



Steps Forward for MTA FOIL and Open Data

18 specific actions the MTA can take to improve transparency now



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Introduction

The MTA has massive amounts of data on its website, yet the public is drowning in these fragments of information because much of what is provided is frustratingly incomplete and not provided in open, machine readable formats. Data about projects and contracts is sprinkled throughout various PDF documents rather than provided in its original, tabular form, making it difficult for the public and stakeholders to connect the dots, track spending, and check progress.

The MTA knows that it has a credibility problem and has historically struggled with telling the truth, especially when it is painful. Former CEO/Chairman Lhota stated at the release of the *Fast Forward Plan* in May 2018 that “since I’ve been here it’s been all about trying to convince folks about our credibility.”

¹ NYCT President Andy Byford has made transparency a commitment of the *Fast Forward Plan*: “This is about giving New Yorkers a modern efficient dynamic and accountable transit organization that delivers on its promises and puts customers first ... one that is built around customer centric continuous improvement model one that emphasizes transparency and accountability and one that delivers going forward delivers on its promises.”²

The Governor and the MTA have promised “reform” as part of the budget package that passed Albany this month, with general statements about greater transparency and accountability. Yet the budget legislation that passed failed to address major compliance issues with existing transparency laws and orders, like the Freedom of Information Law (FOIL) and the Governor’s Open Data Executive Order 95 of 2013.³

“This is about giving New Yorkers a modern efficient dynamic and accountable transit organization that delivers on its promises and puts customers first ... one that is built around customer centric continuous improvement model one that emphasizes transparency and accountability and one that delivers going forward delivers on its promises.” - NYCT President Andy Byford, announcing Fast Forward

¹ MTA Board Meeting, May 2018. Youtube. <https://youtu.be/LYisjAfvOhs?t=2307>

² NYCT Fast Forward Plan. May 2018. <https://fastforward.mta.info/>

³ NYS Executive Order 95 of 2013.

<https://www.governor.ny.gov/news/no-95-using-technology-promote-transparency-improve-government-performance-and-enhance-citizen>

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It remains to be seen if new leadership will be successful in changing these cultural problems and addressing the issues covered by this report: its current Freedom of Information Law (FOIL) process; the integrity of its performance metrics; the lack of a commitment to open data, particularly for budget and capital plan documents; its failure to better understand its riders; and its need to better understand itself through modern, transparent asset management.

A summary of the major findings and recommendations is provided below. Full policy proposals are provided in the [recommendations section](#).

Summary of Findings and Recommendations

Despite some improvements to service-related data like countdown clocks, the Metropolitan Transportation Authority (MTA) has largely failed to modernize the way it releases information to the public, and has not adopted openness as a core value. Too often, data released from the MTA is more self-serving than actually useful to the public. As a result, the public lacks complete and credible information to hold the authority accountable.

The MTA's Freedom of Information Law (FOIL) process fails both in being transparent and delivering information on time, if at all. This is partly because the agency has not prioritized open data or fully complied with state open data initiatives, which could help lessen the load of FOIL requests it receives. But further, the MTA has not used best practices used by peer organizations such as LA Metro and the Port Authority of New York and New Jersey in proactively publishing records released through FOIL. It could also create a portal exclusively for police incident reports, like the Port Authority does, which currently make up two-thirds of all MTA FOIL requests.

The MTA's budget and capital plan documents are not released in open formats, making it difficult for the public to follow spending and project delivery. The MTA's capital dashboard, while at the time of its release a major improvement, has not been sufficiently maintained or improved upon since its launch. The details of crucial spending decisions in its budgets remain locked behind PDFs which present data in a format that effectively prevents the public from connecting the dots and tracking delivery on projects.

Summary of Recommendations

Open FOIL

1. The MTA should adopt an Open FOIL platform using best practices from other jurisdictions such as LA Metro, the Port Authority of NY/NJ, and within New York State such as NYC Open Records. FOIL requests should be used to prioritize proactive release of information via a “Reading Room.”
2. The MTA should also create an in-house MTA Police incident reports portal, allowing the public to privately request incident reports online. (Incident reports currently make up two-thirds of all MTA FOIL requests). The MTA should work with the DMV to develop their own portal, like the state’s crash reports portal.

Open Data

The MTA must embrace open government standards for its performance, capital plans, budget documents, and Board materials. This should include:

3. Full compliance with Executive Order 95, requiring the publishing of all public MTA data on the New York State Open Data portal. Legislation should be considered in this area if compliance cannot be achieved administratively.
4. Release of all underlying datasets that are used to create MTA performance metrics, with full release of methodologies and API access.
5. Creating a contracts database with full and complete information about projects.
6. Providing all data from current MTA Board and Budget materials well in advance of meetings in machine-readable, CSV spreadsheet form.
7. Creating an MTA “Open Budget” website for the MTA’s budget information, similar to the state Open Budget NY site.

Budget and Capital Plan Transparency

8. Capital Planning Oversight Committee Materials should be improved through the following steps:
 - a. Release all CPOC data in machine-readable, CSV spreadsheet form.
 - b. Data should always include original project schedules and budgets.
 - c. All current projects should be listed in the “Traffic Light” report, including those in the CPOC’s Risk-Based Monitoring Program.
9. Budget Documents should be made open and more complete:
 - a. Release all budget data in machine-readable, CSV spreadsheet form.
 - b. Include additional data fields on capital project commitment listings in the adopted budget (see [detailed recommendations](#)).

- c. Budget Documents should also provide detailed breakdowns of past yearly expenditures and revenues, going back at least 10 years for both the capital and expense budget, comparing them with the projections.
10. MTA Capital Dashboard should be updated and improved:
- a. Data for quarterly updates should be published in a timely manner.
 - b. All click-through data should be made available for bulk download.
 - c. The Dashboard should include more data fields such as contract numbers (see [detailed recommendations](#)).
 - d. The Dashboard should note projects rolled over from previous plans.
 - e. All broken links and missing information should be fixed.
 - f. The MTA should hold a user-group feedback session to identify additional improvement areas, and expand the “FAQs” Section.

Better Understanding Itself and Its Riders

- 11. The MTA should conduct an updated demographic analysis of its riders that looks at age, median individual and family income, race, ethnicity, gender, profession, disability, geographic locations, travel times, and other metrics.
- 12. The MTA should release more detailed methodology and tabular data about its fare evasion statistics, such as data broken out by borough, subway line, etc.
- 13. The MTA should release publicly, in an open data format, all data from its customer service portal and all staff analyses of the portal, polls and surveys.
- 14. The MTA should publicly release, in an open data format, its submission to the FTA of its Transit Asset Management (TAM) plan and the update to its 20-Year Needs Assessment.
- 15. MTA staff should conduct and release an in-depth “lessons learned” report about installation of Communications Based Train Control (CBTC) on the 7 Line.

Open Meetings Law

- 16. The CPRB should comply with the Open Meetings Law to ensure that all of its deliberations are conducted in public meetings, in particular its votes to approve capital plans and their amendments.
- 17. A website should be created for the CPRB where it publishes its mission, activities, members, calendar of meetings, meeting minutes and materials, and contact information.
- 18. All future commissions, advisory workgroups and other public bodies formed by law to provide recommendations regarding the MTA should fully abide by the Open Meetings Law.

About Reinvent Albany

[Reinvent Albany](#) advocates for transparent and accountable New York State government and increased transparency in New York City. We advocate for more accountable and better governed state authorities, including the Metropolitan Transportation Authority (MTA). We fought for and won enactment of the statewide “Transit Lockbox” legislation. We also work to strengthen the Freedom of Information Law and put government information online, especially spending, contracting and budget information, and we are vocal advocates for open data laws and practices. We also work for transparent business subsidies and economic development spending rooted in facts and careful analysis.

We seek to create a state government that is responsible, responsive and above board and thus we fight for public integrity measures and against laws and practices that increase the risk of corruption and favor the few and well connected over the public interest. We strongly support the work of New Yorkers who work to increase public integrity and public trust. We share many of their goals, especially fighting corruption, and we support their work to make elections fair, easy and clean.

Reinvent Albany is the New York State chapter representative of the [National Freedom of Information Coalition](#).

Acknowledgements

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A Fragmented Freedom of Information Law (FOIL) Process

An area of MTA operations that speaks both to internal management and external transparency is the way in which they respond to requests from the public for information: under New York State law, this is the Freedom of Information Law (FOIL) process.⁴

The idea behind FOIL is that the public can ask for and get information on what government decisions are based on – information that we, the public, paid for with our taxes (and, in some cases like with the MTA, fares and tolls). Ideally, much of this information would already be online in an open format that is easy to search, download and use. But in 2019, the MTA is still a long way from putting important information online and in accessible formats. For journalists, researchers, and watchdogs that seek to hold the MTA accountable, that means FOIL is the only way to get certain records.

The failure to modernize the release of information is not just a problem for the public – it is also endemic of a fragmented process and represents an operational failure. Reinvent Albany in October 2018 released *FOIL that Works: Increasing MTA transparency and accountability by putting FOIL online*,⁵ a comprehensive report which dug into the MTA’s FOIL process and found a dysfunctional and fragmented mess. In conducting this analysis, Reinvent Albany reviewed the MTA’s FOIL website, requested the MTA’s logs of FOIL requests received in 2017, and examined other studies of the MTA’s FOIL process. A summary of major findings from this original analysis is provided below. The report also contained recommendations supported by fourteen city, state and national organizations⁶, which are included in the [recommendations section of this report](#).

⁴ For more information about the Freedom of Information Law see information from the NYS Committee on Open Government, <https://www.dos.ny.gov/coog/freedomfaq.html>

⁵ Reinvent Albany. “FOIL that Works: Increasing MTA transparency and accountability by putting FOIL online.” October 2018.

<https://reinventalbany.org/2018/10/comprehensive-report-foil-that-works-recommends-overhaul-at-mta-with-openfoil-and-online-incident-reports-recommendations-supported-by-13-groups/>

⁶ “Fourteen City, State and National Groups Urge MTA to Fix Dysfunctional FOIL Process – Put FOIL Online, In One Place.” October 23, 2018.

<https://reinventalbany.org/2018/10/fourteen-city-state-and-national-groups-urge-mta-to-fix-dysfunctional-foil-process/>

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No MTA Agencies Provided Records Within the 20 Business Days Required by Law

On March 12, 2018, Reinvent Albany sent FOIL requests to eight MTA agencies:

1. MTA Headquarters
2. MTA Bridges and Tunnels
3. MTA Bus Company
4. MTA Capital Construction
5. MTA Police
6. NYC Transit
7. Long Island Rail Road
8. Metro-North Railroad

Reinvent Albany requested FOIL logs listing all Freedom of Information Law requests received by the agencies, including information about requestors, subjects of requests, and dates of receipt and closing, and final determinations. Despite the simple nature of the request, no MTA agency provided Reinvent Albany with the records within the 20 business days required under FOIL (Public Officers Law, Article 6, Section 89(3)).

MTA Bus never acknowledged receipt of the request. NYCT sent a hard copy letter to acknowledge the FOIL request, while all other agencies sent email responses.

To get our request fulfilled, Reinvent Albany had to submit an administrative appeal to all eight MTA agencies we FOILED. Ultimately, the MTA agencies took between 52 and 64 business days to send the FOIL logs, well beyond the 20 business days required under FOIL for responses for simple records requests.

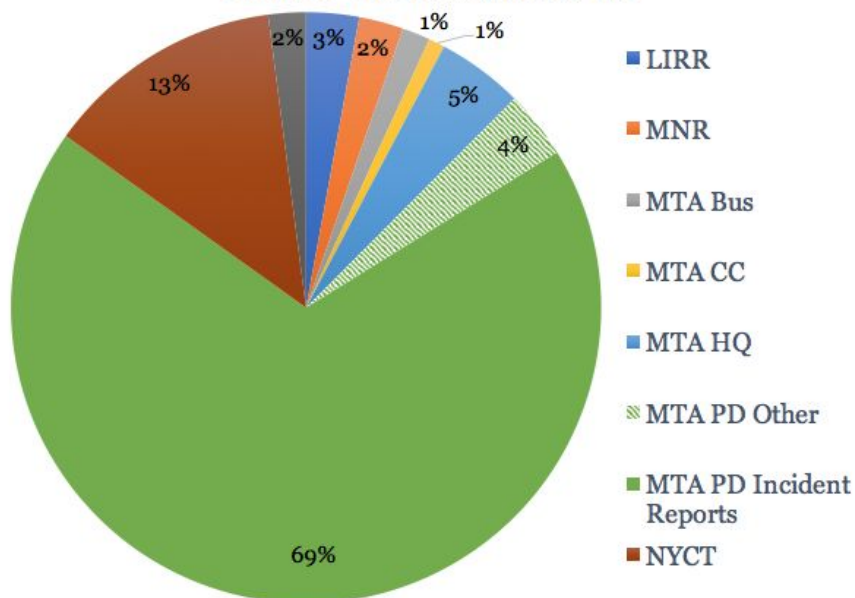
Most agencies (6/8) initially sent records in PDF, though the request was for CSV spreadsheet files (FOIL states that records must be sent in the form requested – FOIL logs are all tabular data that the MTA agencies keep in a spreadsheet format).

Two-thirds of MTA FOIL Requests are for Police Incident Reports

Figure 20

Total FOILs to MTA Agencies, 2017

The MTA received at least 8,900 requests in 2017, with the majority coming to the MTA police department, mostly for incident reports (at least 6,112 in total). This high volume of incident requests points to the need for the MTA to provide a separate, online portal for the public to privately access incident reports (see [recommendations](#) for more details).



MTA Agency	Total 2017 FOIL Requests
Long Island Rail Road	258
Metro North Railroad	216
MTA Bus	137
MTA Bridges and Tunnels	183
MTA Capital Construction	79
MTA Headquarters	421
MTA New York City Transit	1,164
MTA Police Department	6,442
Grand Total	8,900

Records of MTA Agency FOIL Tracking Inconsistent, Incomplete

The FOIL Logs provided by MTA agencies had varying amounts of information and different formats, further demonstrating the MTA's fragmented approach to FOIL.

- Records provided by Metro North only included FOIL requests labeled “done,” suggesting they did not provide the requested list of all FOIL requests, including those that were still pending.
- New York City Transit sent *less* information about FOIL requests than it had sent in response to a 2013 Reinvent Albany request. That year, NYCT sent FOIL logs that included the topic of the FOIL request (which is required under FOIL case law.) In 2018, NYCT did not send the topics of the requests.
- MTA Capital Construction was the only agency to provide details regarding the organizations/companies initiating the 79 FOIL requests they received. The majority of their requests, 38% (30), came from the press, with one-third, or 33% (26), coming from law firms that represented contractors or individuals pursuing personal injury cases. An additional 14% (11) came directly from contractors.

MTA Closes FOIL Cases, but Doesn't Necessarily Provide Records

Reinvent Albany was able to determine the status of requests and the time it took to “close” them for 6 of the 8 MTA agencies. Metro North Railroad and the MTA Police Department did not provide sufficient data for this analysis, despite the latter receiving over two-thirds of all requests. (Note that closures may include requests that were denied, or partially fulfilled, and do not mean that requested records were provided.)

- More than half (61%) of requests that were “closed” by the agencies were done so within 20 days, the timeframe required under law for simple FOIL requests. (Note this does not include cases that remained open.)
- In 2017, it took MTA agencies an average of 32 business days to close a request.
- Long Island Railroad and MTA Capital Construction had the longest average time to close requests at 42 days each, followed by New York City Transit and NYC Bridges and Tunnels at 39 days each.
- MTA Bus and MTA Headquarters closed cases on average within 11 and 10 days, respectively.

- In 157 cases (8% of the total), however, requests took more than 100 business days to be closed.
- New York City Transit had the highest percentage of open requests (19%), followed by MTA Capital Construction (11%), and MTA Headquarters (9%).
- There were still 277 FOIL requests to MTA agencies from 2017 that had not been fulfilled as of the date that logs were sent (between May 30th and June 15th, 2018). On average, FOILers had been waiting 212 business days.
- As of June 15, 2018, New York City Transit had 216 unfulfilled FOIL requests from 2017. On average, FOILers had been waiting 215 business days.

Outside of requesting the MTA’s FOIL logs, Reinvent Albany has requested other information via FOIL from the MTA and found a troubling lack of responsiveness. Simple requests have often taken more than 20 days, and requests involving contracts remain unfulfilled as of the time of this report. One request for the MTA’s capital plans from 2000-2004 and the original, non-amended version of the 2005-2009 plan, which are not currently available online, was stated to take 90 days (PDFs of the 2010-2014 and 2015-2019 plans are available via the MTA’s website). Another request regarding contract data took 76 days to fulfill, and only included partial data. Another request to NYCT for an organizational chart remains open months later, despite the simple nature of the request.

Best Practices for Open FOIL and Incident Reports

The MTA lags badly behind other governments, both local and federal, in its handling of Freedom of Information Law requests. Online portals for requesting information, tracking requests, and online posting of released records provide important models for the MTA to follow. These include New York City’s Open Records Portal,⁷ the federal FOIAOnline portal,⁸ the LA Metropolitan Transportation Authority’s Public Records Request Portal,⁹ Port Authority of New York and New Jersey’s Public Records Portal,¹⁰ and data released by Montgomery County Maryland via its Open Data portal.¹¹

⁷ New York City. Open Records Portal. <https://a860-openrecords.nyc.gov/>

⁸ FOIA Online, <https://foiaonline.regulations.gov/foia/action/public/home>

⁹ LA Metro Public Records Request Portal, <https://records.metro.net/requests>

¹⁰ Port Authority of New York and New Jersey, “Public Records Fulfilled Requests.” <http://corpinfo.panynj.gov/pages/public-records-fulfilled-requests/>

¹¹ Data Montgomery, “Maryland Public Information Act (MPIA) Request Responses,” Montgomery County Government.

<https://data.montgomerycountymd.gov/Government/Maryland-Public-Information-Act-MPIA-Request-Respo/99ya-kjir>

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When it comes to freedom of information requests, the Port Authority of New York and New Jersey (Port Authority) is light years ahead of the MTA. Like the MTA, it is a large public authority that operates rail and bus transit, collects tolls and has complex sub-entities. Since 2012, the Port Authority's Public Records Access website¹² has shown the public who is making FOI requests, what they are asking for and what records they are given by the Port Authority. The former Executive Director of the Port Authority, Pat Foye (who is now the MTA's CEO/Chairman), noted the benefits of its improved records access policy: "The new FOI Code streamlines, modernizes, and clarifies an out-of-date system that was clearly not meeting the public's needs. By holding ourselves to a higher standard of transparency and by voluntarily posting online thousands of documents now, we make the agency a stronger and more accountable institution."¹³

"The new FOI Code streamlines, modernizes, and clarifies an out-of-date system that was clearly not meeting the public's needs. By holding ourselves to a higher standard of transparency and by voluntarily posting online thousands of documents now, we make the agency a stronger and more accountable institution." - Pat Foye, Former Executive Director of the Port Authority of New York and New Jersey, and current MTA CEO/Chairman

Additionally, the Port Authority is among many agencies, including the NYS DMV, NYPD, and Pennsylvania State Police, that use a separate police incidents portal for the public to privately access records, helping lessen the number of FOIL requests coming in for these reports. (Two-thirds of all MTA-related FOIL requests are for incident reports, as noted previously.)

The MTA is also not included in Governor Cuomo's "Open FOIL NY" upgrade¹⁴, which created a central portal for submitting FOIL requests to New York State agencies – 59 other agencies and public authorities such as the Economic Development Corporation. This platform includes an OpenFOIL "Reading Room" of commonly requested records.

One of the easiest ways for the MTA to show that it is serious about improving transparency is to bring its Freedom of Information Law (FOIL) process into the 21st century. This means putting it fully online with an OpenFOIL website, modeled on the

¹² <https://corpinfo.panynj.gov/pages/public-records-fulfilled-requests/>

¹³ Port Authority of New York and New Jersey. "Port Authority Makes Major Enhancements to How Agency Will Release Public Records to Provide Greater Transparency and Accountability." March 29, 2012 http://www.panynj.gov/press-room/press-item.cfm?headLine_id=1553

¹⁴ See <https://www.ny.gov/programs/open-foil-ny>
www.reinventalbany.org

successful platforms already used by LA Metro, the Port Authority of New York and New Jersey, and as developed by the Obama administration for federal agencies. It also means offloading police incident reports into a separate, private portal for those seeking only those records. Policy proposals in these areas are provided in the [recommendations section](#) of this report.

Recent MTA Transparency Efforts - Service and Performance Information

Progress on Developer Data and Real Time Service Information

Under the leadership of former Chairman Jay Walder (2009 - 2011) and with the support of the NYC tech community, the MTA began to place an important emphasis on open data, hiring developers to push out MTA trip and service data. It hired in-house open data experts to support outside developers in this work. This has resulted in a proliferation of third-party apps¹⁵ to help riders navigate the system and make smart choices about their commutes, improving the commutes of many riders.

The effort to provide trip and service information to developers has been complemented by the installation of bus and subway countdown clocks, which have helped to bring more real-time data to riders on site. The accuracy of these countdown clocks, however, relies on the sophistication of technology on each subway line. That means information on the L line, which has fully installed CBTC, is far more accurate than other lettered lines where the time only reflects what station the train most recently departed. The MTA has stated, however, that they are continually rolling out upgrades every 6 months or so.¹⁶

These efforts have unfortunately lost some steam, as the MTA's IT staff has been hit with a hiring freeze, and is potentially losing out on new, more diverse talent that could drive the initiative forward to its full potential and extend the open data efforts beyond real-time service information, such as for the MTA's budget.

¹⁵ See here for the MTA's list: <http://web.mta.info/apps/#>

¹⁶ Pastor, Jillian and Henderson, Natalie. "Think the MTA Countdown Clocks Are Off? It Might Be the Line You Ride" NBC News 4. May 2018.
<https://www.nbcnewyork.com/news/local/Think-the-MTAs-Countdown-Clocks-Are-Off-Depends-What-Line-You-Use-482199091.html>

Measuring Performance

As part of the MTA's requirements under Public Authorities Law, the MTA must set performance goals (key performance indicators or KPIs – which are also a familiar term in the private sector) in fulfillment of its mission,¹⁷ and provides regular reports on performance metrics to the MTA Board, as well as in annual reports.¹⁸

The budget that was just passed in Albany in April 2019 includes a number of requirements for the use specific performance metrics, largely borrowed from Transport for London, which are defined in law, including:

- Additional platform time
- Additional train time
- Customer journey time and excess journey time
- Elevator and escalator availability
- Major incidents metrics
- Staff hours lost to accidents
- Terminal on time-performance

On-time performance is defined as arriving within 2 minutes of scheduled time. Note that 2 minutes for the subway is very different than for Metro North and Long Island Rail Road, which are required to use the same standard though the frequency and length in terms of mileage of service are very different.

The new law also requires the MTA to publish weekly performance reports for NYCT, LIRR and MNR, as well as release of an annual report with international benchmarking on costs per mile for operating and maintenance, as well as staff and contractor hours for passenger journeys, and staff hours lost to accidents. Lastly, the law requires release of an annual implementation report for the Legislature and Governor by December 31st every year, which will be posted on the MTA website.

¹⁷ MTA Mission Statement, http://web.mta.info/mta/compliance/pdf/MTA_Mission_Statement.pdf

¹⁸ These annual reports are provided as part of the MTA's compliance website - See the 2005 report here, http://web.mta.info/mta/investor/pdf/2005_annual_report.pdf and subsequent reports here: <http://web.mta.info/mta/compliance/disclosures.html>

Current performance metrics are available on the its performance dashboards for the NYCT subways, buses, elevators and escalators; Access a Ride; LIRR; Metro North; and Bridges and Tunnels.¹⁹ These dashboards allow data to be downloaded in bulk via an excel spreadsheet file, though are not available via application programming interface (API), which would allow third-party software developers to automatically publish data in real-time as updates are made.

Overtime, the MTA's performance metrics have changed as the result of both public pressure for accuracy, as well as MTA leadership decisions. Reinvent Albany reviewed the use of subway performance indicators from 2001 to 2017 in annual performance reports (using updated information for 2018 where available), as well as the MTA's reported performance in some of these areas. The following major metrics have used in the annual reports as well as the subway performance dashboard:²⁰

- **Annual Ridership** - the number of passengers that pay a fare, either directly or via reimbursements. Free transfers are counted as additional passengers.
- **Mean Distance Between Failures** - Average number of miles a subway car travels in service before a mechanical failure makes the train arrive at its final destination later than 5 minutes (see discussion of this issue regarding operating failures earlier in this report).
- **Wait Assessment** - The percent of actual intervals between trains that are no more than the scheduled interval plus 2 minutes during peak hours (6 AM - 9 PM) and plus 4 minutes during off-peak hours (9 AM - 4 PM) and 7 PM - midnight). The data is based on a sample methodology with a 12-month rolling average (taking the average of each of the last 12 months).²¹
- **On-Time Performance** - since 2009, this has represented the percent of trains making all the scheduled station stops arriving at the destination terminal on-time, early or no more than five minutes late.
- **Major Incidents (2015 onward)** - these are incidents that delay 50 or more trains. They currently fall in to six categories (summarized):
 1. Track - Track fires, broken rails, switch trouble, and other track conditions.
 2. Signals - Signal and track circuit failures, both for conventional signals and for new technology Communications-Based Train Control (CBTC) signals.

¹⁹ MTA Performance Dashboards <http://web.mta.info/persdashboard/performance14.html>

²⁰ The annual reports do not provide the methodology for these metrics, however, they are available via the "Developer Resources" section of the website here: <http://web.mta.info/developers/performance.html> and the FAQ section of the subway performance dashboard: <http://dashboard.mta.info/Help>

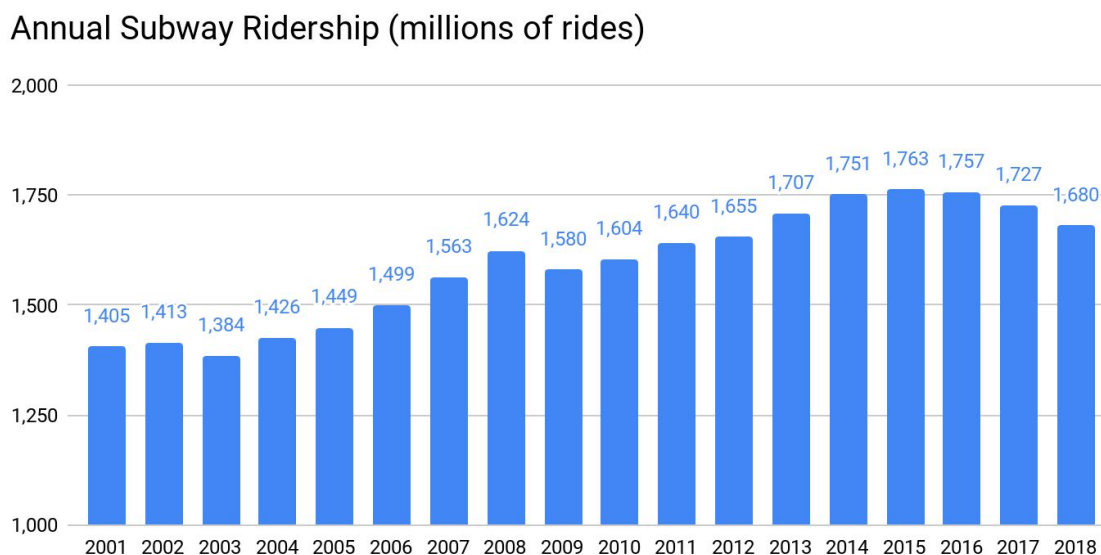
²¹ Note that the current methodology on the Subway performance dashboard notes that the standard is no greater than 25% more than the scheduled headway. <http://dashboard.mta.info/>

3. Persons on Trackbed/Police/Medical - Police and/or medical activity due to sick customers, vandalism, assault, persons struck by trains, etc.
 4. Stations & Structures - Obstructions and other structural problems, such as damage to tunnels or debris; electrical problems that aren't on trains.
 5. Car Equipment - Broken doors, seats, windows, lights, brakes, and other problems such as power or air conditioning failures.
 6. Other - Inclement weather, water conditions, external power supply failures, drawbridge openings, nearby fires, civil demonstrations, and/or parades.
- **Weekday Service Delivered (2015 onward)** - this measures the ability to deliver the scheduled service, which is measured along the busiest part of the line and reflects service across the entire line. This is reported as the percentage of scheduled trains provided during peak hours (also referred to as throughput).

The Subway Action Plan includes two new performance measure: “additional platform time” and “additional train time.” The MTA’s 2017 annual performance report notes that the indicators are “subject to periodic adjustment.” While it is important to ensure that the indicators are incisive and provide meaningful information, it obscures transparency when the motivations for changes are not fully explained.

Measuring Ridership

Figure 21²²



Since 2001, ridership on the subways steadily increased until 2015 to 1.763 billion rides. It then began to decrease to 1.727 billion in 2017. Preliminary numbers for 2018 indicate that ridership continued to decline to 1.68 billion.²³ This is a greater decrease than projected according to a July 2018 analysis by the MTA. This July 2018 analysis also speculated as to the reasons for decreased ridership, such as a rise in vehicle registration, the emergence of ride-hailing services such as Uber and Lyft, growing e-commerce with fewer local retail jobs, and increased telecommuting, among other factors. The report noted that 7 large construction projects resulted in 11% of weekday ridership declines. It also spoke to the effect of fare evasion, though noted that for the subways, it was “Not a major contributor to the overall share in declining subway ridership.”²⁴ The staff report did not discuss the effect of deteriorating service on ridership, even though Board members had asked for this analysis.²⁵

²² Reinvent Albany analysis from MTA annual reports and March 2019 Governance Meeting Materials. <http://web.mta.info/mta/compliance/disclosures.html>

http://web.mta.info/mta/news/books/pdf/190325_1530_Governance.pdf

²³ MTA. New York City Transit Committee Materials. February 2019. Page 109

http://web.mta.info/mta/news/books/pdf/190225_1030_transit-bus.pdf

²⁴ MTA New York City Transit. Ridership Trends. July 2018

http://web.mta.info/mta/news/books/docs/Ridership_Trends_FINAL_Jul2018.pdf

²⁵ Berger, Paul. “MTA Blames Uber for Decline in New York City Subway, Bus Ridership.” Wall Street Journal. July 23, 2018.

<https://www.wsj.com/articles/mta-blames-uber-for-decline-in-new-york-city-subway-bus-ridership-1532386865>

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While the July 2018 report shed partial light on the issue of decreasing ridership, the discussion at the MTA Board level revealed that members of the Board had a perhaps disproportionate concern about fare evasion versus other causes of the decrease, as they discussed this issue at length. It also dominated press and Board attention again at a December 2018 MTA Board meeting where the MTA released a follow-up report.²⁶

“Wait Assessment” as a Flawed Metric

Two other metrics used by the MTA – the “wait assessment” (how often the intervals between trains are 25% more than the scheduled headway) and on-time performance – showed steep declines as well through 2017. There have been recent gains regarding on-time performance in 2018 and early 2019, but it is unclear whether it has resulted from scheduling changes which reduced the number of trains or upgrades from the Subway Action Plan.²⁷ Performance is considered on-time if within 5 minutes of its scheduled time of arrival. MTA riders generally do not plan on particular train times, however, and it was recently revealed that the MTA definition of “good service” provided on its website also relies on this five-minute window. Planned headways vary depending on the time of day, so a train can still be considered “on-time” with “good service” posted on the MTA website even with 13-minute waits between trains at peak times.²⁸

²⁶ MTA NYCT. Fare Evasion at New York City Transit. December 2018.

http://web.mta.info/mta/news/books/docs/special-finance-committee/Fare-evasion-board-doc_181130.pdf

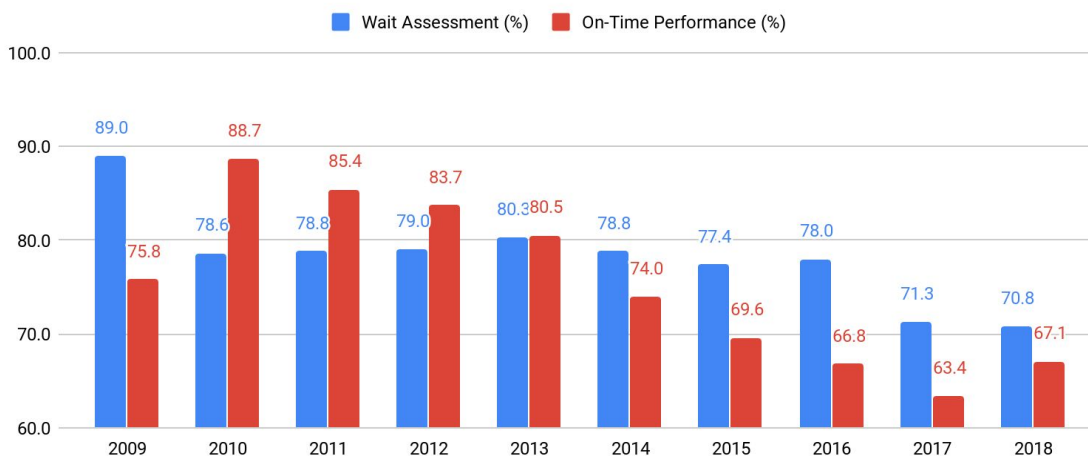
²⁷ Fitzsimmons, Emma. “Why the ‘Cursed’ Lettered Lines in New York’s Subway Are Worse Than the Numbered Ones.” March 20, 2019. The New York Times.

<https://www.nytimes.com/2019/03/20/nyregion/subway-lines-schedule-on-time.html>

²⁸ Offenhartz, Jake. “MTA Admits That ‘Good Service’ Depends On Your Definition Of ‘Good’.” Gothamist. December 27, 2018. http://gothamist.com/2018/12/27/service_so_good_its_bad.php
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Figure 22²⁹

Wait Assessment and On-Time Performance, 2009 to 2018



The wait assessment has been widely criticized for being inaccurate. While line-by-line figures are currently provided on the subway performance dashboard, this metric is averaged over the full system in annual performance reports. In two audits, the New York State Comptroller called for this metric to be weighted properly across the system, as separate lines do not have an equal numbers of stations.³⁰

The New York City Comptroller issued a recent report that shows that MTA executive staff knew the wait assessment metric was inaccurate, yet continued to use it in public settings (emphasis added): “MTA executives were cautioned that changes in Wait Assessment scores subsequently highlighted to MTA Board members were meaningless and likely the result of sample error. When technological advancements ... finally made clear that Wait Assessment scores had actually gotten worse ... *the MTA quietly restated its previous inaccurate Wait Assessment results without disclosing that its earlier declarations of progress had been wrong.* Five months later, the agency began to emphasize new metrics for reporting subway performance.”³¹

²⁹ Reinvent Albany analysis from MTA annual reports and March 2019 Governance Meeting Materials.

<http://web.mta.info/mta/compliance/disclosures.html>
http://web.mta.info/mta/news/books/pdf/190325_1530_Governance.pdf

³⁰ Office of the NYS Comptroller. Subway Wait Assessment Report 2017-F-7. October 2017.

<https://osc.state.ny.us/audits/allaudits/093018/17f7.pdf>

³¹ Office of the NYC Comptroller. “The Crisis Below: An Investigation of the Reliability and Transparency of the MTA’s Subway Performance Reporting.” February 8, 2019.

https://comptroller.nyc.gov/reports/the-crisis-below-an-investigation-of-the-reliability-and-transparency-of-the-mtas-subway-performance-reporting/#_ftn2

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There is a cultural problem at the MTA in which staff deliberately reports information known to be inaccurate when it suits the narrative staff wants to project. This practice must stop, as it appeared time and time again, as shown in the following sections.

The Blame Game

Performance data does not always speak for itself, and the MTA has engaged in deliberate misleading of the public regarding this data. A New York Times investigation from 2017 interviewed three former high-ranking subway officials who said that before final delay reports are issued, M.T.A. departments argue about who should be blamed, with reports reflecting more on a department's arguing ability than on its actual performance.³² This culture must change if the MTA would like to fulfill the promises made by the *Fast Forward* plan to become an accountable institution that puts riders first and emphasises transparency.

Blame Game Part I: Riders

The public is rightfully skeptical about the data the MTA releases about its performance, there are numerous public accounts of staff manipulating data to obscure poor performance. Even more damagingly, the riders themselves have been wrongly blamed for service delays.

In 2017, at the recent low for service delivery, an MTA report showed that more than 111,000 delays were classified as due to “overcrowding” in the first four months of 2017 alone, representing 37 percent of all delays, even though month by month totals did not show a correlation with increased ridership. The same year, a New York Times investigation noted that “New York politicians and transit leaders have seized on the figures to suggest that most of the subway’s problems come down to its popularity.”³³ Further, as noted in the ridership totals, another New York Times investigation noted that while increases occurred on an annual basis, weekday ridership was relatively flat. Overcrowding became a catch-all category for delays without a clear cause, with the

³² Rosenthal, Brian; Fitzsimmons, Emma; and LaForgia, Michael. “How Politics and Bad Decisions Starved New York’s Subways.” November 18, 2017. New York Times.

<https://www.nytimes.com/2017/11/18/nyregion/new-york-subway-system-failure-delays.html>

³³ Rosenthal, Brian; Fitzsimmons, Emma; and LaForgia, Michael. “How Politics and Bad Decisions Starved New York’s Subways.” November 18, 2017. New York Times.

<https://www.nytimes.com/2017/11/18/nyregion/new-york-subway-system-failure-delays.html>

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MTA neglecting to mention that some delays are caused by equipment failures or track work that disrupts regular service, in turn resulting in crowding on platforms.³⁴

NYCT President Andy Byford has since stated that overcrowding as a metric is “not particularly meaningful” and vowed to provide the public with more detailed information.³⁵ The New York City Comptroller’s Office has stated that eliminating the metric is not enough, as “systemic deficiencies remain embedded in the MTA’s performance reporting and continue to obscure the true causes of delays.”³⁶ The Comptroller report on performance data went further to state that the MTA must release detailed methodologies of its performance metrics, such as what underlying data is included and what omitted, and that underlying datasets used to create the public performance data should also be released to the public.

Beyond delays, fare evasion as a cause of declining ridership has seem to be the current placeholder for blaming subway riders, who have faced decreasing service, for the MTA’s troubles. A report released in December 2018 on fare evasion was criticized for its opaque methodology and limited datas, particularly as advocates and Board members have sought statistics on fare evasion as it relates to police enforcement for years.³⁷

The total impact of fare evasion was cited as causing a loss of \$215 million in 2018 – with the recent increase in fare evasion on the subways resulting in \$53.1 million in additional losses, and for the buses a decrease of \$57 million in revenue (fare evasion for buses was higher at 17.2% of riders, versus 3.2% of subway riders).³⁸ While the report notes other transit systems see evasion on average at 2.1%, discussion around the \$215 million loss by the MTA Board did not consider whether the total amount is recuperable, and ignored that it is a drop in the bucket of the MTA’s \$17 billion operating budget.

³⁴ Pearce, Adam. “How 2 M.T.A. Decisions Pushed the Subway Into Crisis.” May 9, 2018. New York Times. <https://www.nytimes.com/interactive/2018/05/09/nyregion/subway-crisis-mta-decisions-signals-rules.html>

³⁵ Nir, Sarah Maslin and Rosenthal, Brian “‘Overcrowding’ Is Not at the Root of Delays, Subway Chief Says.” New York Times. February 20, 2018. <https://www.nytimes.com/2018/02/20/nyregion/subway-delays-overcrowding.html>

³⁶ Office of the NYC Comptroller. “The Crisis Below: An Investigation of the Reliability and Transparency of the MTA’s Subway Performance Reporting.” February 8, 2019.

³⁷ Jones, David. “Fight Fare Evasion with Affordability, not Policing.” The Community Service Society. December 13, 2018. <http://www.cssny.org/news/entry/fight-fare-evasion-with-affordability-not-policing>

³⁸ MTA NYCT. Fare Evasion at New York City Transit. December 2018. http://web.mta.info/mta/news/books/docs/special-finance-committee/Fare-evasion-board-doc_181130.pdf

Blame Game Part II: Outside Actors - Con Edison

Outside actors have also been used as scapegoats for the MTA for performance problems, as a New York Daily News investigation showed in January 2018 regarding power failures and service delays. After an investigation into subway power failures due to Con Edison – an electric utility – the Governor Cuomo’s office and leadership at New York City Transit revised MTA delay data to make power failures appear to be a more prominent cause of subway delays. The Daily News obtained emails from July 2017 wherein NYCT chief of staff Naomi Renek wrote to staff asking for a higher delay number on subway incidents related to power problems. By “expanding” the definition of such incidents, staff were able to work the number up to 32,000 incidents, all of which were blamed on Con Edison by the Governor the following August.

But internal emails later revealed that the MTA staffer asked to expand the definition believed that ConEd had actually only been at fault for 3,422 power-related delays – slightly more than a tenth of the stated number.³⁹ The emails’ release came too late for Con Edison, however – the company will ultimately pay \$202 million in repairs, as ordered by the Public Service Commission, which regulates utilities in the state.

Ensuring Credible Performance Metrics

Making sure that performance metrics of the MTA are credible should involve more than simple tweaks to individual metrics, and must be done as part of an overall commitment to [open data, as discussed later in this report](#). The New York City Comptroller’s Office recent report⁴⁰ on performance data includes a number of recommendations to given the public greater confidence in the MTA’s numbers, including:

³⁹ Rivoli, Dan. “MTA brass pushed link between subway delays and power problems, causing Cuomo to blame Con Edison.” New York Daily News. January 21, 2018.
<https://www.nydailynews.com/new-york/mta-brass-pushed-link-subway-delays-power-problems-article-1.3769202>

See also August 2017 Press Release, “Governor Cuomo Announces State Orders Con Edison to Take Immediate Action to Guarantee Power Reliability Across the Subway System”
<https://www.Governor.ny.gov/news/Governor-cuomo-announces-state-orders-con-edison-take-immediate-action-guarantee-power>

⁴⁰ Office of the NYC Comptroller. “The Crisis Below: An Investigation of the Reliability and Transparency of the MTA’s Subway Performance Reporting.” February 8, 2019.

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1. Structure public reporting of performance information to maximize transparency, reliability, and accountability and, as part of this effort, report all delays on its subway performance Dashboard.
2. Publish detailed definitions of all delay categories, specifically indicating what each one includes and, as necessary, omits.
3. Ensure that all procedures relevant to performance reporting are formally codified in official policies and procedures, including establishing written definitions and instructions for all key terms, data categories, and work protocols.
4. Train all relevant personnel on procedures relevant to performance reporting.
5. In the context of public reports of Major Incidents, provide the public with information about all categories of service disruptions that cause 50 or more delays tracked as incidents within Subway Incident Reporting System, including specifically Planned Work.
6. Transparently disclose in each Monthly Operations Report and on the MTA's subway performance Dashboard the methodologies used to calculate performance metrics, including all exceptions and revisions to those methodologies and methodological weaknesses.
7. Make available monthly on the MTA's website or through an Open Data portal all data in the SIRS database and any other databases relied on for public reporting.

The MTA should consider these recommendations, we well as the policy proposals in our [recommendations section on transparency](#).

Budget and Capital Plan Transparency

Transparency at the MTA is a tale of two agencies. The MTA has done great things with rider service data, like real-time train arrivals and Bustime. But its fiscal transparency has lagged. It remains difficult for even informed members of the public to fully understand what the MTA spends its money on and who benefits from MTA spending. Despite the Public Authorities Reform Act (PARA), large amounts of MTA spending and activity is opaque and potentially at risk for corruption, insider dealing or pay-to-play.

Budget Information Locked Behind PDFs

Currently, the MTA publishes its budget information in PDF file format form, which is not readable by spreadsheet software. This means members of the public need to “scrape” or convert the pdf document into a spreadsheet form or hand-type endless columns of numbers. This makes it very hard for the public to check the MTA’s math and gain real insights from MTA budget reports. Data in PDF format is not open government, it is fake transparency in the age of open data.

The MTA’s annual budget documents include important information, ranging from revenue sources, operating budgets for each of the MTA’s individual agencies, position counts in agency departments, commitments to individual capital projects and forecasts for future. Yet the MTA does not succinctly report whether actual revenues and expenditures have matched up with their projections.⁴¹

Back in 2012 and again in 2014, Reinvent Albany and members of the NYC Transparency Working Group asked the MTA in writing⁴² to make all financial data provided in board books available in CSV spreadsheet form. This would further compliance with Executive Order 95,⁴³ which created the NYS Open Data Portal and requires state authority data to be proactively released on the portal. Reinvent Albany also made recommendations to the MTA Transportation Reinvention Commission, asking it to adopt transparency as a core organizational value.⁴⁴

⁴¹ See the MTA’s most recent budget document, the 2019 Adopted Budget and 2019-2022 Financial Plan Adoption Materials, as approved December 2018.

<http://web.mta.info/mta/news/books/docs/MTA-2019-Budget-2019-2022-Financial-Plan-Adoption.pdf>

⁴² Summary of communications available at: <https://reinventalbany.org/2014/07/reinvent-mta-transparency/>

⁴³ Governor Cuomo. Executive Order 95.

<https://www.Governor.ny.gov/news/no-95-using-technology-promote-transparency-improve-government-performance-and-enhance-citizen>

⁴⁴ Reinvent Albany. Make Transparency a Core Value of the MTA: Recommendations for MTA Reinvention Commission” July 17, 2014.

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Despite meetings with senior MTA leadership to discuss making the budget machine readable and the MTA's current open data initiatives, nothing further has happened. When probed at an oversight hearing by the State Senate regarding publishing its budget in open data format, staff stated that it had no plans to do so. This is not acceptable given that the MTA is subject to Executive Order 95. It is also perplexing given that Governor Cuomo's NY Open Budget website⁴⁵ presents all tables in the state budget in an machine readable and downloadable CSV format, in some areas going back all the way to 1994. The code of this platform is available in an open source format, and could easily be adapted by the MTA for its own information.

Public and MTA Board Can't Track Capital Project Delivery

The way that the MTA currently presents information about its capital plans does not allow the public and stakeholders to track whether projects are completed on-time and on-budget. This presents a large accountability problem, as late and over-budget projects have real impacts for the public as riders and taxpayers. What information is provided is not intended for general public consumption, but rather for the MTA Board or staff. Even so, MTA Board members – volunteers without their own staff – have continually struggled with the amount of information they need to review in order to fulfill their fiduciary duty and perform their mandated oversight role, as the information they receive about progress is both overwhelming and incomplete at the same time. The MTA needs to drastically improve its transparency of capital plans, so that the public and MTA Board can connect the dots and hold them accountable.

These concerns are not new. In 2009, Citizens Budget Commission (CBC) conducted a thorough review of the MTA's implementation of its capital plans called *Working in the Dark*⁴⁶ which revealed that the MTA is vague about the exact status of its many projects. Due to the report and the work of CBC and others such as the Permanent Citizens Advisory Committee to the MTA (PCAC), the MTA has since created the Capital Dashboard, which tracks implementation of projects and publishes some data in downloadable format. The dashboard is a good step, but needs improvements to be truly useful as an accountability tool, and the MTA should re-engage with stakeholders about how to improve it.

https://reinventalbany.org/wp-content/uploads/2014/07/07172014_ReinventionMTA_Hearing_Transparency_testimony.pdf

⁴⁵ NY Open Budget. <https://openbudget.ny.gov/>

⁴⁶ Available at: https://cbcny.org/sites/default/files/MTA_Capital_Report.pdf
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It is not a coincidence that it is so difficult to track whether the MTA is living up to its promises on its capital plans; all of these projects are decided upon in a highly politicized environment. Political actors do not have an inherent interest in making decisions transparently, and the consequence is that details are often buried. The MTA's current reporting on implementation of its capital plans creates an accountability gap in which the MTA Board and public cannot properly hold the MTA accountable for delivery on capital projects. Reinvent Albany has identified the following major concerns regarding the MTA's reporting of capital program information:

- Reporting is scattered through myriad reports, almost entirely in PDF documents, providing the semblance of transparency without meaningfully allowing the public to connect the dots and see trends or changes over time. Information is reported inconsistently and often without data such as contract numbers and “needs codes” to identify the type of project (state of good repair versus expansion, for example).
- The goalposts for projects are moved as schedules and costs are often re-baselined, preventing the public from seeing the true scope of schedule and cost changes to budgets and contracts. This can be seen in the Capital Program Oversight Committee (CPOC) materials and the Capital Dashboard, where the current budget is provided on the first page you see rather than the original budget.
- Capital plans are amended and changed due to changing fiscal conditions as well as directives from the Governor, such as the recent Subway Action Plan. Projects may be added, merged or deferred to future plans, and this process is not easy to follow through the MTA's reporting of changes.
- It is unclear if the MTA is learning from both its successes and failures. Some projects come in on time or ahead of schedule, or have cost savings from favorable bids, but this information is hard to find. By not showing the complete picture for all projects, both the good and the bad are buried.

Monthly, quarterly, and even annual reports obscure changes to projects overtime, as they are often re-baselined based on current projections rather than original budget information, effectively showing less significant changes. These reports also don't provide a complete view of a project's success. Staff at times does attempt to summarize major changes, providing good detail in some cases and not enough in others. But the Board also relies on staff to reveal gaps in performance – something staff may not have the incentive to do.

Open Data Compliance

The MTA is not using best practices for open government such as fully open data standards. Indeed, many of its reports have been done the same way for more than a decade, despite changing expectations from the public about transparency and the widespread adoption of open data.

The MTA is subject to Executive Order 95, which requires it to post its public, tabular data on the state’s open data portal, data.ny.gov.⁴⁷ Yet, there are only 75 datasets on the website, a relatively small amount for the largest government service provider in the state. The New York State Department of Health, in contrast, has 538 datasets on the portal, and has emphasized the liberation of health data, winning the praise of open government advocates and national foundations.⁴⁸ The MTA’s datasets include various subway line maps, subway exit and entrance information, turnstile usage, traffic reports for the MTA’s bridges, the list of contract solicitations from the MTA “Eye on the Future” newsletter (for years 2018 and 2019), Capital Dashboard information, Customer Feedback Data, and certain Ridership data, among other datasets. Yet this information is only a tiny subset of the wealth of data collected and maintained by the MTA.

While raw data from the MTA Capital Dashboard is included in the state’s portal, it does not appear to be updated as frequently as the dashboard on the MTA website. It also appears that updates to datasets override prior data, and older reports are not archived. This means users do not see how the status of a project has changed over time, obscuring delays and cost overruns.

⁴⁷ For the MTA’s datasets, see:

https://data.ny.gov/browse?Dataset-Information_Agency=Metropolitan+Transportation+Authority&utf8=%E2%9C%93

⁴⁸ Reinvent Albany. “Surge in Health Data Innovation: \$2M Data Challenge and Leading Role for NYS.” September 2013

<https://reinventalbany.org/2013/09/knight-news-challenge-for-health-innovation-begins/>
www.reinventalbany.org

The MTA Has Limited Data On Riders and their Concerns

The MTA has surprisingly limited information about its customers and their concerns, according to what has been publicly released. Data on rider demographics can help the MTA better understand a number of matters, such as who is most affected by police bias, or to what extent MTA staff and Board reflect the passengers that they serve. Yet the MTA appears to have not conducted a public study of who rides the subway since 2008. In 2008, the MTA conducted a travel survey, which sought to “integrate household and demographic data” with travel data, allowing the MTA to make better planning decisions.⁴⁹ This survey provided some important information about the demographics of MTA riders, including median income race and age, yet is now a decade old.⁵⁰ Nothing on LIRR riders has come out publicly since 2014, while data for the MNR is virtually nonexistent.⁵¹

The MTA also conducts customer satisfaction surveys for its separate agencies, and has a general customer satisfaction survey on its website.⁵² These attempt to understand riders’ opinions, but as these are developed by MTA staff, they are not an independent assessment of rider concerns.

Bridges and Tunnels reviewed its 2017 survey at a April 2018 committee meeting of the MTA Board.⁵³ The report on the survey results broke down satisfaction by individual facility, included a discussion of the methodology, and in some areas provided data from years 2013 to present. The staff reported that they are seeking to reduce the number of “very unsatisfied customers,” around the cashless tolling transition, but the report did not present next steps about how to improve customer satisfaction in any other area.

⁴⁹ MTA Surveys: Facts and Findings. NYMTC Brown Bag, March 12, 2014. https://www.nymtc.org/portals/o/pdf/presentations/MTA%20Survey%20NYMTCBrownBag_03122014.pdf

⁵⁰ MTA. 2008 New York Customer Travel Survey. August 2009. <http://web.mta.info/mta/planning/data/NYC-Travel-Survey/NYCTravelSurvey.pdf>

⁵¹ See MTA “Planning” website, <http://web.mta.info/mta/planning/>, and MTA 2008 Customer Travel Survey, http://web.mta.info/mta/planning/docs/MTA%20Travel%20Survey_061709.ppt

⁵² MTA. Online Customer Satisfaction Survey, <http://www.mta.info/welcome-mtas-online-customer-survey-initiative>

⁵³ MTA. Bridges and Tunnels Committee. April 2018 Meeting Materials. http://web.mta.info/mta/news/books/archive/180423_1130_B&T.pdf

The utility of the survey must therefore be questioned if there are not clear findings or next steps for improvement.

For New York City Transit, subway riders are asked to weigh in about station conditions in three areas for its “Passenger Environment Survey” (PES): physical appearance, equipment and information. This information is reported in its performance dashboard.⁵⁴ New York City Transit has in the past conducted “Rider Report Cards” for individual train lines to solicit rider feedback, but that practice has not been continued.⁵⁵

The Fast Forward plan contains a customer satisfaction component, the “Customers Count” Customer Satisfaction Report⁵⁶ which includes reporting customer satisfaction scores on bus, subway and paratransit⁵⁷ (federally mandated service for disabled riders, called Access-a-Ride, which includes door-to-door service) by the end of 2018, as well as creating a new website and app. The website and app are currently in beta form, however, and the website directs you to the old customer feedback portal. The NYCT Committee received in January 2019⁵⁸ the second quarterly report on the “Customers Count” satisfaction report. Similar to the Bridges and Tunnels report, no clear next steps were provided regarding how the MTA staff can make improvements.

The MTA also has a customer feedback portal on its website⁵⁹, and receives comments and complaints through phone hotlines. The portal allows users to select particular agencies for their comments, dividing the information into five sections: “commendation,” “complaint,” “request,” “suggestion,” and “other.” This portal is also used for FOIL requests. Data from this system is reported on the NY Open Data portal from 2014 to July of 2018.⁶⁰ It is unclear, however, if the MTA Board has recently received a presentation about what can be gleaned from this data.

⁵⁴ See the performance dashboard at: <http://dashboard.mta.info/>

⁵⁵ NYCT. Press Release. “7 Rider Report Card Grades Are In. August 30, 2007.” <http://www.mta.info/press-release/nyc-transit/7-rider-report-card-grades-are>

⁵⁶ MTA NYCT. Fast Forward Plan. Customer Service and Communication. <https://fastforward.mta.info/customer-service-communication>

⁵⁷ For more information see MTA Guide to Paratransit, <http://web.mta.info/nyct/paratran/guide1.htm>

⁵⁸ MTA. NYCT Committee materials, January 2019. See page 213. http://web.mta.info/mta/news/books/pdf/190122_1030_transit-bus.pdf

⁵⁹ MTA Customer Service Portal, <https://mta-nyc.custhelp.com/app/ask>

⁶⁰

The MTA Must Better Understand Itself - Asset Management

As the largest service provider in New York State, the MTA should know what assets (valuable equipment which provides transit services) they own what condition they are in. Without an accurate inventory of assets, it is impossible to calculate how much maintenance is needed or expense required to achieve a state of good repair. In spite of these needs, it appears that the MTA has largely developed its asset management program in response to federal requirements, rather than upon its own initiative.

The MTA is required to abide by federal guidelines, as it receives federal funds for a number of its projects. These guidelines largely come from the Federal Transportation Administration (FTA), an agency within the U.S. Department of Transportation that administers funding.⁶¹ One major federal requirement is for asset management - a system used to develop an inventory of the MTA's "assets," which includes everything from subway cars to repair equipment, their value, and needed repairs.

In 2016, the FTA issued regulation CFR Part 625, which created new requirements in the Transit Asset Management (TAM) plan process for recipients of federal funding for public transportation systems.⁶² The TAM is defined as a "business model that uses the condition of assets to guide the optimal prioritization of funding at transit properties in order to keep our transit networks in a State of Good Repair (SGR)."

As the manager of the largest transit system in the country, the MTA is a "Tier I" provider, and responsible for implementing the full scope of requirements, including:

1. Inventory of Capital Assets
2. Condition Assessment
3. Decision Support Tools
4. Investment Prioritization
5. TAM and State of Good Repair (SGR) Policy
6. Implementation Strategy
7. List of Key Annual Activities

⁶¹ Federal Transportation Administration. About FTA. <https://www.transit.dot.gov/about-fta>

⁶² FTA Presentation on Transit Asset Management, July/August 2016.

https://www.transit.dot.gov/sites/fta.dot.gov/files/TAM%20Final%20Rule%20Presentation%20NewMaster_111816.pdf

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8. Identification of Resources
9. Evaluation Plan

The MTA has discussed asset management strategies at the Board level under past and current leadership. According to the publicly available board materials, the MTA has deliberated on this issue as far back as at least 2013.⁶³ A presentation from that time notes New York City Transit’s goals to move toward “whole life asset management” with a \$5.6 million federal grant awarded to MTA to procure new IT systems to support new software.

In response to the new federal requirements, the MTA announced a \$43 million effort to overhaul how asset management was handled, creating its current system, known as Enterprise Asset Management (EAM).⁶⁴ The goals of the new system were reported as the following:

- Upgrade and integrate systems to capture full asset life-cycle costs, including costs for acquisition, operating and maintenance, renewal and rehabilitation, and disposal;
- Standardize asset management policies, plans and processes across agencies;
- Systematize the documentation of asset condition, criticality and risk assessment, and develop proactive maintenance and outage practices;
- Improve work order management, reduce incidents, failures and defects;
- Streamline material management and facilitate better integration of capital and maintenance activities; and
- Develop organizational proficiencies, culture principles, and skill-sets necessary to sustain asset management as business as usual

The MTA’s amended 2015-2019 capital plan⁶⁵ notes the EAM and the challenges the MTA faces regarding its assets: “...upkeep of a \$1 trillion asset base in a 24/7 system is costly and complex. That’s why today we’re implementing the principles of ‘Enterprise Asset Management,’ or EAM, across the entire MTA—a whole-life approach to asset management, guided by new federal legislation and international standards. EAM

⁶³ New York City Transit. Implementing Transit Asset Management. April 22, 2013.

<http://web.mta.info/mta/news/books/docs/130422AssetMgmt.pdf>

⁶⁴ MTA. November Financial Plan. 2016-2019.

<http://web.mta.info/news/pdf/Presentation%20-%20MTA%202016%20Final%20Proposed%20Budget%20November%20Financial%20Plan%202016-2019.pdf>

⁶⁵ MTA. 2015-2019 Capital Plan. As amended May 23, 2016.

http://web.mta.info/capital/pdf/ArchivalReports/2015-2019_Capital_Program/WEBApproved2015-2019Program-May2016.pdf

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introduces a more systematic approach to asset upkeep that will keep our assets running longer, with less downtime and at lower costs.”

In total, the MTA allocated \$63 million for EAM systemwide as part of its 2015-2019 capital program support costs: \$41 million for NYCT, \$4 million for Bridges and Tunnels, \$8 million for LIRR, and \$13 million for MNR.

The MTA Board approved in March 2016⁶⁶ a contract for software to support the EAM system, awarding a nearly \$27 million contract to Sygma Technology/INFOR for a 10-year period. The MTA used a Request for Proposals (RFP) process, publicly advertising the contract and sending the proposal to 84 firms; 6 proposals were received, with 2 firms selected by the MTA to make oral presentations. The MTA’s Selection Committee determined that Sygma Technology/INFOR was “the most qualified and best suited to provide this software and maintenance.”

INFOR publicized this award on its website⁶⁷, noting that the EAM system will standardize asset management, and provide managers with analytical tools to handle maintenance, strategic planning and reliability initiatives. They also note steps the MTA is taking to use the software:

“To facilitate the standardization of such an asset-rich organization, the MTA has created a Program Management Office (PMO) to help manage Enterprise Information, Asset Management and Strategic Innovation. The primary mission of the PMO is to develop a blue print for a long-term asset management strategy that can be implemented agency-wide to lower costs, improve inventory and deliver efficiency. By partnering with Infor EAM, the MTA anticipates improved reliability, greater transparency and an extended asset lifecycle through predictive maintenance. The implementation is also projected to improve safety and customer satisfaction for riders by creating a more resilient infrastructure that operates based on repeatable, industry best practices.”

In speaking with stakeholders on this issue, they noted to Reinvent Albany that the shortcomings of the federal TAM requirements relate to the lack of enforcement ability by the FTA. Plans will need to be assessed based on the definitions used by agencies for

⁶⁶ MTA Board. March 2016 Board Book. See Page 40 for Infor contract.

http://web.mta.info/mta/news/books/archive/160323_1000_Board.pdf

⁶⁷ Infor. “New York MTA Selects Infor EAM to Modernize Asset Management.” April 27, 2016.

<https://www.infor.com/news/new-york-mta-selects-infor-eam-to-modernize-asset-management>
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terms such as “good condition” for example, as they may not be standardized nationwide. New York City also has unique challenges; because its asset base is so old, it will be important to determine if assessments have been re-engineered in light of continual repairs over the years, and therefore it will be important to question the veracity of lifespan assessments. Despite these concerns, the MTA is likely to have one of the best submissions in the country due to it having the most staff and sophistication given its large size.

As noted previously, the MTA last conducted a 20-year needs assessment in 2013⁶⁸ for 2015-2034. This assessment informed its 2015-2019 capital plan and focused on two areas: rebuilding and expanding the system. The rebuilding component is as close to a public articulation of a state of good repair needs system wide as has been released by the MTA outside of its regular capital planning process.

The 2015-2034 needs assessment was criticized by the Citizens Budget Commission (CBC)⁶⁹ as being a planning document rather than a comprehensive report on the current condition of MTA assets, as it failed to live up to inventories that had been conducted under past leadership. The inventories by Dick Ravitch, Chairman of the MTA in the 1980s, were credited as providing the foundation for the MTA to request additional state funding to repair a broken system. CBC called on the MTA to develop a better asset inventory, and notes a potential model for the MTA to follow – Section 1110-a of the New York City Charter, which creates an annual Asset Information Management System Report, also known as AIMS. AIMS includes a full inventory of NYC agencies' capital assets, detailing for each component the date of construction or reconstruction, original cost, and a professional assessment of its remaining useful life and replacement cost.

The MTA is currently negotiating its first TAM plan submission, which was filed with the Federal Transit Administration (FTA) prior to the October 1, 2018 deadline. Additionally, the MTA is expected to release a separate 20-year needs assessment in advance of discussions around the next capital plan for 2020-2024. It remains to be seen what the MTA's asset plans will contain, and whether it will fulfill its stated goals.

⁶⁸ MTA. Twenty-Year Needs Assessment, 2015-2034. October 2013.
<http://web.mta.info/mta/capital/pdf/TYN2015-2034.pdf>

⁶⁹ Citizens Budget Commission. “The MTA’s Closely Guarded Secret.” December 2017.
<https://cbcnyc.org/advocacy/mtas-closely-guarded-secret>
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There should also be concerns about the future of the EAM program, as the approved 2019 budget for the MTA contains reductions in staffing and scope. The total impact of the budget reduction program for EAM program in 2019 by agencies is: NYCT (36 staff), LIRR (3 staff), SIR (1 staffer), Bridges and Tunnels (no staff counts provided).⁷⁰

Without publicly releasing the MTA's 20-year needs assessment or TAM submission to the FTA, the public is not able to assess whether the EAM program is successful. These plans should be publicly released in open data format. See our policy proposals on this area in the [recommendations section of this report](#).

⁷⁰ LIRR Budget Reduction Program, December 2018
<http://web.mta.info/mta/news/books/docs/special-finance-committee/LIRR-BRPs.pdf>
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Capital Program Review Board

The MTA Capital Program Review Board (CPRB) is charged with approving 5-year capital plans and its amendments, and monitoring their implementation. The CPRB was created in the 1980s as a component of the bail-out of the MTA by state government, with the goal of providing oversight of the capital plans.

The CPRB's voting appointees - one by the Governor, one by the majorities of each house of the legislature, and one by the Mayor - have used their approval authority in the past to seek changes to the capital program by holding up its approval. Most recently, the Republican Senate appointee to the CPRB held up approval, seeking improvements to the plan for Long Island Railroad.⁷¹ New York City Mayor Bill de Blasio has also stated that he would consider using the veto of the capital program, citing lack of accountability for the funding that city has provided in the past.⁷²

The CPRB currently operates behind closed doors and has no website (though it briefly had one in 2009-2010 via the NYS Senate website, including video of a hearing and a public comment form⁷³), and only does business for approval of the 5-year capital plan and associated amendments. It does not currently meet publicly, but rather via phone, and does approvals via signatures on a letter that accompanies the MTA's submitted documents.⁷⁴ While the CPRB last convened on May 31, 2018 to approve an amendment to the 2015-2019 plan, it did not meet publicly, likely in violation of the New York State Open Meetings Law.⁷⁵

⁷¹ Dowd, Joe. "MTA pulls third track plan over Republican veto threat." Long Island Business News. July 1, 2017. <https://libn.com/2017/07/01/mta-pulls-third-track-plan-over-republican-veto-threat/>

⁷² Hicks, Nolan. "De Blasio threatens to use veto power to force subway overhaul." New York Post. September 28, 2018.

<https://nypost.com/2018/09/28/de-blasio-threatens-to-use-veto-power-to-force-subway-overhaul/>

⁷³ NYS Senate Capital Program Review Board Website accessed via Wayback Machine, <https://web.archive.org/web/20091209004636/https://www.nysenate.gov/committee/mta-capital-program-review-board-cprb>

⁷⁴ Interview with staff representative of CPRB.

⁷⁵ For more information, see the Committee on Open Government,

<https://www.dos.ny.gov/coog/openmeetinglawfaq.html>

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Recommendations for 21st Century Transparency at the MTA

Transparency should be adopted as a core value at the MTA and applied to all aspects of its operations. It is clear that the MTA has trouble providing complete information to both the MTA Board and the riders, especially when the truth makes for bad optics. By disclosing so much information in PDF form, the MTA is only providing a facsimile of transparency, rather than transparency that could lead to genuine improvements. The MTA needs to more clearly understand its own needs, and should update and publicly release more information about its own assets and rider demographics.

Open FOIL

1. The MTA should adopt an Open FOIL platform using best practices from other jurisdictions such as LA Metro and the Port Authority of NY/NJ and within New York State such as NYC Open Records. This will vastly increase the efficiency of the MTA's FOIL process and produce significant cost savings and better service for the public. Making all responses publicly available in a searchable and machine-readable format will reduce the staff time required to process in duplicative requests. With an automated dashboard system, managers will also have a complete picture of their FOIL compliance at all times. The OpenFOIL portal should have the following features:
 - a. A central portal for the public to submit information requests to all MTA subsidiaries/affiliates and view all public requests, expanding upon the open source software from the NYC Open Records portal to include:
 - i. The names and organizations of those who submit requests
 - ii. Public tracking of the status of all requests
 - iii. Notifications to requestors and FOIL staff
 - iv. Posting of communications by FOIL staff regarding the status of requests, and release or denial of information
 - v. Automatic posting of records released in machine-readable formats
 - vi. Searchability of requests, communications, and released records creating ease of use for individuals looking for records
 - b. Links to a new, online portal for MTA Police Incident reports

- c. Requests sent to the wrong MTA agency automatically forwarded to the correct agency.
 - d. A public directory of MTA FOIL Officers, including email and phone.
 - e. Access via API to all FOIL portal data.
 - f. MTA FOIL Performance Metrics, per FOIAOnline:
 - i. Requests Received, Processed, and Pending
 - ii. Median Number of Days for Processed Perfected Requests
 - iii. Requests Fully Granted
 - iv. Requests Partially Granted/Partially Denied
 - v. Requests Fully Denied
 - vi. Number of Denials Based on Exemptions
 - vii. Number of Denials Based on Reasons Other than Exemptions
 - g. Annual report to MTA Board on MTA FOIL operations, performance and plans for improvement.
 - h. The MTA should use FOIL requests to prioritize proactive release of MTA information and create a fully searchable “Reading Room” of frequently requested files, which should be made available in open data formats.
 - i. Relevant Data Sets should be posted to the NYS Open Data Portal including:
 - i. Current and historic FOIL requests from the portal
 - ii. MTA FOIL Performance Metrics
 - iii. Any tabular data released via FOIL responses
2. The MTA should create an in-house MTA Police incident reports portal, using the models from the NYS DMV and Pennsylvania State Police, allowing the public to privately request incident reports online. This should be publicized on the MTA Open FOIL portal. This portal could save the MTA significant time processing other FOIL requests, given that two-thirds of current FOIL requests involve incident reports.

Open Data

The MTA must embrace open government standards such as fully open data for its contracts, performance, capital plans, budget documents, and Board materials. This should include:

- 3. Fully complying with Executive Order 95, requiring the publishing of all public MTA data on the New York State Open Data portal.

- a. The legislature should consider legislation to codify Executive Order 95's requirements for the MTA.
4. Releasing all underlying datasets that are used to create MTA performance metrics, with full release of methodologies for metrics and delay categories and API access to all performance and delay data
5. Creating a contracts database that provides full and complete information about projects. All data should be available for bulk download and with API access. Data provided in the database should include:
 - a. Contract numbers and vendors, including subcontractors
 - b. Contract terms
 - c. Original planned costs (from capital plans and expense budget)
 - d. Original contract value
 - e. Current contract value
 - f. Complete information on contract amendments, including number and size of amendments
 - g. Bidding process used (RFP, IFB, single source, etc), including number of bids
 - h. Competitive/non-competitive procurement
 - i. Options for future contract orders
 - j. MWBE/DBE information
 - k. Funding levels from federal, state and city
 - l. Capital project IDs and needs codes (this would allow users to determine if projects are intended for for state of good repair, normal replacement, etc).
6. Providing all data for MTA Board and Budget materials well in advance of meetings in open formats. All summary tables and project-specific details should be provided in machine-readable, CSV spreadsheet form.
7. Creating an MTA "Open Budget" website for the MTA's budget information, similar to the state Open Budget NY site. All data should be available for bulk download and with API access.

Improving Budget and Capital Plan Transparency

The successful implementation of the MTA's budget and capital plans is crucial to public confidence in the MTA, particularly in a climate of worsening service and continued funding challenges. New York City Transit has ambitious plans to upgrade its system,

including major improvements to its signals systems through the Fast Forward Plan, but without proper transparency, the public cannot hold the necessary officials accountable.

The MTA must provide a complete picture of the performance of individual projects, always attaching original project schedules and costs rather than re-baselined information that hides the original costs with “current” information, essentially moving the goalposts. Ideally such reports would include yearly trends and performance reviews for the various categories and elements of each key area. Recommendations in this area are provided below for specific documents and projects.

Budget and Capital Plan Transparency

8. Capital Planning Oversight Committee (CPOC) Materials should be improved through the following steps:
 - a. Release all CPOC data in machine-readable, CSV spreadsheet form.
 - b. Data on projects should always include original project schedules and budgets – when projects are re-baselined each year with a new yearly goal, it is difficult to track the changes to projects over time.
 - c. All current projects should be listed in the “Traffic Light” report, including those in the CPOC’s Risk-Based Monitoring Program, to allow for consistency and comparability between all projects.
9. Budget Documents should be made open and more complete:
 - a. Release all budget data in open formats. All summary tables and project-specific details should be provided in machine-readable, CSV spreadsheet form.
 - b. Include additional data fields on capital project commitment listings in the adopted budget:
 - i. Contract numbers and vendors, including subcontractors
 - ii. Contract terms
 - iii. Original planned costs (from capital plans and expense budget)
 - iv. Original contract value
 - v. Current contract value
 - vi. Bidding process used (RFP, IFB, etc), including number of bids
 - vii. Competitive/non-competitive procurement
 - viii. Options for future contract orders
 - ix. MWBE/DBE information
 - x. Funding levels from federal, state and city
 - xi. The capital plan year for projects, noting any rolled over from previous plan

- xii. Project IDs and needs codes – this would allow users to determine if projects are intended for for state of good repair, normal replacement, etc.
 - c. Budget Documents should also provide breakdowns of past total yearly expenditures and revenues, going back at least 10 years, for both the capital and expense budget, broken down by agency and major project areas, comparing them with the projected numbers from prior budgets.
10. MTA Capital Dashboard should be updated and improved:
- a. Data for quarterly updates should be published in a timely manner – these have been consistently provided months late.
 - b. Make all data currently only in click-through form available for bulk download, ideally together with the data available on the front page.
 - c. For the “Project Details” Front Page and Click-Through Data:
 - i. Include more data fields such as original budget numbers on the front page.
 - ii. Provide missing data, or note where data is still under development for projects.
 - iii. Provide additional data for each project, also to be made available in bulk download, as recommended for the contracts database and budget documents above.
 - d. List the capital plan year for projects, noting any rolled over from previous plans, not just the Project ID.
 - e. For the “Milestone Report”
 - i. Correct broken links for project listings
 - ii. Allow for sorting by on-time and late projects
 - f. Fix the broken “Feedback” link so that the MTA can receive feedback on the Dashboard.
 - g. Hold a user-group feedback session to identify additional improvement areas, and expand the “FAQs” Section, using feedback from user-groups.

Better Understanding Itself and Its Riders

- 11. The MTA should conduct an updated demographic analysis of its riders that looks at age, median individual and family income, race, ethnicity, gender, profession, disability, geographic locations, travel times, and other important metrics to help the MTA better understand its riders and the challenges that they face.

12. The MTA should release more detailed methodology and tabular data about its fare evasion statistics, including information broken out more granularly by geographic location such as borough, line, subway station, etc.
13. The MTA should release publicly, in an open data format, all data from its customer service portal as well as all staff analysis of the portal, polls and surveys.
14. The MTA should publicly release, in an open data format, its submission to the FTA of its Transit Asset Management (TAM) plan and the update to its 20-Year Needs Assessment.
15. MTA staff should conduct and publicly release an in-depth “lessons learned” report about successes and failures during the installation of Communications Based Train Control (CBTC) on the 7 Line. MTA staff are in the best position to explain what lessons can be learned from the project, and should provide a report to the public, outside of the context of the MTA’s regular board and committee meetings. As part of restoring public confidence and gaining public support, the MTA needs to be transparent about late and over-budget projects and explain how it is learning lessons that allow it to continuously improve. Questions that the MTA should ask about this project as part of its analysis should include:
 - a. Regarding software, which was the biggest issue cited by MTA staff as a concern regarding implementation of the project, does the MTA staff need greater training and support? Given the desire for interoperability (ability for the software to be adapted between different devices and vendors) and greater choice of CBTC vendors?
 - b. Are lessons being learned with the Siemens/Thales partnership on Queens Boulevard that would have been helpful for the 7 line? In general, has this leader/follower model been effective? Should CBTC software be owned by the MTA or made open source rather than proprietary to the vendor?
 - c. How should the MTA handle track closures/General Order G.O. availability for future CBTC projects? Track availability, as well as work train and flagging availability, was cited as a major concern for the Flushing line.
 - d. Were contractors able to effectively work with all necessary teams at the MTA, such as signals staff, line managers, track crews and others responsible for various aspects of the 7 line? Was there an effective signal point of contact? What can help create a better systems approach to signal modernization?
 - e. Were there staff redundancies that could have been eliminated from the work conducted in-house by NYCT in support of the project?

- f. Have there been an inordinately large number of change orders for this project? (At least 63 have been requested, per Reinvent Albany’s review of public, MTA Board documents.) If so, what is this indicative of? Was the initial scoping of the project not done sufficiently?
- g. What were the drivers of cost increases? Beyond the expansion of the 7 line, what contributed to cost increases – insufficient scoping? Unfavorable bidding? Project delays? Lack of competition?

MTA-Related Boards: Capital Program Review Board and Others

- 16. The CPRB should comply with the Open Meetings Law to ensure that all of its deliberations are conducted in public meetings, in particular its votes to approve capital plans and their amendments.
- 17. A website should be created for the CPRB where it publishes its mission, activities, members, calendar of meetings, meeting minutes and materials, and contact information.
- 18. All future commissions, advisory workgroups and other public bodies formed by law to provide recommendations regarding the MTA should fully abide by the Open Meetings Law.