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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

January 6, 2015

Mr. Thomas Prendergast
Chairman and Chief Executive Officer
Metropolitan Transportation Authority
347 Madison Avenue
New York, NY 10017

Re: Metropolitan Transportation
Authority - Contracts for Personal and
Miscellaneous Services
Report 2014-F-11

Dear Mr. Prendergast:

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, we have followed up on the actions taken by officials of the Metropolitan Transportation Authority to implement the recommendations contained in our prior audit report, *Contracts for Personal and Miscellaneous Services* (2008-S-158).

Background, Scope, and Objective

The Metropolitan Transportation Authority (MTA) is a public benefit corporation providing transportation services in and around the New York City metropolitan area. It consists of six constituent agencies and includes a Headquarters, which provides administrative support. The MTA is governed by a 23-member Board of Directors whose members are appointed by the Governor with the advice and consent of the Senate.

The MTA makes extensive use of personal and miscellaneous contracts to support operations. According to available records, the MTA had 1,625 personal and miscellaneous service contracts valued at nearly \$2.1 billion that began between September 2009 and August 2014.

Our prior audit determined that while the MTA's constituent agencies are required to determine whether services can be provided in-house before proceeding to contract, the agencies were not required to maintain documentation supporting the basis for this determination, and we found such documentation was often not prepared. In addition, the MTA did not have a requirement to periodically assess whether existing personal and miscellaneous service contracts

were still needed, or whether they could be suspended or scaled-back to help reduce costs. We also found that there was no requirement that the operating unit requesting the services determine whether: it was feasible for another constituent agency to perform some or all of the necessary services; it would be feasible and more economical for two or more constituent agencies to meet their agency-specific needs by using a single contract; or an existing New York State or New York City contract could be used to obtain the necessary goods or services. We estimated that by reducing personal and miscellaneous service contract costs by 10 percent, the MTA would save about \$176 million in operating and capital-related expenses. This could help the MTA to close budget gaps.

We issued our initial audit report on September 14, 2009. The objective of our follow-up review was to assess the extent of implementation, as of November 20, 2014, of the four recommendations included in the initial report.

Summary Conclusions and Status of Audit Recommendations

We found that the MTA made some progress in implementing the recommendations contained in our prior report. However, further actions are still needed. Of the four prior audit recommendations, two were partially implemented, one was not implemented, and one is no longer applicable.

Follow-up Observations

Recommendation 1

Improve the “All Agency Guidelines for Procurement of Services” by requiring that constituent agencies must:

- *prepare and maintain documentation showing the basis for determinations of the need to use personal and miscellaneous service contracts instead of relying on in-house resources,*
- *determine whether it is feasible and more economical for two or more constituent agencies to meet need using a single contract,*
- *determine whether it is feasible for another constituent agency to perform some or all of the services, and*
- *determine if existing New York State and New York City contracts could be used to meet the need for personal and miscellaneous services.*

Status - Partially Implemented

Agency Action - The “All Agency Guidelines for Procurement of Services” was updated to state that the MTA may contract through existing New York State and New York City contracts. However, it was not updated to include the MTA requirement that officials determine whether an existing contract could be used to meet operational needs.

In addition, we reviewed 28 contracts and purchase orders (POs) totaling \$296.2 million and determined that MTA actions were sometimes consistent with the recommendation.

However, more consistent efforts are needed. Specifically, we found that:

- None of the 28 sampled contracts and POs had documentation showing the basis for determining there was a need for personal and miscellaneous service contracts instead of relying on in-house resources,
- The MTA established a requirement that its Business Service Center (BSC) review all requisitions over \$250,000 for possible joint procurement opportunities. For 21 of the 28 contracts and POs reviewed, there was documentation that two or more constituent agencies could meet their needs under a single contract or that the BSC reviewed the contract or PO for joint procurement opportunity,
- No documentation was maintained showing whether it was feasible for another constituent agency to perform some or all of the services, and
- Documentation was provided for four of the 28 sampled items to support that the MTA reached out to New York State and New York City to determine whether existing contracts could be used to meet the need for personal and miscellaneous services.

Recommendation 2

Remind headquarters and constituent agencies to properly complete “Long Staff Summary Forms” and “Short Staff Summary Forms” when such forms are required by the “All Agency Guidelines for Procurement of Services.”

Status - No Longer Applicable

Agency Action - The All Agency Guidelines for Procurement of Services no longer require staff to complete the Summary Forms, pursuant to a revision adopted by the MTA Board on March 26, 2014.

Recommendation 3

Expediently complete the Board subcommittee review of the extent of reliance on personal and miscellaneous service contracts by constituent agencies. Where appropriate, take steps to scale back or suspend such reliance to obtain cost savings necessary to close operating budget gaps.

Status - Partially Implemented

Agency Action - The MTA did not complete the Board subcommittee review of the extent of reliance on personal and miscellaneous service contracts. An MTA official told us that, through the Authority’s Rapid Procurement Initiative (Initiative), the MTA contracted with a vendor to continue work on Procurement/Strategic Sourcing to identify additional short, medium and long-term savings for the MTA when acquiring goods and services. According to the MTA, the Initiative led to the successful renegotiation of 43 contracts, which will reduce costs by more than \$70 million over the periods of the contracts. MTA officials

provided us with an MTA HQ Budget Department spreadsheet, furnished by the vendor, which summarized the savings. Further, MTA's Budget Department used this information to help develop budgets and financial plans.

Recommendation 4

Periodically reevaluate contracts awarded for personal and miscellaneous services to ensure constituent agencies are performing and documenting determinations that it is necessary to contract for services.

Status - Not Implemented

Agency Action - We reviewed 28 contracts and POs from the six constituent agencies and headquarters. There was no documentation for any of the 28 procurements to indicate that MTA officials periodically reevaluated the agreements and determined that they were still necessary to obtain the goods and/or services in question.

Contributors to this report were Robert Mehrhoff, Daniel Raczynski, Jonathan Bernstein, and Bei Lei Wang.

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 MTA management and staff for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Carmen Maldonado
Audit Director

cc: M. Fucilli, Auditor General
D. Jurgens, Audit Director
NYS Division of the Budget