

Via Email

The Honorable Andrew Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

The Honorable Carl Heastie
Speaker of the New York State Assembly
LOB 932
Albany, NY 12248

The Honorable Andrea Stewart Cousins
Majority-Leader of the New York State Senate
LOB 907
Albany, NY 12247

June 18, 2019

Re: A deliberative MTA reorganization process is an opportunity to regain public trust

Dear Governor Cuomo, Speaker Heastie, and Majority Leader Stewart-Cousins,

We write today to urge you to ensure that the upcoming reorganization of the Metropolitan Transportation Authority (MTA) is conducted in the interest of transit riders and in consultation with the public.

As you know, the consulting firm AlixPartners has been retained to review the MTA's operations and recommend efficiencies. By law, an initial reorganization plan must be developed by June 30th, and a "review" of potential sources of "waste, fraud, and abuse" will be submitted to the MTA Board by July 31st. The Board will have 90 days to consider all findings and finalize the reorganization plan.

In order to succeed, the reorganization plan must be the result of a process that allows for constructive feedback and dialogue with the public. Posting the AlixPartners plan online as soon as it is presented to the board will enhance the credibility of the process, and engaging the public in sustained, substantive discussion will surface critical reforms necessary to improve service. In contrast, a hasty, closed-door effort runs the risk of cementing changes that may ultimately prove harmful to the long-term interests of transit riders.

New York has time to get such weighty decisions right. Reforming the MTA must be deliberate and transparent, with multiple points for public input.

We have identified the following aspects of MTA practice and structure in need of reform. The attached brief expands on these recommendations.

Clear lines of accountability. When the public does not know whom to hold responsible for the MTA's performance, incentives to perform well weaken and service suffers. It is imperative to clarify the MTA Board's responsibilities and authority in relation to the governor.

A transparent MTA. Transparency allows the public to track the transit authority's progress. By being open about its needs, the MTA can also make a stronger case to the public for funding and other resources, rather than playing defense.

Coordinating construction projects and service delivery. Construction is more efficient when capital work and service delivery are housed under a unified entity that can mediate disputes and ensure quick resolution. At New York City Transit, the agency's authority over service delivery puts it in the best position to coordinate its Fast Forward modernization plan, while also running a 24-hour transit network.

Develop internal talent. Investment in employee development will retain and attract the talent necessary to deliver excellent service. A top priority of any reorganization should be to end the MTA-wide hiring freeze, which has produced shortages of key personnel needed to turn around the authority at a critical time, and has harmed employee morale.

Contain costs. New York's high transit capital costs are due to many factors, from decisions at the inception of projects to the final stages of planning, design, and construction. To bring costs down, MTA leadership must be empowered to exercise strong, independent judgment, free from political calculations.

Thank you for your attention to this matter. Our groups are available to meet with you and AlixPartners to lend our expertise as you work to develop a reorganization plan. Should you have any questions, please reach out to Colin Wright, Senior Advocacy Associate at TransitCenter, at cwright@transitcenter.org or 917-375-1834.

Sincerely,

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Executive Director
Riders Alliance

Tom Wright
President and CEO
Regional Plan Association

CC:

MTA CEO/Chair Patrick Foye

Members of the MTA Board

Senator Leroy Comrie; Chair, Corporations, Authorities and Commissions Committee

Senator Tim Kennedy; Chair, Transportation Committee

Senator Liz Krueger; Chair, Finance Committee

Assemblymember Amy Paulin; Chair, Corporations, Authorities and Commissions

Committee Assemblymember William Magnarelli; Chair, Transportation Committee

Assemblymember Helene Weinstein; Chair, Finance Committee

New York League of Conservation Voters
Permanent Citizens Advisory Committee to the MTA
Pratt Center for Community Development | Tri-State Transportation Campaign
TransitCenter | Regional Plan Association | Reinvent Albany | Riders Alliance
Straphangers Campaign | StreetsPAC

A Stronger MTA Reorganization Plan **June 18, 2019**

As part of the Fiscal Year 2020 New York State Budget agreement that included major new revenue sources for the Metropolitan Transportation Authority (MTA), the authority is required to develop a reorganization plan and undertake a review of waste, fraud, and abuse.

Through the review and reorganization plan, the MTA, Governor Cuomo, and New York State legislative leaders can either streamline the authority – or further politicize it and subject transit professionals to onerous bureaucratic hurdles. Reform of an institution as vital and complex as the MTA must be guided not by politics, but by the objective of improving transit service for the millions of riders who rely on the MTA.

Today the MTA suffers a “credibility gap” that hampers its ability to level with the public about its serious fiscal and operational needs. In light of this, it is crucial that a reorganization is oriented to serve the long-term interests of riders, who are counting on the authority to build on recent service improvements. Engaging the public early in sustained, substantive discussion will put the MTA’s best foot forward and show it is acting in the public interest; in contrast, a hasty, closed-door effort runs the risk of institutionalizing ill-conceived changes that may ultimately prove harmful to the long-term health of the authority.

AlixPartners

In exchange for new funding for the MTA, Governor Cuomo and state legislative leaders included in the budget several initiatives meant to address the authority’s yawning operating deficits and unrestrained capital costs.^{1 2} A management consulting firm, AlixPartners, is tasked with reviewing the authority’s operations and recommending efficiencies in its bureaucracy, which includes New York City Transit (NYCT), MTA Bus, the Long Island Rail Road (LIRR), Metro-North Railroad (MNR), Bridges & Tunnels, and MTA Capital Construction. AlixPartners will simultaneously investigate through a “review” potential sources of “waste, fraud, and abuse.” AlixPartners will submit its reorganization recommendations to the MTA before June 30, the deadline for adoption of a plan. The review of “waste, fraud, and abuse” is due July 31. The MTA Board will then vote on final reorganization measures within 90 days of receiving the review.

The MTA needs reform, but indicators are improving.

High costs and delays are apparent in every aspect of MTA operations and delivery of capital projects, from inaccurate budgets and timelines to inconsistent project management, and overly complex procurement procedures. According to reporting by the *New York Times*,³ project labor agreements require underground construction work to be staffed by more workers than similar projects elsewhere in the world. Construction companies inflate bids for work with the MTA to hedge against the authority's inefficiencies. The authority spends an unusual amount on project design and management.

The flaws embedded in contracting, labor rules, and project oversight help explain why the Second Avenue Subway cost \$2.5 billion per mile, while in Paris, the cost of the Line 14 subway expansion is \$450 million per mile.¹

Recent performance of NYCT and the commuter railroads. Fortunately, there have been signs of progress on other fronts. A renewed focus on the basics of subway operations has improved speed and reliability. NYCT's SPEED Unit, which is testing every signal timer and adjusting unnecessarily slow speed limits, has produced encouraging results in the effort to tighten operational discipline.⁵ In May, NYCT reported subway on-time performance hit nearly 80 percent in April 2019 – the best since October 2013.⁴ NYCT reported a 32% reduction in weekday major incidents and a 35% reduction in weekday delays over the same time last year.⁶ On the construction side, the MTA has shaved \$1 billion from the initial \$6 billion estimated cost of extending the Second Avenue Subway.

Elsewhere in the authority, Metro-North Railroad President Catherine Rinaldi has won plaudits for her "Way Ahead" modernization plan that details dozens of initiatives, ranging from enhancing grade-crossing safety to replacing the diesel locomotive fleet to recruiting and retaining employees. Long Island Rail Road President Phil Eng's "LIRR Forward" plan is guiding the agency to improved on-time performance and expedited maintenance, track, and signal replacement.

The MTA is no longer in a free-fall that would necessitate immediate structural reforms. Service and project delivery indicators are improving – demonstrating that the authority has time to carefully pursue meaningful reforms.

A strong reorganization plan can only come from an open, deliberative process. An MTA reorganization plan can surface critical reforms to improve service

¹ Unlike in non-U.S. world cities, health care and pensions are funded by infrastructure project budgets in the United States, accounting for part of the difference in project cost comparisons.

for riders. But in order to succeed, it must be the result of a process that is open to the public and allows for constructive feedback and dialogue.

The current restructuring effort could produce changes that will affect the authority for decades to come. Given the import for transit riders today and in the future, the riding public, independent experts, and other stakeholders must play a role in the reorganization plan. This means consulting with stakeholders before a reorganization plan is finalized, and posting the draft plan and reviews from AlixPartners as soon as they are delivered to the MTA so the public has ample time to weigh in. Meaningful engagement can surface weaknesses and flaws before they are cemented and would help to assure stakeholders that decisions are made not for political purposes, but by independent transit professionals acting in a transparent, accountable manner.

Toward an open, accountable, and effective MTA.

Experts in transit governance have identified the following aspects of MTA practice and structure that should be addressed in the reorganization plan:

Clear lines of accountability. Transit agencies are more responsive to the public when it's clear who is ultimately responsible for performance. In London, for instance, the mayor has statutory authority to issue policy direction to Transport for London, which runs the Underground and integrated rail, bus, and road networks.⁷ The London model is explicitly designed to maximize public awareness of whom to hold accountable for the quality of transit service.

This is not the model that exists in New York. Under the MTA structure, the governor selects the authority's CEO and senior executives. The governor and other elected officials also recommend officials to the MTA Board, who are appointed by the governor. While the MTA Board's powers are limited, it looms large in public perception, obscuring the dominant role of the governor.

These confusing lines of accountability are harmful because the public does not know whom to hold responsible for the MTA's performance. It is imperative to clarify what the MTA Board's responsibilities and authority are in relation to the governor.

A transparent MTA. Transparency allows MTA stakeholders to track its progress, and by being open about its needs, the authority can make a stronger case to the public for funding and other resources, rather than playing defense. Yet too often the MTA provides inscrutable budgetary information. For example, the MTA Capital Program online dashboard is filled with program descriptions that are outdated, listed with few details, or written in jargon that is impossible to understand. Furthermore, the MTA withholds critical information. For example, the authority receives nearly 9,000 public information requests a year, and there is widespread public dissatisfaction among journalists, watchdog groups, and the broader public about how long it takes the MTA to fulfill the requests.⁸ MTA CEO and Chairman Patrick Foye has promised to overhaul the

Freedom of Information Law (FOIL) process and Open Data at MTA to address the serious backlog of FOIL requests. A reorganization plan should support these efforts.

Coordinating construction projects and service delivery. The reorganization plan might recommend centralization of the separate construction management operations of the different MTA divisions. Empowering one team of professionals for *major* projects can provide accountability for delays and cost overruns. However, the need to coordinate construction and existing service necessitates that NYCT, MNR, and LIRR oversees projects that affect service conditions.

MTA staff have said that bureaucratic separation of construction management from service delivery contributes to cost overruns, project delays, and major service interruptions. Coordination is more efficient when construction and operations functions are housed under a unified entity that can mediate disputes and ensure quick resolution.

At NYCT, the agency's authority over service delivery puts it in the best position to coordinate its Fast Forward modernization plan, while also running a 24-hour transit network. Nevertheless, turf wars persist between NYCT units. A reorganization should lead to better coordination between internal units responsible for logistics, operations planning, and construction to deliver projects with minimal service impacts to riders.

Develop internal talent and avoid falling into an “outsourcing trap” in which the MTA becomes overly dependent on consultants for technical expertise, especially for Information Technology (IT) and engineering. The current use of an outside firm to ferret out waste, fraud, and abuse when the MTA Inspector General is ostensibly responsible for such a review is emblematic of the MTA's heavy use of costly consultants to handle work that could be performed internally.

More generally, investment in employee development will empower workers to deliver better service and capital projects. Morale is battered on multiple fronts – from the current freeze on hiring and wages, to outdated information technology, to a risk-averse culture which hinders fresh thinking.

The current MTA-wide hiring freeze has put considerable strain on staff to do more with fewer resources, in some cases necessitating overtime, and morale appears to be at a historic low. Nearly 900 positions are now unfilled in critical operations, maintenance and engineering roles at NYC Transit.⁹ Troublingly, from what we understand, a handful of officials, including Chief Administrative Officer Anita Miller and Chief Financial Officer Bob Foran, are responsible for signing off on all vacancies among the entire authority to determine which roles are open to hire. As the hiring freeze continues, departments that rely on in-demand skill sets, from trade mechanics to data analysts, are unable to keep up with an alarming rate of staff departures. Staffing priorities should be flexible and transparent; hiring for a 50,000 person authority must not be filtered through a small cadre of gatekeepers.

As the largest transit authority in the country, the MTA draws the best nationwide talent. A worthwhile reorganization plan would center on using the MTA's in-house talent to its fullest potential. It would call on MTA leadership and elected officials to give leeway to employees to solve problems and to overhaul a risk-averse internal culture that prevents adoption of best practices in the transit industry.

Contain costs. As the Regional Plan Association notes, “The extraordinarily high costs associated with building transit projects in New York are due to many factors, from decisions made by political leaders at the inception of projects to the final stages of lengthy planning, design, and construction processes.”¹⁰ The subway system has barely expanded since the 1930s as high costs for both large and mundane infrastructure projects sap money for new and improved subway tracks and signals, stations, accessibility, and trains.

There is no shortage of ideas to reduce the MTA's project-delivery costs, from producing accurate budgets and timelines, to employing consistently strong project management, and reducing procurement complexity. The state could also revisit arcane laws which in some cases drive up the costs of projects; for example, New York's unique “Scaffolding Law,” which places full liability for gravity-related injuries on owners and contractors, and which experts say drives up the cost of projects by making insurers reluctant to underwrite projects.

The full prescription for efficient capital construction is much longer. But it starts with clearly assigning senior management the task of reducing costs, and giving the public the tools to hold management accountable if they fail to do so. Key to a culture of accountability will be empowering executives to exercise strong, independent judgment, free from political calculations and other incentives that skew against the objective of delivering superior service to riders as efficiently as possible.

Moving forward.

If New York continues to settle for an inefficient, complacent MTA, we will not be able to build a 21st-century city. At the same time, however, we should not rush reforms that may alter the authority for decades. Reform must be a deliberate, transparent process, with multiple points for public input and clear accountability throughout. Fortunately, with key service indicators improving, we have time to get reform right. Riders deserve nothing less.

Endnotes

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