



July 17, 2018

MTA Audit Committee
MTA Headquarters
2 Broadway, 2nd Floor
New York, NY 10004

Dear Members of the Audit Committee,

We write to ask that the MTA Audit Committee, in conjunction with your review of the MTA's Ethics and Compliance Program at your meeting on July 23, 2018, propose revisions for full board approval of the MTA's All-Agency and Board Member Codes of Ethics.

The MTA All-Agency and Board Codes of Ethics have not been updated since 2015 and 2014, respectively, and do not meet the best practices provided by the Authorities Budget Office. We believe the current MTA All-Agency and Board Codes of Ethics are inadequate and allow both perceived and potential conflict of interests that are detrimental to the MTA and the public interest.

Given your fiduciary duty to ensure the MTA is managed in the best interests of the people of New York, our groups ask that the Audit Committee propose the following recommendations for approval by the full MTA Board at your next meeting on July 25th:

Recommendations

1. Affirm by board vote that the Chairman/CEO is the head of the agency - whether or not receiving a salary - and is subject to all Public Authorities Law, Public Officers Law (Sections 73, 73-a and 74) and MTA internal ethics policies requirements covering heads of agencies, not just those for per diem board members. The legal responsibilities of the position cannot be delegated away, even if tasks are.
2. Amend the Board Code of Ethics to require notification to the full MTA Board of any board member's and the Chairman/CEO's potential conflicts of interest, including requiring a public record be kept of discussions and determinations via Board and/or Committee meeting minutes, as recommended by the Authorities Budget Office.
3. Amend the Board Code of Ethics to ban outside income for the MTA Chairman/CEO - whether compensated or not - and at a minimum, appointed, non-civil service staff.
4. Post on the MTA's website the list of "prohibited sources" of gifts as defined in the MTA Codes of Ethics.
5. Amend the All-Agency and Board Codes of Ethics to eliminate double standards between board and/or management and employees regarding accepting directorships and attendance at prohibited-source sponsored events.
6. Conduct an internal review to consider revisions to the MTA's code of ethics as relates to the "revolving door" or post-employment restrictions for MTA staff accepting positions with those who do business with the MTA.
7. Affirm by board vote that campaign contributions to the governor from MTA board members are banned, as stipulated in the MTA Board Code of Ethics.
8. Amend the Board Code of Ethics to ban campaign contributions to the governor from board members' businesses and family.

These recommendations are detailed further in an accompanying analysis by Reinvent Albany.

The standards set under Public Officers Law and Public Authorities Law should be considered a floor, not a ceiling. The Public Authorities Law, and the Joint Commission on Public Ethics in implementing the Public Officers Law explicitly provide the ability of state agencies and authorities like the MTA to go beyond the requirements in law and regulations to prevent conflicts of interest and hold its managers, board and employees accountable for violating the law and your ethics policies.¹ You must rise to this occasion and set higher standards for yourselves, as the public cannot have confidence in an agency that allows conflicts of interest to remain unaddressed.

Please contact Rachael Fauss, Senior Research Analyst at Reinvent Albany, at rachael@reinventalbany.org should you wish to discuss this matter further.

Sincerely,

John Kaehny
Reinvent Albany

Gene Russianoff
NYPIRG Straphangers Campaign

Betsy Gotbaum
Citizens Union of the City of New York

Susan Lerner
Common Cause/NY

Catherine T. Gray
League of Women Voters of the City of New York

Cc. Full MTA Board of Directors

¹ See JCOPE Regulations, Title 19 NYCCR Part 932.10, Agencies Permitted More Restrictive Rules. <https://www.jcope.ny.gov/sites/g/files/oe746/files/documents/2017/10/19-nycrr-part-932-outside-acti-vity-regulations-and-approval-procedures.pdf> and Public Officer Law Section 73(8)(d). <https://www.jcope.ny.gov/sites/g/files/oe746/files/documents/2017/09/public-officers-law-73.pdf>