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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

March 25, 2005

Mr. Peter Kalikow
Chairman
Metropolitan Transportation Authority
347 Madison Avenue
New York, New York 10017

Re: Report 2004-F-34

Dear Mr. Kalikow:

Pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution, we have followed up on the actions taken by officials of New York City Transit to implement the recommendations contained in our initial audit report *Metropolitan Transportation Authority - New York City Transit, Rapid Transit Services For Persons With Disabilities (Report 2001-S-69)*.

Background, Scope and Objective

New York City Transit (Transit), an affiliate of the Metropolitan Transportation Authority (MTA), is the principal transit operator in New York City (City), providing rail and bus transit services on a 24-hour basis throughout all five boroughs of the City. Transit operates 6,122 subway cars along 25 routes and 468 stations, the 14.3 mile Staten Island Railway (SIR) and 4,539 buses along 234 local and express bus routes. For the month ended September 30, 2004, Transit reports that daily, about 4.6 million passengers used the subways, about 2.4 million passengers rode the buses, and about 13,000 passengers used SIR.

Transit began to address the system's decaying subway stations with its 1982-1991 Capital Program. However, the initial plan did not include improving accessibility to the subway stations for people with disabilities. Several advocacy groups consolidated their class action lawsuits against Transit alleging non-compliance with State law that required it to provide access for people with disabilities. These lawsuits were settled in 1984 and written into legislation as amendments to the New York State Public Buildings Law and the New York State Transportation Law.

Initial plans were to make 54 subway stations accessible to people with disabilities by July 1993. In 1990, passage of the Federal Americans with Disabilities Act (ADA) required all rapid transportation systems to make their facilities and vehicles accessible to people with disabilities, but

extended the deadline by as many as 30 years. Dated July 26, 1992, Transit's plan indicated that all 54 stations would be made accessible by 2010. However, amendments to the New York State Public Buildings Law and Transportation Law expanded Transit's plan to include 100 accessible stations by 2020, with 68 of the stations completed by 2010.

As of the third quarter of 2004, Transit officials indicated 40 stations were ADA accessible and 22 ADA accessible stations were under construction. Transit projected that 68 ADA accessible stations would be completed by 2010.

Our initial audit report, which was issued on January 8, 2004, examined whether Transit effectively addressed the subway service needs of persons with disabilities during the period of November 3, 1994 to July 31, 2002, and whether it effectively monitored accessible subway stations to identify factors that may be limiting their use by people with disabilities. Our report concluded that Transit does little to monitor the way the subway system is being used by people with disabilities. Our visits to 30 stations indicated one or more of the following conditions at each: gaps between the rail cars and platforms that are larger than the maximum allowable by ADA, inoperable equipment, unsanitary conditions, dim lighting, lack of response to intercom calls, an uncut curb blocking the approach to the station, inadequate signage, lack of designated boarding areas and unreported out-of-service elevators. We also found that inspections of subway stations were not documented. The objective of our follow up, which was conducted in accordance with Generally Accepted Government Auditing Standards, was to assess the extent of implementation as of November 12, 2004 of the 16 recommendations contained in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Transit officials have made some progress in correcting some of the problems we identified. However, our visits to 11 stations, meetings with responsible officials and review of pertinent documentation indicated additional improvements are needed. Of the 16 audit recommendations, 4 recommendations have been implemented, 6 recommendations have been partially implemented, and 6 recommendations have not been implemented.

Follow-up Observations

Recommendation 1

Monitor or study the use of accessible stations by people with disabilities, especially those using wheelchairs, to promote increased usage of the system by these people.

Status - Partially Implemented

Agency Action - Transit officials indicated they did not agree with this recommendation because it would not be feasible to try to monitor the usage of the subway system by persons with disabilities. Therefore, it has not been attempted. The Reduced Fare Office issues half-fare Metrocards to senior citizens or people with disabilities. Transit has monitored and reported that between January 1, 2004 and August 31, 2004, there were 3,033,404 instances through which reduced fare Metrocards were used by people with disabilities to enter the subway system. This is an average of about 12,639 disabled passengers per day. While this is a step

in the right direction, with Transit projecting to construct or renovate 100 stations to be ADA accessible, we urge officials to monitor the usage of its subway system by people with disabilities. We reiterate that without an accurate parameter, Transit officials will not be able to gauge the success of the ADA program and make appropriate changes.

We did note that Transit's ADA Compliance Coordination Committee has conducted meetings with members representing the disabled community including the Bronx Independent Living Services, Queens Independent Living, the New York Counsel of the Blind and the Eastern Paralyzed Association of Veterans. We reviewed detailed minutes of these meetings. This indicates Transit is attempting to learn about the needs of the disabled community in using the subway system.

Recommendation 2

Develop written standardized inspection procedures.

Status - Implemented

Agency Action - Transit officials provided a 2004 written checklist documenting its standardized procedures for inspecting each ADA station and elevator.

Recommendation 3

Inspect subway stations more frequently.

Status - Partially Implemented

Agency Action - Transit officials indicated it is their goal to inspect ADA stations at least twice annually. Our review indicated many station were inspected frequently in 2003. In other cases, Transit officials could not document inspecting some ADA stations even once during the nine month period ended September 30, 2004 including: Cortlandt Street, 175th Street, 34th Street and 6th Avenue in Manhattan, 161st Street in the Bronx and Main Street, Flushing.

Recommendation 4

Insist on more timely corrective actions to resolve the problems observed.

Status - Partially Implemented

Agency Action - Transit officials indicated they did not agree with this recommendation. It is their goal to correct all ADA compliance violations within 30 days of notification. However, officials were unable to provide support that they followed through on violations to ensure that they were completely resolved in a timely manner for 15 of 33 violations (45 percent) sampled.

Recommendation 5

Provide enhanced monitoring over heavily-vandalized elevators.

Status - Partially Implemented

Agency Action - For all newly installed or recently rehabilitated elevators, Transit has installed Closed Circuit Televisions (CCTV) which provides additional security and monitoring of the facilities. However, the intent of the recommendation was for Transit to inspect elevators that are heavily vandalized more often. We found that no efforts have been made by officials to address this issue.

Recommendation 6

Continue looking for ways to minimize the gaps between platforms and subway cars. In choosing ADA stations to rehabilitate, consider selecting those stations with gaps that can be minimized the most.

Status - Implemented

Agency Action - Transit officials have established a committee to explore the issue of minimizing the gap between the station and subway car platform. They even discussed having a contest for a remedy for the gap. It is important that in order to attract a significantly larger number of disabled passengers this issue be resolved in the near future.

Recommendation 7

Undertake a new feasibility study that evaluates using bridge plates to overcome the gaps between the platforms and subway cars and considers how it was possible for other transit systems cited in the report to utilize bridge plates.

Status - Not Implemented

Agency Action - Transit officials did not agree with this recommendation as they believe the use of bridge plates is unfeasible because of the increased dwelling time installing bridge plates to overcome the gap at a station would require. According to a New Jersey Transit official the dwelling time is three minutes. Transit officials indicated regulations only permit bridge plates on rail lines. However, they did not provide a copy of the regulations restricting the placing of bridge plates only on rail lines.

Recommendation 8

Assess the feasibility of using electronic monitoring devices that report elevators automatically when they are out of service.

Status - Partially Implemented

Agency Action - Transit purchased and began testing the software in October 2003. However, there is no estimated completion date for testing the software or a date for a final decision as to whether electronic monitoring devices can be used to report elevators that are out of service.

Recommendation 9

Update the out-of-service elevator hotline more frequently, as changes occur.

Status - Not Implemented

Agency Action - Although officials expressed support for this recommendation, during our field work there was little evidence of making progress towards implementation. Transit officials indicated they now update their hotline four times a day, which actually is the same frequency we noted in our initial audit. They also indicated the hotline will be updated more frequently when the electronic monitoring devices are installed.

Recommendation 10

Require daily inspections of all elevators by subway station supervisors, including elevators not owned by NYCT. Verify that they are being cleaned in a timely manner and reported to the hotline when found to be out of service.

Status - Partially Implemented

Agency Action - Transit officials agreed with this recommendation and stated it is already being done. Recently, they introduced written elevator and escalator inspection guidelines which include elevators in facilities not owned by Transit. We confirmed station supervisors complete logs of their daily elevator inspections. Despite the existence of these logs, unsanitary conditions continue to be observed. For instance on September 29, 2004, we observed and informed the Station Clerk of an unsanitary elevator at the subway station at 34th Street and 6th Ave in Manhattan on the B, D & F lines. On September 30, 2004, we revisited the elevator and observed the same conditions.

Recommendation 11

Provide a supplemental report that lists elevator availability data by station, including elevators that are being rehabilitated or replaced.

Status - Not Implemented

Agency Action - Transit officials indicated they did not agree with this recommendation. Transit officials provided an elevator availability and reliability report, but indicated that it is against industry standards to include elevators that are out-of-service for major renovations in the availability and reliability report. However, they could not provide information about which industry standard they would be violating. Although the number of elevators out of service due to long-term repairs are included on the hotline, we believe Transit is misrepresenting elevator availability if their out-of-service statistics do not include long term repairs.

Recommendation 12

Explore the feasibility of providing elevator redundancy at ADA stations that are scheduled for rehabilitation and construction.

Status - Not Implemented

Agency Action - While Transit officials agree providing elevator redundancy may be beneficial, current budgetary constraints do not make it feasible. However, there was no written material to support that the cost was explored as an item for the budget. We reassert that providing elevator redundancy in the future Second Avenue subway and at multi-station train complexes (Grand Central, Times Square and Union Square) would be advisable. Transit officials indicated that if additional funding becomes available for new station construction they will consider planning for elevator redundancy.

Recommendation 13

Ensure that the Procedures for Evacuation of Mobility-Impaired Customers are posted at all strategic locations and that the staff is trained in their use.

Status - Not Implemented

Agency Action - Although Transit officials indicated Evacuation of Mobility-Impaired Customer Procedures should be posted at all stations and that staff has been trained in their use, when we visited 10 subway stations only three station agents could produce their copy of the procedures. Transit officials objected and indicated the recommendation should be classified as partially implemented due to the fact station agents were properly trained in evacuation procedures for mobility-impaired customers. During our field audit visits, 7 of the 10 station agents were not aware of the Evacuation of Mobility-Impaired Customer Procedures.

Recommendation 14

Consider purchasing computer software for the Elevator and Escalator Department that will help track the costs of maintaining ADA elevators and keeping them in good repair.

Status - Implemented

Agency Action - Transit officials indicated they are considering purchasing the software, and have prepared a document to purchase a Computerized Maintenance Management System pending funding.

Recommendation 15

Develop standard criteria for staff to use as guidance for determining where signage should be installed.

Status - Implemented

Agency Action - Transit officials provided us with additional pages of uniform criteria to be used in installing signs at ADA stations. They indicated these pages will be added to the existing sign manual.

Recommendation 16

Establish an operating plan for ADA compliance for performing, documenting and monitoring Office tasks.

Status - Not Implemented

Agency Action - During our field work, Transit officials could not provide information indicating any progress has been made towards implementing this recommendation. Transit officials indicated they will implement this recommendation shortly.

Major contributors to this report were Abraham C. Markowitz, Brenda Maynard, and Clyde Bynoe.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank management and the staff of the New York City Transit for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Carmen Maldonado
Audit Director

cc: Lawrence Reuter, President, Transit
R. Barnes, DOB
P. Spinelli, Auditor General, MTA