and in immediate possession of such license, shall bring into or carry in a terminal, station or train any] firearms or other weapons (as the term is used in the New York Penal Law) may be carried into any facility, terminal, station or train except as permitted by law.

RULES GOVERNING THE CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF  
THE FACILITIES OF THE METRO-NORTH COMMUTER RAILROAD COMPANY  
TERMINALS, STATIONS AND TRAINS

section 1085.11 is amended as follows:

No firearms [persons, except for those licensed to do so and in immediate possession of such license, shall bring into or carry in a facility or train any firearms] or other weapons (as the term is used in the New York State Penal Law) may be carried in or on any facility, terminal, station or train except as permitted by law.



# All Agency Policy Directive

## WHISTLEBLOWER PROTECTION

Policy Number	Responsible Agency/Department	Effective Date	Page
11-041	MTAHQ/General Counsel	October 20, 2021	Page 1 of 4

### I. PURPOSE

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

### II. SCOPE

This policy directive applies to all officers and employees of the MTA Headquarters, MTA Long Island Rail Road, MTA Construction and Development Company, MTA Bridges and Tunnels, MTA Bus Company, MTA Metro-North Railroad, MTA New York City Transit, including the Manhattan and Bronx Surface Transit Operating Authority and the Staten Island Rapid Transit Operating Authority, MTA Grand Central Madison Concourse Operating Company, and all future subsidiary or affiliated Agencies of the MTA.

### III. DEFINITIONS

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

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

**MTA Agency** means any of the following: MTA Headquarters, MTA Long Island Rail Road, MTA Construction and Development Company, MTA Bridges and Tunnels, MTA Bus Company, MTA Metro-North Railroad, MTA New York City Transit, including the Manhattan and Bronx Surface Transit Operating Authority and the Staten Island Rapid Transit Operating Authority, MTA Grand Central Madison Concourse Operating Company, and all future subsidiary or affiliated Agencies of the MTA.

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

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

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## WHISTLEBLOWER PROTECTION

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

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

### IV. POLICY

#### A. Reporting of Wrongful Acts.

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

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

The identity of the whistleblower and the substance of his or her report shall be kept confidential to the extent possible.

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# All Agency Policy Directive

## WHISTLEBLOWER PROTECTION

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

[Office of the Inspector General](#)  
 Metropolitan Transportation Authority  
 One Penn Plaza, 11<sup>th</sup> Floor  
 Suite 1110  
 New York, New York 10119  
 800-MTA-IG4U (800-682-4448)

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

### B. Investigation of Reported Wrongful Acts

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

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

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

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

1. No MTA Employee shall take any Adverse Action against another MTA Employee because of such MTA Employee's lawful disclosure or reporting of information concerning a Wrongful Act or because of such MTA Employee's role as a Whistleblower. An MTA Employee is prohibited from interfering with another

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# All Agency Policy Directive

## WHISTLEBLOWER PROTECTION

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MTA Employee’s disclosure of a wrongful act. Violations of this policy are subject to disciplinary action up to and including termination from employment.

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

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

### **D. False Allegations**

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

### **E. No Impairment of Rights**

Nothing in this policy is intended to limit, diminish or impair the rights of any MTA Employee under any provision of law or regulation.

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