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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

May 12, 2023

Kevin O'Toole
Chairman
Port Authority of New York and New Jersey
150 Greenwich Street
New York, NY, 10007

Re: Selected Aspects of Accommodations
for Passengers With Disabilities
Report 2022-F-24

Dear Mr. O'Toole:

Pursuant to the State Comptroller's authority as set forth in Section 7071 of the Unconsolidated Laws of New York, we have followed up on the actions taken by officials of the Port Authority of New York and New Jersey (PANYNJ) to implement the recommendations contained in our audit report, *Selected Aspects of Accommodations for Passengers With Disabilities* (Report [2019-S-41](#)).

Background, Scope, and Objective

The PANYNJ was established in 1921 as an interstate public entity created to control the port district of New York and New Jersey, maintaining the trade and travel infrastructure of the area. PANYNJ's portfolio of five airports, an interstate rail system, three bus terminals, and three cruise terminals serve the transportation needs of millions in the New York City metropolitan area.

The Americans with Disabilities Act of 1990 (Act or ADA) was signed into law to provide people with disabilities the right to access and participate in the same day-to-day activities as everyone else. The Act defines disability as a physical or mental impairment that substantially limits one or more of an individual's major life activities. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in federally assisted programs. Several federal agencies oversee compliance with the Act, including the Department of Justice (DOJ) and Department of Transportation.

According to the Act, PANYNJ was required to identify key stations in its Port Authority Trans-Hudson (PATH) system and make those stations accessible and usable by people with disabilities by July 1994, absent an extension of time. Any new construction or alteration of an existing station after October 1991 was also subject to this accessibility requirement. The Rehabilitation Act of 1973 requires airport (and terminal) operators to be responsible for implementing and maintaining boarding accessibility.

PANYNJ is also subject to certain DOJ regulations. Title II prevents discrimination of people with disabilities on the basis of their disability by state and local government services.

As in other sections of the Act, Title II requires a designated person to receive and resolve complaints about accessibility and publish grievance procedures. A May 2007 DOJ publication established best practices for state and local government website accessibility.

We issued our initial report on July 29, 2021. The audit objective was to determine whether PANYNJ complied with selected requirements of the ADA, the Rehabilitation Act of 1973, and corresponding federal regulations to make its facilities accessible to passengers with disabilities. The audit covered the period from June 24, 2019 to March 12, 2020.

Specifically, the audit found that PANYNJ complied with selected aspects of the ADA and Rehabilitation Act of 1973 that we reviewed within the PATH system and at the three bus terminals operated by PANYNJ.

However, we did note there were deficiencies and non-compliance with the regulations in areas of the Port Authority Bus Terminal (PABT) where some of the gates at both the lower and upper levels were inaccessible to customers using a mobility device, and no signage was evident to direct customers to seek assistance from PANYNJ staff.

Four of the PATH stations in Manhattan (9th Street, 14th Street, 23rd Street, and Christopher Street) were not accessible for customers in a wheelchair, and no signage was present indicating the nearest wheelchair-accessible stations. We also found that tactile tiles (raised rubber platform edge), which alert travelers with a visual impairment to platform edges and ends, were in poor condition at three PATH stations: Newark, Newport, and Grove Street.

In the aviation sector, PANYNJ did not have written agreements between the airport operator and terminal operator allocating responsibilities for meeting the boarding accessibility requirements with all airport operators and carriers, as required by federal regulation.

We also found that PANYNJ's website did not follow DOJ's best practices toolkit and had only limited accessibility because there was no option to format text for visually impaired people.

The objective of our follow-up was to assess the extent of implementation, as of February 23, 2023, of the seven recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

PANYNJ officials made progress in addressing the issues we identified in the initial report. Of the initial seven recommendations, five were implemented and two were partially implemented.

Follow-Up Observations

Recommendation 1

Improve connections for transfer between PANYNJ's bus terminals/stops and the MTA subway stations.

Status – Implemented

Agency Action – PANYNJ sent a letter to the Metropolitan Transportation Authority (MTA) on August 9, 2021 regarding our recommendation about the lack of accessibility between the MTA station located at 175th Street and the George Washington Bridge Bus Station. PANYNJ stated that the stairs that prevent access are located on MTA property and it,

therefore, has no right to make changes without permission. PANYNJ re-sent the letter on March 2, 2023.

Recommendation 2

Ensure that passengers with disabilities have access to all gates at PABT.

Status – Implemented

Agency Action – PANYNJ officials placed additional signage to inform the public and customers in a wheelchair that Gates 50-56 and 200-234 at PABT are not wheelchair accessible. The sign provides a telephone number to arrange for a wheelchair-accessible bus departure. In addition, free wheelchair escort service within the terminal is available using a phone at the concourse level or dialed from a personal device. This service also applied to gates at the upper level of PABT. We visited the PABT on October 5, 2022 to verify that the signs were installed and the telephone was answered when we called. In addition, we visited PABT on January 27, 2023 to observe the access via doors at the subway level entrance.

Recommendation 3

Maintain PATH's tactile platform-edge tile in good condition.

Status – Implemented

Agency Action – Tiles were replaced at the Newport Station. Additionally, a Memorandum of Justification was approved by the Board to remediate the station, including tile work, as part of the capital plan program – to begin in 2023. Tiles at the Newark and Grove Street stations were also repaired.

During a site visit on October 11, 2022, the tiles at Newport Station were found in good condition at both platform edges, with only one tile with minor damage identified. However, a visit to the Harrison Station found a metal plate on the tile edge that needs repair. Site visits to both Newark stations on October 17, 2022 and Grove Street found the tile in good repair.

Recommendation 4

Renovate facilities, such as the PATH stations and platforms at PABT, so that they are wheelchair accessible. If the station cannot be made wheelchair accessible, the reasons should be documented and, where this is not structurally doable, PABT should post signage with clear directions to the nearest station where access is available.

Status – Implemented

Agency Action – Authority officials installed signage at PATH stations located at 9th Street, 14th Street, 23rd Street, and Christopher Street informing the public that these stations are not wheelchair accessible and the closest wheelchair-accessible stations are located at 33rd Street and World Trade Center. The signs also include the PANYNJ website and a phone number, which the public can utilize if further assistance is needed.

Recommendation 5

Ensure that there are agreements in place with terminal operators regarding the provision of services to passengers with disabilities, and ensure that the provisions of these agreements are implemented.

Status – Partially Implemented

Agency Action – PANYNJ Aviation Division provided updated agreements with the airport operators at John F. Kennedy and Newark airports via an addendum to the terminal operators agreements including the following language: “Boarding and Deplaning of passengers with Disabilities, Airline shall comply at its own expense with all applicable laws relating to the boarding and deplaning of passengers with disabilities, including but not limited to, 49 U.S.C. § 41705, 14 C.F.R. § 382, and 49 C.F.R § 27.72.”

The agreements for LaGuardia Airport (LGA) have not been revised because they were in effect when the initial audit report was issued. Those agreements expire in December 2023. PANYNJ officials stated that they will include the same requirements for the LGA terminal operators.

Recommendation 6

Require the terminal operators to forward copies to PANYNJ of complaints received regarding services to passengers with disabilities.

Status – Partially Implemented

Agency Action – The Aviation Division included in the updated agreements a section labeled “Information and Reports” stating that the contractor will provide all information and reports required by the Acts, Regulations, and directives issued pursuant to them and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such non-discrimination acts and authorities and instructions. We selected a sample of 16 of the 31 complaints to determine what actions PANYNJ took to address the issues brought to its attention. We found that additional action could have been taken in seven of the 16 complaints.

PANYNJ officials are in the process of updating the aforementioned by issuing a revised General Manager bulletin, which will require all operators to not only report incidents by passengers but also to keep PANYNJ informed until a final resolution is determined for a period of one year or longer if directed by federal regulation.

Recommendation 7

Collaborate with organizations serving the disabled or persons with disabilities to learn about the needs of the disabled community and test the website for ease of use.

Status – Implemented

Agency Action – PANYNJ employs a dedicated Americans with Disabilities Coordinator whose responsibility is to work across all parts of the agency to ensure it is fully compliant with the ADA and other laws. The Coordinator works in complement with the Abilities Network (Network), which ensures that agency decision makers know the facts and scenarios of

the everyday impact of their decisions. The Network is regularly consulted on PANYNJ design and programmatic decisions.

PANYNJ policy, also posted on its website, requires all tenants and vendors who receive ADA complaints to forward copies of the complaints. It also requires the tenants and vendors to submit written statements of actions and to resolve these complaints within 30 business days of receipt.

PANYNJ improved its website to make it easier for people with a disability to navigate by placing an icon symbolized by a wheelchair in the upper left corner on every page. Once this icon is clicked, the user is taken to an ADA version of the PANYNJ website. The user can let the digital device read the website as they hover over the words, increase/decrease font size, change font type, and enable/disable text mode so the text will stand out from the other words on the page when being read.

Major contributors to this report were Abe Fish, Peter Teelucksingh, and Jaspal Gill.

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 thank the management and staff of the Port Authority of New York and New Jersey for the courtesies and cooperation extended to our auditors during this follow-up.

Very truly yours,

Carmen Maldonado
Audit Director

cc: M. Belardo, Director, Internal Audit, PANYNJ
Division of the Budget