



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Capital Planning

Niagara Frontier Transportation Authority



Report 2015-S-37

April 2016

Executive Summary

Purpose

To determine whether the Niagara Frontier Transportation Authority (NFTA) has complied with the capital planning requirements of the Public Authorities Law and whether its capital plans ensure the highest priority facility needs are adequately addressed. The audit scope period is January 1, 2012 through October 30, 2015.

Background

The NFTA is a multi-modal transportation authority responsible for air and public transportation in Erie and Niagara counties in New York State. NFTA businesses include a bus, light rail, and paratransit system and two international airports. NFTA records show it owns more than 3,700 capital assets costing approximately \$1.6 billion. The Public Authorities Law requires NFTA to prepare a five-year capital plan, along with annual capital spending plans. NFTA's fiscal 2015-16 capital spending plan totaled \$68.7 million.

Key Findings

- During our audit period, NFTA prepared multi-year and annual capital spending plans as required by the Public Authorities Law. However, it could not demonstrate that these plans definitively addressed its highest priority capital needs.
- Of NFTA's 3,700 capital assets, 685 (19 percent) originally costing \$184 million were not in a state of good repair, including: buses and light rail cars; light rail stations and bus shelters; NFTA's radio and train control systems; its rail station escalators; and the light rail's catenary system, which provides power for the trains through overhead wires. Further, NFTA could not demonstrate that the vast majority of these assets were given consideration for replacement or reconditioning or otherwise addressed in capital plans.
- NFTA management does not maintain documentation to support the reasons behind their determination of projects selected for improvement, projects that are deferred, and projects denied funding in capital plans. Also, they have not established a documented system for ranking capital assets by importance, nor a schedule of replacement based on asset condition.

Key Recommendations

- Require divisions to consistently prioritize projects submitted for the capital plan, per established NFTA guidance.
- Maintain documentation for a reasonable period to support the decisions submitted in the capital plan.
- Complete the Transit Asset Management Plan that is currently in progress, keeping in mind likely future regulatory changes.

Other Related Audits/Reports of Interest

[New York State Canal Corporation: Infrastructure Inspection and Maintenance \(2014-S-45\)](#)

[Albany Port District Commission: Select Financial Management Practices \(2015-S-55\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

April 1, 2016

Mr. Howard Zemsky
Chairman
Niagara Frontier Transportation Authority
181 Ellicott St.
Buffalo, NY 14203

Dear Mr. Zemsky:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Capital Planning*. The audit was performed pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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State Government Accountability Contact Information:

Audit Director: John Buyce

Phone: (518) 474-3271

Email: StateGovernmentAccountability@osc.state.ny.us

Address:

Office of the State Comptroller
 Division of State Government Accountability
 110 State Street, 11th Floor
 Albany, NY 12236

This report is also available on our website at: www.osc.state.ny.us

Background

The Niagara Frontier Transportation Authority (NFTA) is a multi-modal transportation authority responsible for air and public transportation in Erie and Niagara counties in New York State. NFTA businesses include a bus, light rail, and paratransit system and two international airports. NFTA has business centers organized into three strategic business units: Surface Transportation, which handles ground transportation throughout Erie and Niagara counties; Aviation, which handles air-related business at the Buffalo Niagara and Niagara Falls International Airports; and Property Risk/Management, which handles other properties that are owned and/or operated by NFTA.

As part of its operations, NFTA maintains a fleet of 307 buses and five trolleys. NFTA also maintains seven transit centers, three bus garages, a bus heavy maintenance facility, a rail maintenance facility, and nine bus loops. These facilities, along with 17 Park and Ride locations, offer additional amenities and access to transit. The light rail system includes a total of 14 stations, six on the surface and eight underground, and 27 rail cars.

Section 1299-s of the Public Authorities Law (PAL) requires that NFTA prepare a five-year Capital Program Plan (Plan). The Plan must: set goals and objectives by function for capital spending; establish standards for service and operation; describe each capital project; and explain how projects support NFTA's goals and objectives. Also, the Plan must list separately by function those projects contributing to the maintenance of the system infrastructure and those intended to enhance the system. The Plan must also include an estimated cost for each project and the expected sources of such funding. Furthermore, Section 2800 of the PAL requires authorities to annually report their current and projected capital spending budgets and long-term liabilities, while Section 2801 requires reporting on operations and capital construction budgets for the upcoming fiscal year. New York Codes, Rules and Regulations Section 203.7 requires authorities to maintain working papers that support the assumptions and estimates in their annual capital budget reports.

On July 6, 2012, President Obama signed Public Law 112-141, the Moving Ahead for Progress in the 21 Century Act (MAP-21). One of the main elements of this new legislation is the concept of "state of good repair." MAP-21 requires public transportation agencies receiving federal assistance or grant money, such as NFTA, to develop an asset management plan. This plan needs to touch on several elements. At a minimum, it needs to address an agency's inventory, condition assessment, and investment prioritization. In September 2015, the Federal Transit Administration (FTA) – the agency responsible for implementing this legislation – proposed draft regulations to define how the MAP-21 State of Transit Asset Management provisions (i.e., state of good repair) will be enforced. There is currently no definite date when the regulations will go into effect.

NFTA records list 3,701 capital assets costing approximately \$1.6 billion. Significant components of capital assets include a Light Rail Rapid Transit system, transit centers, buildings, and the Buffalo Niagara and Niagara Falls International Airports. NFTA's fiscal 2015-16 Capital Spending Plan totaled \$68.7 million, of which NFTA provided \$10.5 million. Remaining funds come from federal or New York State funding agencies, such as the FTA, Federal Aviation Administration, and

State Department of Transportation. NFTA's Board-approved 2016-20 Capital Plan is funded at \$408 million. In addition, NFTA estimates it has an unfunded capital need for another \$85 million.

Audit Findings and Recommendations

We found NFTA complied with PAL's capital planning requirements. However, we also determined that 685 (19 percent) of its 3,701 capital assets were rated as not in a state of good repair, according to NFTA's asset control system. These assets had a recorded cost of about \$184 million, or about 11 percent of its total asset inventory. To address its capital needs, NFTA prepared multi-year and annual capital spending plans, as required. Nonetheless, in assessing NFTA's capital spending plans, we identified capital needs that are unmet. If unaddressed, the unmet capital needs could result in: higher operation and maintenance costs; reduced system reliability, quality, and customer service enhancements; and an inability to meet the growing demand for public transportation in the region. We identified specific areas of NFTA's asset management and capital planning that can be improved to ensure facility needs among all NFTA divisions are adequately addressed. In particular, actions should be taken to strengthen project prioritization and documentation of capital plan decision making.

Especially in light of NFTA's limited resources, it is critical that projects selected for capital improvement meet NFTA's most pressing needs. However, we found certain conditions exist that have the potential to jeopardize this goal. NFTA doesn't enforce its own guidance to ensure projects submitted for capital plan consideration are prioritized consistently among its divisions. Nor does management follow a formal process for determining which projects are selected for improvements and for documenting their final capital plan decisions.

Without a clear, consistent system for prioritizing project improvements and documentation to support decision making, it is not readily apparent why certain assets are included in the capital plan and others are omitted – and that decisions to include and exclude projects were appropriate – and there is less assurance to taxpayers that NFTA is addressing critical capital asset needs adequately. We note that our testing did not identify any projects of significance (e.g., safety, regulatory) that went unfunded; however, our testing was limited due to the manner in which NFTA's capital asset information is organized and summarized. Therefore, we could not definitively conclude whether all safety and regulatory needs were met.

Prioritization of Capital Plan Projects

Capital projects are originally determined at the division level, by management and staff. NFTA's current capital plan guidelines indicate divisions should rank all projects by priority and conduct a cost-benefit analysis for each non-mandatory project and all projects over \$100,000. Once divisions submit their prioritized project proposals, NFTA's Executive Management (Executive Director, Chief Financial Officer, and Manager of Financial Planning & Analysis) meets with business center directors to finalize the capital plan, and the plan is submitted to the Board for approval.

During the preparation of the most recent Five-Year Capital Plan for 2016-20, in July 2014, Executive Management requested divisions closely scrutinize their current five-year plans for potential savings because of NFTA's limited projected cash reserves. Management requested

that new projects be considered for inclusion in the plan based on their ability to contribute to divisional strategic goals and objectives, costs and benefits, and availability of funding.

Our testing of capital plan projects for FY 2016 found that, contrary to NFTA guidelines, the divisions didn't consistently prioritize their individual projects in the capital project proposals. In total, only about 33 percent of projects (132 of 405) on the capital plan were prioritized. As shown in Table 1, of 19 divisions that submitted proposals, only four prioritized all of their projects, nine divisions prioritized some projects, and six did not prioritize any.

Table 1 – Divisions' Capital Plan Project Proposals

Division	Total Projects on 2016 Plan	Number of Projects With Priority Rating	Percentage Ranked
Engineering	3	3	100
Finance	3	3	100
Public Affairs	1	1	100
Cash Management	1	1	100
Rail Maintenance	82	58	71
Rail Car	20	12	60
Buffalo Niagara International Airport	106	37	35
Bus Vehicle	6	2	33
Metro Executive	19	4	21
Niagara Falls International Airport	36	6	17
Bus Engineering	8	1	13
Bus Maintenance	11	1	9
Rail Engineering	37	3	8
Property Management	24	0	0
Transportation Centers	23	0	0
Transportation Authority Police	14	0	0
Management Information Systems	7	0	0
Grants	3	0	0
Accounting	1	0	0
Totals	405	132	33

Following are some of the high-value items to which the divisions did not assign a priority rating:

- \$1.6 million for an asset management system upgrade project,
- \$1.8 million to replace revolving doors with sliding doors,
- \$1.4 million to upgrade airport terminal restrooms,
- \$1.2 million for airport shuttle buses,
- \$800,000 for airport terminal seating,
- \$670,000 for bus seat replacement, and
- \$360,000 for NFTA police replacement vehicles.

With inconsistent prioritization of projects among divisions, there is a risk that competing, “same-weight” projects will not be given equal consideration, resulting in less assurance that assets and projects ultimately selected for the capital plan reflect NFTA’s most pressing needs.

Additionally, we found management does not maintain documentation to support their determination of projects selected for improvement, projects deferred, and projects denied. Specifically, there were no supporting documents to indicate how projects met strategic goals and objectives. Also, according to management, a cost-benefit analysis is not done for every project, even projects over \$100,000, as required per NFTA guidelines. In the absence of such documentation, we could not evaluate the adequacy of NFTA’s capital planning prioritization process.

When discussing our findings related to capital project prioritization, management indicated the process is complicated. They stated that establishing scoring formulas and assigning weights to factors included in capital project evaluation is frequently more subjective than objective. As a result, they indicated capital planning involves independent judgment and collaboration by operations and management personnel with public transit industry experience, which is not easy to document, although NFTA tries to consistently document its capital planning process and investment decisions.

In light of the funding demands faced by NFTA, it is essential that its capital needs be subject to a rigorous and comprehensive prioritization process. The lack of documentation is an indication of the need to improve accountability and transparency in NFTA’s capital program. As a public benefit corporation, NFTA should: make transparent the full extent of necessary capital work; and manage that need by optimally matching the most urgent priorities with available funding. Particularly given the decentralized process for prioritizing its capital plan projects and the subjective components that factor into its decision making, documentation is essential to substantiate decisions. Documentation also helps ensure transparency, and provides evidence to NFTA customers as to how the decisions support its mission. Furthermore, it creates an organizational history that can serve to inform later actions and decisions, and will be of value during self-evaluations and audits.

Recommendations

1. Require divisions to consistently prioritize projects submitted for the capital plan, per established NFTA guidance.
2. Maintain documentation for a reasonable period to support the decisions submitted in the capital plan.

Capital Asset Management Systems

Our review of NFTA’s capital assets found management has not established a documented system for ranking its capital assets by importance, nor a schedule of replacement based on condition.

Therefore, the most essential project items on the inventory list cannot readily be distinguished from less essential items – even with a detailed analysis of various NFTA records.

NFTA uses its Ellipse system to maintain an inventory list of its capital assets as well as capital data, including asset cost and funding source, item description, serial number, and asset condition. NFTA also uses the Ellipse system to track and monitor asset condition. In scoring each capital asset, NFTA uses FTA’s suggested criteria, which include age, condition, performance, and level of maintenance, as a guideline to develop a weighted score based on each asset’s level of importance in consideration of NFTA’s mission and objectives. Based on these criteria, assets are assigned a condition score on a scale ranging from 5 (excellent condition) to 0 (non-operable). An asset is considered to be in good repair if its condition rating is 2.5 or greater. According to NFTA management, assets with a condition rating of 2.5 or less are considered for possible rehabilitation or replacement, and are routinely reviewed for any possible safety concerns.

In June 2015, NFTA had 3,701 capital assets listed in the Ellipse system. Of these, Ellipse indicates 685 (19 percent) originally costing \$184 million had a condition rating of 2.0 or less (and therefore were not in a state of good repair). Besides buses and light rail cars, some of the assets rated 2 or below are light rail stations and bus shelters, NFTA’s radio and train control systems, rail station escalators, and the light rail’s catenary system (the overhead wires for the train that provide the electric current). A summary of NFTA’s capital assets by category and condition ranking is presented in Table 2.

Table 2 – Number of Assets by Condition Ranking¹

Asset Category ²	Condition Ranking						Totals
	0	1	2	3	4	5	
Airport runways and taxiways	0	0	3	5	16	8	32
Buildings	0	5	31	42	41	16	135
Building components	4	17	36	174	81	80	392
Bus and rail shelters	0	4	8	40	56	18	126
Buses and railcars	4	278	88	183	166	59	778
Equipment and other	2	33	87	245	236	185	788
Service vehicles	9	27	46	109	89	79	359
Tunnels	0	1	2	0	0	0	3
Assets not rated ³							1,088
Totals	19	365	301	798	685	445	3,701

¹ While NFTA considers FTA’s suggested criteria for rating all of its assets, including aviation assets, Ellipse asset ratings are rounded to whole numbers. As such, assets rated 2 or below are considered in marginal to poor condition.

² NFTA’s inventory lists major asset components separately (e.g., bus engines) but combines them in the same category. For example, the same bus or rail car may appear multiple times.

³ NFTA does not rate particular assets such as land parcels, abandoned rail lines, certain building components and equipment, and building, land, and leasehold improvements. Presently, the FTA does not require that ratings be assigned to these assets.

NFTA management, however, was unable to provide sufficient documentation to show that consideration was given to rehabilitating or replacing assets that were not in good repair. Our testing determined that some of these assets (such as various buses and rail cars) were, in fact, included in the capital plan. However, because of vague project descriptions and a lack of other corroborating data, we could not reliably ascertain the extent to which the plan addressed the remaining assets and their related conditions.

MAP-21 directed the FTA to develop certain asset management requirements for all recipients of federal transit program funds. These requirements include a transit asset management plan, minimum transit inventory data, and annual condition assessments. Since MAP-21's enactment, the FTA has been developing guidance to help transit agencies implement leading practices in asset management and a decision support tool to prioritize capital needs. In October 2012, the FTA published the Transit Asset Management Guide (Guide) to improve the practice of asset management in the transit industry in the United States. The Guide provides a transit-specific asset management framework for managing assets individually and as a portfolio of assets that comprise an integrated system. Among the best practices the Guide promotes is prioritizing capital projects using criticality measures based on risk.

As transit agencies await the final MAP-21 regulations, many have adopted the leading practices in asset management promoted in the Guide. Some transit agencies use scoring criteria to help rank capital projects and prioritize funding, while others have developed sophisticated data systems and analysis techniques to monitor their current asset conditions and estimate future capital investment needs. NFTA has also taken proactive steps to meet MAP-21 provisions. For example, it is currently developing an Asset Management Plan, which it intends to encompass the strategic and systematic process of operating, maintaining, upgrading, and expanding assets throughout their life cycle. In addition, NFTA is implementing various new systems and performance measures to better monitor the state of repair of its capital assets. However, our testing shows these improvements are largely in the beginning stages and currently have limited usefulness.

In responding to our preliminary findings, management indicated NFTA intends to comply with the FTA's final regulations once they are published. In the future, they indicated NFTA will continue to ensure all its capital assets are considered and that all divisions consistently prioritize projects during the capital planning process. In their opinion, the fact that we did not identify any specific unaddressed safety issues during our audit is evidence that NFTA has addressed its highest priority capital needs. While not always documented, they assert that asset ratings are considered by management when evaluating capital projects.

We acknowledge NFTA has taken numerous actions to keep its capital assets reliably and safely operating. However, NFTA still needs to continue to improve its capital asset management program and make better use of the asset condition data that it already has. By doing so, NFTA will have better information with which to make decisions, and thus greater assurance that its asset base will more quickly reach the necessary state of good repair and its capital costs will be minimized.

Recommendation

3. Complete the Transit Asset Management Plan that is currently in progress, keeping in mind potential future regulatory changes.

Audit Scope, Objectives, and Methodology

The objectives of our audit were to determine whether NFTA has complied with the capital planning requirements of the PAL and whether its capital plans ensure the highest priority facility needs are adequately addressed. The audit scope period is January 1, 2012 through October 30, 2015.

To accomplish our objectives, we reviewed applicable and proposed laws and regulations related to capital planning and asset management. We became familiar with and assessed NFTA's capital planning internal controls. We analyzed and reviewed current and previous years' capital plans. We analyzed and tested inventory listings for completeness and accuracy. We analyzed budget information to identify trends and issues. We conducted field visits to test and verify asset data. We met with various levels of NFTA employees to gain an understanding of certain processes. We attended Board meetings and reviewed previous meeting minutes to determine the Board's role in capital planning. Lastly, we conducted research related to transit industry best practices.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

This audit was performed pursuant to the State Comptroller's authority under Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

Reporting Requirements

A draft copy of this report was provided to NFTA officials for their review and formal comment. Their comments were considered in preparing this report and are attached in their entirety to it. NFTA officials generally concurred with our recommendations and indicated that certain actions have been and will be taken to address them. Also, our rejoinders to certain NFTA comments are included as State Comptroller's Comments embedded within the authority's response.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Chairman of the Niagara Frontier Transportation Authority shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Contributors to This Report

John F. Buyce, CPA, CIA, CFE, CGFM, Audit Director
Brian Reilly, CFE, CGFM, Audit Manager
Mark Ren, CISA, Audit Supervisor
Richard Podagrosi, Examiner-in-Charge
Christopher Herald, Senior Examiner
Patrick Lance, Senior Examiner
Anne Marie Miller, Senior Examiner
Marzie McCoy, Senior Editor

Division of State Government Accountability

Andrew A. SanFilippo, Executive Deputy Comptroller
518-474-4593, asanfilippo@osc.state.ny.us

Tina Kim, Deputy Comptroller
518-473-3596, tkim@osc.state.ny.us

Brian Mason, Assistant Comptroller
518-473-0334, bmason@osc.state.ny.us

Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Authority and State Comptroller's Comments



Niagara Frontier Transportation Authority
Serving the Niagara Region

181 Ellicott Street
Buttalo New York 14203
www.nfta.com

Kimberly Minkel
Executive Director
716 -855-7470
Fax 716-855-6655
E-mail kim_minkel@nfta.com

February 11, 2016

VIA E-MAIL AND U.S. MAIL

Mr. John Buyce Audit
Director
Office of the New York State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, New York 12236-0001

Re: NFTA Response to Draft Report 2015-S-37-Capital Planning

Dear Mr. Buyce:

Thank you for giving the Niagara Frontier Transportation Authority (the "NFTA" or the "Authority") the opportunity to provide you with its comments on the above-referenced report (your "Report"). We appreciate the time invested in preparing the Report and the effort expended to ensure that the NFTA is managing its resources effectively and efficiently.

Generally

Like most, if not all, public transit agencies, the NFTA and its subsidiary, Niagara Frontier Transit Metro System, Inc. ("Metro"), face enormous challenges in meeting their respective capital requirements. This is due, in part, to the fact that fare revenues cover only a small percentage of the total operating expenses of a public transit agency and do not cover any capital expenses. Consequently, Metro, like other public transit agencies, is heavily reliant on federal, state and local funding notwithstanding proactive steps taken by the Authority to reduce operating costs and lower outstanding debt.

As you are aware, the availability of funding has been limited, and likely will continue to be limited for the foreseeable future, which is borne out by the state-of-good-repair backlog (i.e., unmet capital needs) of most public transit agencies including Metro. In 2013, the Federal Transit Administration ("FTA ") estimated that more than 40% of buses and 25% of rail transit assets were in marginal or poor condition. Estimates from the *National State of Good Repair Assessment* identified an \$86 billion backlog in deferred maintenance and replacement needs, a backlog that continues to grow. By comparison, in 2013, the Moving Ahead for Progress in the 21st Century Act (commonly referred to as MAP-21) authorized approximately \$8.5 billion in formula grants.

Mr. John Buyce
Office of the New York State Comptroller
February 11, 2016

Despite funding constraints, Metro strategically allocate available resources to ensure the rehabilitation and replacement of capital assets from time to time in order to maintain them in a state-of-good-repair and avoid aging assets that have the potential to lead to (i) increased operating costs, (ii) a decline in safety and system reliability and (iii) an inconsistent level of service to our ridership. It should be noted that your examination did not identify any deferred capital projects which presented a safety concern or were the subject of a regulatory mandate because these categories of capital projects are given the highest priority by the Authority, and the Authority's capital investment guidelines provide that the highest priority capital projects are mandatory projects required to be addressed immediately. Notwithstanding these challenges, the Authority understands that asset preservation must be a priority if it is to ensure system reliability and continued, unrestricted access to transit services, and the Authority is committed to continued focus on the issue.

During the past three years, Metro has conducted two state-of-good-repair studies (each, an "SGR Study" and, together, the "SGR Studies") with the specific intent to (i) prioritize the rehabilitation and replacement of capital assets, (ii) ensure that available funds are used in the most effective and efficient manner in order to minimize costs and (iii) evaluate the related potential impacts to public transit. The first SGR Study focused on eight Metro facilities including the Metro Transportation Center, Operation Control Center, Rail Yard & Shop, Giesel-Wolford Bus Garage, Frontier Bus Garage, Cold Spring Bus Garage, Transit Police & Adjudication, and the Philbin Building as well as facility-related equipment. The second SGR Study focused on certain infrastructure of eight underground Metro rail stations including Allen Medical, Summer-Best, Utica, Delevan-Canisius College, Humboldt-Hospital, Amherst, LaSalle and University. A third state-of-good-repair study will be conducted during the Authority's upcoming fiscal year and will evaluate all remaining Metro rail capital assets.

As a result of the SGR Studies, the Authority has developed a comprehensive, detailed capital asset database. The database categorizes capital assets by type and includes an asset condition score and estimated replacement cost for each capital asset in the database. In scoring each of Metro's capital assets, Metro utilized the FTA's suggested criteria, which includes asset age, condition, performance and level of maintenance, incorporating a weighted score based on the level of importance and Metro's stated mission and objectives. The methodology employed in scoring the capital assets included a review of existing Metro facility and operation documentation, extensive on-site investigations, and interviews and progress meetings with key personnel and advisors.

The SGR Studies have resulted in (i) lower operations and maintenance costs, (ii) increased system reliability, quality and customer service enhancements and (iii) an improvement in Metro's ability to meet the growing demand for public transportation in the Buffalo-Niagara region.

In addition to the SGR Studies, the Authority is in the process of thoroughly reviewing and updating its Asset Management Plan, which provides a framework for managing capital assets, individually, and as a portfolio of assets that comprise the Metro integrated system. We fully expect the anticipated updates to result in improved asset management best practices, which should translate into additional efficiencies.

The Audit and Your Report

In further response, please note the following corrections and comments that we ask you to incorporate in, or attach to, your Report:

- With respect to the capital assets that were examined during the Audit and the second "Key Finding" set forth in your Report, please note that the auditors' incorrectly applied FTA

Mr. John Buyce
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standards to all the capital assets they examined. FTA standards, regulations and oversight are applicable to Metro's capital assets only. They do not extend to the Authority's (i) numerous aviation assets, which are subject to Federal Aviation Administration ("FAA") standards, regulation and oversight, or (ii) any of the Authority's real property or property-related assets. (emphasis added). As a result of the auditors' incorrectly applying FTA standards, your Report materially overstates the number of capital assets not in a state of good repair.

Comptroller's Comment - NFTA's comments are misleading and inaccurate. During our audit, NFTA officials provided us with an electronic spreadsheet of capital assets (including aviation and real property assets), along with those assets' condition ratings. As such, OSC auditors did not examine and rate any NFTA assets; rather, NFTA's own staff assigned condition ratings using FTA standards. According to NFTA staff, they used the FTA's rating criteria for all assets, including buses, buildings, and those used for aviation. Further, building, building component, shelter, and aviation assets represented only about one-quarter of NFTA's total rated assets.

- The Capital Asset Funding Report used by the auditors was limited to only capital assets valued over \$5,000. Many of the 685 assets that your Report characterizes as not in a state of good repair are fully depreciated and are scored based on the age of the asset. A better measure of the state of good repair of Metro's capital assets would have been the score sheets noted in the SGR Studies mentioned above, which were provided to the auditors. The SGR Studies follow more closely the methodology set forth in the FTA's Notice of Proposed Rulemaking (the "NPRM") issued on September 30, 2015. Additionally, it is important to note that the NPRM issued by the FTA applies only to the capital assets used in Metro's transit operations, not all of the capital assets that were examined during the audit or referred to in your Report. (emphasis added).

Comptroller's Comment - OSC auditors concluded that the Capital Asset Funding Report was an adequately accurate and comprehensive listing of NFTA's capital assets. Thus, we doubt that the "SGR Studies" were significantly better data sources or would have materially changed our audit processes and conclusions. Further, our audit focused on capital asset planning, and NFTA's policy is to capitalize assets that cost at least \$5,000 and have estimated useful lives of 2 years or more. Such assets were listed on the Capital Asset Funding Report. Also, although certain capital assets were fully depreciated for accounting purposes, they were still operational and subject to repair and/or replacement for capital planning purposes. In fact, there is considerable risk that fully depreciated items should be of comparatively greater concern when assessing capital asset needs and their corresponding funding requirements.

- KEY FINDINGS:
 - Bullet # 1 - The NFTA has demonstrated that it addressed its highest priority capital needs, which are those that present, or are reasonably likely to present, a safety issue and those subject to a regulatory mandate. In October 2015, your office informed the NFTA, in writing, that "we did not find any unfunded projects which presented a safety concern or were regulatory mandated."

Mr. John Buyce
Office of the New York State Comptroller
February 11, 2016

Comptroller's Comment - Because NFTA did not have a documented system for ranking its capital assets by importance, nor a schedule of replacement based on condition, the most essential project items on the inventory list could not readily be distinguished from less essential items – even with a detailed analysis of various NFTA records.

- Bullet #2 – See comment set forth immediately above. In addition, as noted above, the number of capital assets determined not to be in a state of good repair by the auditors is materially overstated due to the fact that they incorrectly applied FTA standards to all the capital assets they examined.
- AUDIT FINDINGS AND RECOMMENDATIONS:
 - Para. 1 – See the two comments set forth immediately above.
 - Para. 2 – The NFTA does have, and follows, a formal, written policy and related procedures for determining which capital projects to fund, defer and deny, in whole or in part. A copy of such policy and procedures was provided to the auditors.

Comptroller's Comment - Although NFTA had written procedures for operating and administrative divisions to follow when preparing their capital project proposals, it did not have formal procedures that governed Executive Management's processes for selecting division project proposals for approval and funding.

- Para. 3 – Your Report states, in relevant part, that the auditors' "testing was limited....Therefore, [the auditors] could not definitively conclude whether all safety and regulatory needs were met." The NFTA takes exception to the suggestion that it may not have addressed all safety needs and regulatory mandates. The auditors had access to all of the NFTA's books and records, and NFTA personnel were made available to assist the auditors and answer questions throughout the audit process. Your decision to limit testing should not result in the suggestion that the NFTA may not have addressed all of its safety and regulatory needs/requirements, especially given that (i) your office informed the NFTA, in writing, that "we did not find any unfunded projects which presented a safety concern or were regulatory mandated " and (ii) the NFTA's Executive Director signed a representation letter indicating to the auditors that all requested records and related data were made available. As you are well aware, NFTA capital projects that present a safety concern or are the subject of a regulatory mandate are given the highest priority by the NFTA, and the NFTA's Capital Investment Guidelines expressly provide that the highest priority capital projects are mandatory projects required to be addressed immediately. (emphasis added).

Comptroller's Comment - During our testing, NFTA officials could not provide supporting documentation to substantiate how individual assets were rated. Further, management indicated it would be an "inefficient use of limited resources" to document NFTA's basis for rating each asset. Therefore, we could not adequately assess whether all significant safety concerns involving individual assets were addressed. Furthermore, when we tried to identify high-risk assets by reviewing independent inspection data, we could not effectively do so because NFTA's inspection process was mostly manual, with very limited computerized tracking. Given the thousands of inspection records and lack of summary system information, we could not conclude that all critical repair needs, based on inspections, were in fact

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addressed. In addition, we could not determine whether lower ranked capital assets were included on capital plans because NFTA did not track this information.

- PRIORITIZATION OF CAPITAL PLAN PROJECTS:
 - Page 7 - It should be noted that the Authority's Capital Program Plan reflects all potential capital projects for a rolling five-year period. All potential capital projects are re-evaluated annually and are subject to being re-prioritized based on the then-current capital needs of the Authority and available funding. In addition, it is important to note that capital projects which are in-process continue to be reflected in the Authority's Capital Program Plan; however, they are no longer assigned a priority rating. Priority ratings apply to potential capital projects only.

Comptroller's Comment - In certain cases, some of the projects may be multiple-year projects. Even so, we believe NFTA should document why continuing such projects is the best use of capital funds, given the potential for changes in capital asset priorities.

- CAPITAL ASSET MANAGEMENT SYSTEMS:
 - Page 9, Table 2 – Number of Assets by Condition Ranking. As noted above, the number of capital assets reflected in the table is substantially overstated because the information was incorrectly sourced from the NFTA's Capital Asset Funding Report, which reflects each capital asset by its associated funding sources. To the extent that capital assets reflected in the Capital Asset Funding Report were purchased using multiple sources of funding, they are reflected two or more times therein. For example, if a bus was purchased using 70% federal funds, 10% New York state funds, 10% local funds and 10% Metro funds, that bus will be included in the Capital Asset Funding Report's total asset count four (4) times, rather than once. Additionally, the Capital Asset Funding Report used by the auditors was limited to only capital assets valued over \$5,000. Many of the 685 assets that your Report characterizes as not in a state of good repair are fully depreciated and are scored based on the age of the asset. A better measure of the SGR of Metro's capital assets would have been the score sheets noted in the SGR Studies mentioned above, which were provided to the auditors. As noted above, the Authority's aviation assets are subject to the regulation and oversight of the FAA, not the FTA. Therefore, the auditors' decision to apply FTA standards to the Authority's aviation assets was incorrect. As a result, your Report materially overstates the number of capital assets that are not in a state of good repair.

Comptroller's Comment - NFTA's comments are misleading and inaccurate. During our audit, NFTA officials provided us with an electronic spreadsheet of capital assets (including aviation and real property assets), along with those assets' condition ratings. As such, OSC auditors did not examine and rate any NFTA assets; rather, NFTA's own staff assigned condition ratings using FTA standards. According to NFTA staff, they used the FTA's rating criteria for all assets, including buses, buildings, and those used for aviation. Further, building, building component, shelter, and aviation assets represented only about one-quarter of NFTA's total rated assets.

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The Authority's Responses to Audit Recommendations

Below are the Authority's responses to the specific recommendations set forth in your Report.

Recommendation # 1

Require divisions to consistently prioritize projects, submitted for the capital plan, per established NFTA guidance.

NFTA Response: The NFTA will ensure that all divisions consistently utilize the established prioritization of projects across all divisions for their respective capital plans. It should be noted that during the budget process, business centers meet regularly within their departments and with Engineering to help prioritize and identify those capital projects to fund within the capital plan.

Recommendation #2

Maintain documentation for a reasonable period to support the decisions submitted in the capital plan.

NFTA Response: The NFTA has a record retention policy that complies with all applicable laws. The NFTA will continue to maintain documentation consistent therewith in order to, among other things, support decisions made with respect to its capital planning.

Recommendation #3

Complete the Transit Asset Management plan that is currently in progress, keeping in mind potential future regulatory changes.

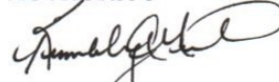
NFTA Response: The NFTA has made good progress toward the completion of its Transit Asset Management ("TAM") plan using the FTA's proposed rule and its Transit Asset Management Guide given that the final rule and related regulations have yet to be published. The Notice of Proposed Rulemaking ("NPRM") requested comments on the FTA's approach to transit asset management by November 30, 2015 in order to issue a final rule in the future. The NPRM proposed to add a new Part 625 entitled "Transit Asset Management" to Title 49 of the Code of Federal Regulations that would establish and implement a National Transit Asset Management System. The NPRM proposed that the core of this system be a requirement that direct recipients (i.e., the NFTA) develop TAM plans. The NPRM proposed that all TAM plans be completed no more than two (2) years after a final rule on the National Transit Asset Management System is published. It is significant to note that between the scope and substance of the final rule may very well be different than the one that has been proposed. In order to best position itself to comply with any final rule issued by the FTA following the public comment period, the NFTA has participated in FTA-run webinars on the Transit Asset Management NPRM. Of course, the NFTA will comply with any final rule issued by the FTA following its publication, but the NFTA cannot be expected to comply with a proposed rule, nor would it be wise for the NFTA to commit limited resources to developing the plans and implementing the processes necessary to comply with a proposed rule when the final rule may be far different. It is worth noting that, during the most recent FTA-run webinar, the FTA did not commit to a timeline for publishing a final rule on the National Transit Asset Management System.

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If you have any questions regarding this response, please feel free to contact me.

Sincerely,

NIAGARA FRONTIER TRANSPORTATION
AUTHORITY



Kimberley A. Minkel
Executive Director

cc: NFTA Board of Commissioners
D. Hartmayer
P. Dalton
D. State
J. Cox
P. Ellis
T. George
W. Vanecek
G. Weibel
J. Abounader
D. Kempner