

American Institute of Architects (AIA) New York  
Center for Independence of the Disabled New York • Chinese American Planning Council (CPC)  
Citizens Budget Commission • Citizens Committee for New York City • Common Cause/NY  
CUNY Institute for Urban Systems • League of Women Voters of the City of New York  
League of Women Voters of New York State • NYPIRG Straphangers Campaign  
Permanent Citizens Advisory Committee to the MTA (PCAC)  
Reinvent Albany • Riders Alliance • StreetsPAC • TransitCenter • Transportation Alternatives  
Tri-State Transportation Campaign

August 8, 2019

**Via Email**

Governor Andrew Cuomo  
Senate Temporary President Andrea Stewart-Cousins

Mayor Bill de Blasio  
Assembly Speaker Carl Heastie

**Re: Capital Program Review Board (CPRB) is Subject to NYS Open Meetings Law**

Dear Governor Cuomo, Mayor de Blasio, Temporary President Stewart-Cousins,  
and Speaker Heastie,

We write to ask you to ensure the Capital Program Review Board (CPRB) operates in accordance with the Open Meetings Law (OML) as it considers the forthcoming 2020-2024 Metropolitan Transportation Authority (MTA) Capital Program.

The attached is an April 29, 2019 advisory opinion from the Committee on Open Government which states that the CPRB is a public body and thus is required to comply with the OML. The opinion further specifies that:

1. Voting and action by a public body - such as the CPRB - is required to be carried out *only* at a meeting during which a quorum has physically convened, or during a meeting which is held by videoconference. (The public is required to be able to attend in either case, with advance notice of the time and place of the meeting.)
2. CPRB does not have the authority to act outside of a meeting.
3. The Freedom of Information Law (FOIL) applies to certain materials provided by the MTA to the CPRB, such as statistical or factual information, or final agency policy determinations.

For the 2015-2019 capital program, the CPRB did not meet publicly, in direct violation of the OML. The CPRB instead made decisions regarding approval of the 2015-2019 plan out of public view. It is our understanding that the CPRB approved the 2015-2019 capital program via signatures on a letter that accompanied the MTA's submitted documents.

For the prior 2010-2014 capital program, however, the New York State Senate included on its website a page<sup>1</sup> for the CPRB, which listed its members, posted the draft plan, and included a contact form for feedback, as well as video of the Senate public hearing on the proposed plan. This level of transparency should be replicated and expanded for the 2020-2024 and future capital programs, with a new, separate governmental website for the CPRB that includes a list of its members, a calendar of meetings, and any associated materials and video coverage of meetings. Additionally, advance notice must be provided to the public and press regarding scheduled meetings of the CPRB, in accordance with the OML.

As the last step in the capital plan approval process, the CPRB's proceedings provide the public with a critical opportunity to view the emerging capital program. Further, the public interest is best served when the public can understand the reasoning behind government decision-making. As stated by the Open Meetings Law:

“It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy.”

Thank you for your consideration. Should you wish to discuss this matter further, please contact Rachael Fauss, Senior Research Analyst, Reinvent Albany at [rachael@reinventalbany.org](mailto:rachael@reinventalbany.org) or 518-859-5307.

Sincerely,

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<sup>1</sup> 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>

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Cc. Kristin O'Neill, Committee on Open Government  
MTA Board