An Examination of the Finances of the Metropolitan Transportation Authority

April 2003

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State Comptroller

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I. Executive Summary

On February 19, 2003, the State Comptroller took the extraordinary step of issuing subpoenas for records and testimony from officials of the Metropolitan Transportation Authority (MTA) for information regarding the financial plan that was approved by the MTA Board on December 18, 2002 (the "December Plan").

The December Plan projected a year-end cash balance of $24.6 million in 2002 and gaps of $235.9 million in 2003 and $715.6 million in 2004. To close the two-year gap of $951 million, the MTA proposed raising subway, bus, and commuter railroad fares by as much as 33 percent beginning in March 2003, and raising tolls on the MTA's largest bridges and tunnels by $0.50 in July 2003.

An examination of internal records and testimony from budget officials found that the MTA had two versions of its December Plan: the one it showed the public and the one it kept to itself. A review of the internal version of the December Plan revealed previously undisclosed transactions that moved resources off budget and from one year to another.

These secret transactions had the effect of grossly reducing the projected size of the 2002 surplus by shifting resources to 2003 and 2004. If not for these transactions, the 2002 surplus would have totaled $537.1 million, $512.5 million more than acknowledged by the MTA. Of the undisclosed surplus, $248.3 million was transferred to 2003 and $264.2 million was transferred to 2004. MTA budget officials testified that they did not consider it a surplus if the resources were used up during the financial plan period. The end result of the MTA's actions, however, was to conceal the size of the 2002 surplus and to stifle the fare debate.

Our examination also revealed the existence of hidden reserves in 2004, which inflated the budget gap by $118.2 million. These reserves were funded with some of the resources that were shifted from 2002 to 2004. MTA officials reluctantly acknowledged the existence of these reserves only after extensive questioning.

The resources that were shifted to 2004, combined with other undisclosed resources, would have been sufficient to avoid a fare hike in 2003. Use of these resources in 2003, however, would have widened the 2004 budget gap by an equal amount. While it would have been imprudent to use all of the surplus resources in 2003, there was far more flexibility in the size and timing of the fare hike than was acknowledged by the MTA. MetroCard and E-ZPass enable an endless combination of fare and toll increases and discounts. The MTA itself offered seven fare options and ultimately delayed the implementation of the fare hike from March to May 2003.

We found that the MTA planned to transfer $182.5 million from 2002 to an off-budget reserve that would be drawn down in 2003. The MTA also planned to transfer $125 million from 2002 to another off-budget account that would be drawn down in 2004. In addition, the internal version of the December Plan revealed that the MTA intended to prepay future debt service costs in 2002 by $205 million, which effectively transferred $65.8 million to 2003 and $139.2 million to 2004. These transactions effectively created the 2003 budget gap.

The City of New York also prepays debt service to move surplus resources from one year to another because it is not allowed to balance its budget with surplus funds from prior years. In the MTA's case, however, prepaying debt service is unnecessary because its budget is balanced on a cash basis. Any cash left at the end of the year is applied to the next year's budget. If the MTA had not planned to prepay debt service, the 2002 year-end cash balance would have increased by $205 million and the entire amount would have been available in 2003.

The failure to disclose the availability of these resources to the public foreclosed any consideration of fare options other than those proffered by the MTA, which made the public hearing process a sham. Moreover, the MTA's Director of Budgets and Financial Management testified that while he informed the Executive Director of the transactions, he did not recall advising the Chairman or other members of the board. Whether the Chairman and other board members knew of these transactions is a question only they can answer.

The Comptroller's examination also found that in a number of cases the MTA Budget Office did not maintain appropriate working papers. In some cases, MTA budget officials needed a calculator to recreate their analysis; in others they could not recall how they calculated a particular number; and in yet other cases they cited professional judgment as the sole basis for budget estimates. Several times, the working papers came close to the numbers in the December Plan but did not match.

In most instances the budget estimates were prepared by the operating agencies themselves with guidance from the MTA Budget Office, but the office did not routinely obtain documentation from the agencies. Incongruously, the Budget Office has a document retention policy but does not have a policy concerning the preparation of working papers to substantiate its work. While we were able to confirm the reasonableness of the revenue estimates in the December Plan, we were hindered from doing so for most expense categories, with the exception of debt service, due to a lack of proper documentation.

A rapid rise in debt service costs is the driving factor behind the 2004 budget gap. Debt service costs are projected to total $1.3 billion in 2004, more than double the 2003 amount because of a large reduction in savings from a debt restructuring initiative. By 2010, debt service costs are projected to reach $1.7 billion, due to an increased reliance on debt to finance the 2000-2004 capital program primarily because the State is not contributing to the current capital program. The MTA has identified $63 billion in capital improvements to maintain and expand the current system between 2005 and 2019. These debt service estimates do not take these costs into account and MTA officials testified that an analysis to determine how much additional debt the agency could afford has not been performed.

The Public Authorities Law requires the MTA to produce a financial plan each July 1, for the five-year period commencing the following January 1. The last time the MTA released such a five-year plan was in September 1999, and the December Plan covered only 2003 and 2004. The State Comptroller demanded that the MTA produce a five-year financial plan before raising fares. The five-year plan produced by the MTA, however, uses different methodologies and assumptions than the December and March plans. For example, the five-year plan assumes that beginning in 2005 subway, bus, and commuter railroad fares will increase each year at the projected inflation rate—an unrealistic assumption—and shows balanced budgets through 2008. Consequently, the five-year plan sidesteps legitimate questions about whether fares will be raised again in 2005.

As we were preparing to conclude our examination of the December Plan, the MTA Board approved a revised financial plan on March 27, 2003 (the "March Plan"). While outside the scope of our review, a preliminary review of the March Plan found a continuation of the pattern of concealing resources that was uncovered in our review of the December Plan. It also appears that most of the surplus resources that were shifted from 2002 to 2004 in the December Plan were used in the March Plan in 2003 to help fund the Transport Workers Union (TWU) agreement and reportedly higher debt service costs. A full understanding of the March Plan, however, was not possible from the public documents released by the MTA or even from the limited discussions on the March Plan that occurred near the close of our examination.

The March Plan includes revenues from the fare and toll increases that were approved by the MTA Board on March 6, 2003, and other changes, including additional debt prepayments. The plan projects a surplus of $59.8 million by the end of 2004, including a $40 million reserve, but a review of the internal version of the plan found hidden reserves of $27.5 million, which would raise the surplus to $87.3 million. In addition, while the March Plan includes the cost of the new agreement with the TWU, it does not include any productivity savings from newly gained management rights. If these savings materialize, the 2004 surplus could exceed $140 million, and could be even more if the loss in ridership due to the fare increase is lower than anticipated.

The secrecy surrounding the MTA's finances and the manipulation of its financial plan must come to an end. In the months ahead, the State Comptroller will promulgate regulations and propose legislation that will not allow the MTA to operate under a shroud of secrecy any longer. Only in this way will the public and their elected officials obtain the information they need to understand the MTA's finances and to fully participate in debates about future fare increases.

II. Background

The New York State Metropolitan Transportation Authority (MTA) operates New York City's subways and buses, certain bridges and tunnels, and the commuter railroads in the twelve-county transportation district. This district includes the five counties that comprise New York City as well as Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester counties. The MTA's subways, buses, and railroads transport 2.3 billion New Yorkers each year—about one third of all transit riders in the United States.

Section 1269-d of the Public Authorities Law requires that each July 1 the MTA annually update a strategic operations plan (i.e., financial plan) that includes projections of its operating and capital resources and expenses for the five-year period commencing the following January 1. The MTA released a five-year plan in September 1999, but failed to produce a five-year plan in July 2000, July 2001, or July 2002. Elected officials at the State and local levels, as well as concerned citizens, became increasingly frustrated in their inability to obtain a clear picture of the agency's finances.

In April 2002, the MTA revealed a projected budget gap of $663 million for 2003 in a bond disclosure statement, but refused to provide any further details. At subsequent hearings conducted by the State legislature and the New York City Council, MTA officials were noncommittal about whether fares and tolls would be raised in 2003.

On November 22, 2002, the MTA announced that it would end 2002 with a budget surplus of $24.6 million and that it faced a two-year budget gap of $2.8 billion for 2003 and 2004. On December 18, 2002, the MTA Board approved a financial plan for 2003 and 2004 that included $1.8 billion of MTA internal actions that reduced the combined budget gaps for 2003 and 2004 to $951 million, and called for a fare increase of up to 33 percent beginning in 2003 to close the remaining gap.

Many elected officials, transit advocates, and union representatives expected the MTA to show a much larger surplus in 2002 because fare and mortgage-recording tax revenues exceeded the MTA's projections during most of the year. Many were critical of the lack of transparency in MTA budget documents and were frustrated in their attempts to obtain explanations from MTA officials.

Amid mounting questions about the MTA's finances, the State Comptroller-elect requested a review of the December 2002 financial plan even before assuming office on January 1, 2003. On January 3, 2003, members of the Comptroller's staff met with MTA budget officials, but many of the Comptroller's questions were not answered and staff members were referred to public documents. MTA officials did agree to provide some information, which was received by the Office of the State Comptroller on January 9, 2003. Though the correspondence again referred to public documents, it did include some new information; that information, however, raised as many questions as it answered.

On February 7, 2003, the State Comptroller wrote the Chairman of the MTA demanding, within seven days, a written response to 30 specific questions and a five-year financial plan pursuant to law. The Chairman's response on February 14, 2003 included some useful information, but it also made vague references to public documents and the MTA Web site. Answers to specific questions concerning debt, collective bargaining, and the MTA's revenue and expenditure estimates were evasive and, overall, unsatisfactory. While the Chairman espoused the MTA's commitment to multiyear planning, no specific date was given for producing a five-year financial plan.

On February 19, 2003, the State Comptroller took the extraordinary step of issuing subpoenas for records and testimony from MTA officials concerning specific elements of the December Plan. The Comptroller launched his inquiry into the MTA's finances pursuant to his authority in the State Constitution to supervise the accounts of public corporations, and in the State Finance Law to subpoena records and compel testimony. The Comptroller demanded that the MTA produce a five-year plan as required by law and threatened legal action to force compliance if necessary. The MTA was given seven days to produce the requested records and ten days to produce a five-year financial plan.

The subpoenas required MTA officials to produce documentation for key elements of the December Plan that would show how these estimates were calculated. Subpoenas were issued to the Executive Director and Chief Operating Officer, Director of Budgets and Financial Management, Director of Finance (Budget), and the Director of Finance (Capital). The Executive Director's testimony was excused. MTA budget officials were represented both by MTA counsel and outside attorneys.

On February 26, 2003, the MTA delivered 17 boxes to the Office of the State Comptroller and an examination of MTA officials commenced. Although the subpoenas requested any relevant documents held by the agencies, the MTA interpreted the request to include only records held by the MTA officials who were subpoenaed. An eighteenth box of documents, alleged by the MTA to contain confidential information pertaining to collective bargaining, insurance proceeds related to the attack on the World Trade Center, and security plans, was also provided. A confidentiality agreement was negotiated between the MTA and the Office of the State Comptroller regarding certain aspects of this information.

III. Deficiencies in the Budget Process

The MTA has repeatedly claimed that it is one of the most open agencies in City and State government and that it provides the public with an abundance of information regarding its finances—in budget documents, at monthly board meetings, and on its Web site. The Comptroller's examination, however, revealed that the MTA has two financial plans: the version it shows the public and the one it maintains for itself, which reveals transactions that were not disclosed in the December Plan.

A complete picture of the MTA's finances cannot be obtained using only the budget and financial plan presentations issued to the public. Only by using the internal version obtained through the Comptroller's subpoenas were we able to identify transactions that moved significant resources off budget and from one year to another. Even the internal plan had cryptic transactions that we were able to understand only after extensive questioning of MTA budget officials. We also concluded that MTA budget officials were unprepared to substantiate many of the estimates in the December Plan.

A. Accounting Magic and Foggy Finances

The MTA was on track to generate a large surplus in 2002 because mortgage-recording, toll, and fare revenues were exceeding the MTA's conservative projections. When the financial plan was released in December 2002, however, the MTA projected a surplus of only $24.6 million for 2002. Numerous public officials and transportation advocates asked what had happened to the surplus and complained that the MTA financial plan was confusing and lacked transparency. In response to such accusations, the MTA Executive Director stated at a hearing held by the City Council on January 17, 2003, that:

> In recent weeks, the MTA has been attacked for failing to disclose documents, engaging in "accounting magic" and using "foggy finances." In preparation for today's hearing I reviewed media clips which include claims that the MTA ran a surplus in 2002 ranging from $76 million, $500 million, to $300 million. Despite my best efforts to determine the basis of these claims, I must confess that I have no idea where they came from.[1]

Ironically, based on an examination of internal documents and testimony from MTA budget officials, we believe that "accounting magic" and "foggy finances" are

[1] Testimony of the MTA Executive Director before the New York City Council, January 17, 2003.

appropriate descriptions of the December Plan. Our examination concludes that the MTA misled the public and its elected officials with their December Plan presentation. The internal version of the December Plan revealed the full extent of the maneuvers used to shield resources from public view.

The internal version of the financial plan revealed transactions that moved resources off budget and from one year to another. In the absence of these transactions, the December Plan would have shown a surplus of $537.1 million in 2002, in contrast to the $24.6 million publicly acknowledged by the MTA. More than half of these surplus resources were secretly shifted to 2004. These resources, combined with other undisclosed resources, would have been sufficient to avoid a fare hike in 2003. The Director of Budgets and Financial Management defended the MTA's actions when he stated: "So if the money is used up in the course of the financial plan, we don't consider that a surplus."[2] The Director of Budgets and Financial Management also testified that he had informed the MTA Executive Director on these transactions, but could not recall when.[3] When asked whether he had advised the MTA Chairman and other board members, the Director of Budgets and Financial Management testified that he did not recall.[4]

B. Lack of Transparency

The financial plan formats of the MTA agencies vary significantly from one another, with the exception of the financial plans for New York City Transit and the Staten Island Rapid Transit Authority (one of the MTA's smallest operating agencies). The differences make it difficult to compare agencies or easily evaluate the December Plan in its entirety. In response to the State Comptroller's letter of February 7, 2003, the MTA claimed that the cost for its agencies to adopt uniform accounting systems would be between $50 million and $100 million.[5] It would cost nothing, however, to adopt a uniform financial plan format.

In addition, the agency financial plans exclude debt service and tax and governmental subsidies. Internal documents show that debt service estimates were adjusted to move resources to other years, and the cash flow adjustments included undisclosed transactions that shifted resources off budget and from one year to another. When asked if the December Plan expressly identifies these transactions, the Director of Budgets and Financial Management responded that: "And the answer is

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[2] Transcript of the Comptroller's examination, March 10, 2003, page 33, lines 15-17.

[3] Transcript of the Comptroller's examination, March 10, 2003, page 70, line 2 to page 72, line 17.

[4] Transcript of the Comptroller's examination, March 10, 2003, page 71, line 24 to page 73, line 6.

[5] Letter from the MTA Chairman to Comptroller Hevesi dated February 14, 2003.

the financial plan is a bunch of numbers. There are no explanations of anything in it, so that's why I was referring you to documents that did explain the financial plan."[6] However, these documents were not made public and were obtained only after the State Comptroller subpoenaed them.

A great deal of confusion also arises from the way the MTA presents cash adjustments to its accrual estimates. Cash adjustments are important because the closing cash balance defines whether the budget has a surplus or a gap and, therefore, whether fares must be raised. While the agency financial plans include a detailed list of individual cash adjustments, they exclude debt service and subsidies. When confronted with this observation, the Director of Budgets and Financial Management insisted that the agency financial plans included debt service and subsidy projections. After he was shown a footnote to the agency financial plans, which states that the plans "exclude debt service and subsidies," he pointed to a section in the MTA financial plan presentation entitled "consolidated financial plan," where cash flow adjustments were presented as part of an aggregate figure.[7] This aggregate figure does not in fact discretely identify cash adjustments for debt service and subsidies; instead, it is simply a total that fails to provide any useful detail.

C. Need to Improve Reporting

During our examination, MTA officials claimed that they provide an abundance of budget information that allows observers to track actual performance compared to budget. Though it is true that the MTA produces a large quantity of documents, the problem lies in the failure of those documents to present clear budgetary information. MTA officials cited the monthly *Budget Watch* reports as an example of the information publicly available. Our review of *Budget Watch* reports for 2002 found that these reports often fail to explain how monthly results of operations affect the budget for the year, and exclude information about important developments.

The internal version of the December Plan, for example, revealed that the MTA planned to transfer \$387.5 million from 2002 to future years by prepaying debt service and transferring resources to an off-budget reserve. On March 14, 2003, we received at our request a document that showed that the actual transactions totaled about \$100 million less than planned. When asked to explain the difference, the Director of Budgets and Financial Management replied, "We are looking at what happened," and said we would have to wait until the Review of 2002 Final Results is

[6] Transcript of the Comptroller's examination, March 4, 2003, page 34, line 9 to page 40, line 24.

[7] Transcript of the Comptroller's examination, March 25, 2003, page 46, line 11 to page 48, line 3.

published in April 2003.[8] When asked how it could be possible that there was not at least a preliminary analysis of this discrepancy two and one-half months after the year ended, the Director of Budgets and Financial Management said, "[There was] nothing that I would call an analysis, to my knowledge."[9] When pressed further about whether he was concerned and if this shortfall would have any effect on 2003 and 2004, he said that he would have disclosed it to the MTA Board if it did.[10]

A special *Budget Watch* issued by the MTA in January 2003 that covered preliminary results for 2002 describes how New York City Transit ended 2002 with a cash balance of $13.7 million, only $1.5 million less than assumed in the December Plan. We found among the documents provided by the MTA, however, an analysis that compared preliminary 2002 financial results for New York City Transit with the December Plan estimates. The analysis reached the same conclusion as *Budget Watch* but only after a $229.6 million transfer to an off-budget reserve.[11] Nowhere in the January 2003 *Budget Watch* did the MTA explain that it would have amassed a large surplus if not for the transactions previously described or that actual debt prepayments and transfers were $100 million less than anticipated in the December Plan.

We also discovered that MTA budget officials had changed a key line item on a document that was provided to us on January 9, 2003. That document showed the projected weekly cash flow for New York City Transit during January 2003. During the examination, MTA budget officials provided us with a nearly identical document that showed the actual results for January 2003. We noticed, however, that this document included a $145 million transfer to a stabilization fund, but the document sent to us on January 9, 2003 referred to the $145 million transaction as an inter-agency loan. When asked for an explanation, the Director of Finance (Budget) stated that:

> The line does address it, it's just called something else.… what we did is, because we use a lot of terms in our normal computer sheet, it has a lot of repetition because it's been built up over time, I just made it the category a little simpler and better descriptive of our current, the way things work and what that line is, if you see the original one we gave you, there's a line

[8] Transcript of the Comptroller's examination, March 14, 2003, page 32, line 22 to page 34, line 5; and page 75, lines 1-12.

[9] Transcript of the Comptroller's examination, March 14, 2003, page 35, lines 1-5.

[10] Transcript of the Comptroller's examination, March 14, 2003, page 65, line 21 to page 66, line 5; and page 74, lines 14-19.

[11] Comptroller's Exhibit 58.

> called "interagency loan 145." It's the same thing...I just wanted to make it easier for you to understand exactly what it is.[12]

In retrospect, we were troubled by the change precisely because transfers to the stabilization fund proved to be one of the vehicles used by the MTA to move resources from one year to another. The document sent to us on January 9, 2003 excluded all references to the stabilization fund.

When viewing the responses of MTA budget officials both before and during this examination, it is hard to reach any other conclusion than that they have cultivated an insular budget system and organizational culture that is distinguished by its failure to provide clearly defined and understandable budgetary information. The decisions that MTA budget officials have been making about the financial plan presentation, when it will produce statutorily mandated financial plans, and the denials of legitimate requests for public information, all exemplify a disturbing culture of secrecy. The practice is to deflect requests by parsing language, invoking technicalities, and providing evasive responses to direct questions. In response to a series of questions regarding whether certain resources could have been used in 2003, the Director of Budgets and Financial Management responded on three occasions that the answer depended on what "could" means.[13]

D. Lax Record Keeping

Early in our examination it became clear to us that MTA budget officials were unprepared to substantiate many of the estimates in the December Plan or the presentation made to the MTA Board on November 22, 2002, which identified the $2.8 billion gap. In fact, on some occasions MTA officials were unable to demonstrate, especially for a number of expenditure categories, how estimates were calculated even though the officials had brought all of their relevant files and documents with them. In contrast, the City of New York provides the oversight community with detailed documentation that supports the revenue and expenditure estimates in its financial plans.

In one case, the Director of Finance (Budget) referred us to a computation sheet with "tick marks" but acknowledged that it would be difficult to figure out and that she could not recreate the analysis during the examination.[14] On three occasions, MTA officials needed a calculator to recreate their analyses because working papers

[12] Transcript of the Comptroller's examination, March 4, 2003, page 67, line 10 to page 69, line 3.

[13] Transcript of the Comptroller's examination, March 25, 2003, page 16, lines 20-25; page 24, lines 9-14; and page 25, lines 13-18.

[14] Transcript of the Comptroller's examination, February 26, 2003, page 136, lines 3-6; page 149, line 13 to page 150, line 6; and February 28, 2003, page 16, lines 10-12.

were not readily available or the calculation was done by computer, which did not have back-up working papers;[15] in other cases they could not even recall the basis for an estimate.[16] MTA officials were satisfied when they could come close to reconciling the estimates in the financial plan,[17] and in other instances they could not find the final version of the analysis that tied into the December Plan.[18] In yet other cases, officials explained to us that the estimates were based on their professional judgment, but they could not provide any documents to support their assumptions.[19] During the course of the examination, the Director of Finance in charge of budgets admitted that she might have discarded working papers.[20] While the MTA Budget Office has a policy on document retention, to our surprise it does not have a policy regarding the preparation of working papers.[21]

The Director of Finance for debt issuance testified that she provided the Budget Office with a schedule of debt service payments. An attempt to reconcile her estimates with those in the financial plan was unsuccessful and she could not offer an explanation.[22] She stated that after providing the Director of Budgets and Financial Management with her estimates she was not involved in preparing the financial plan.[23] Later in the course of the examination, we discovered that the Director of Budgets and Financial Management adjusted the debt service estimates to move resources from one year to another.[24]

MTA budget officials explained that the MTA Budget Office provides guidance to the operating agencies and that the role of the office is to act as a conduit for the operating agencies in formulating the MTA's budget and financial plans. When we requested working papers to support the agency estimates, we were told that

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[15] Transcript of the Comptroller's examination, February 26, 2003, page 38, lines 2-10; page 45, lines 1-8; and page 111, line 8 to page 112, line 24.

[16] Transcript of the Comptroller's examination, February 26, 2003, page 43, lines 10-25; and page 170, line 9 to page 171, line 3.

[17] Transcript of the Comptroller's examination, February 26, 2003, page 79, lines 2-3; and February 28, 2003, page 44, lines 8-14.

[18] Transcript of the Comptroller's examination, March 14, 2003, page 108, line 24 to page 110, line 2.

[19] Transcript of the Comptroller's examination, February 26, 2003, page 172, line 3 to page 173, line 16; and page 175, lines 18-25.

[20] Transcript of the Comptroller's examination, February 26, 2003, page 150, lines 4-6; and page 205, lines 14-23.

[21] Transcript of the Comptroller's examination, March 4, 2003, page 6, lines 14-19.

[22] Transcript of the Comptroller's examination, February 27, 2003, page 13, lines 8-12; and page 26, line 16 to page 27, line 18.

[23] Transcript of the Comptroller's examination, February 27, 2003, page 5, line 25 to page 6, line 18.

[24] Transcript of the Comptroller's examination, February 26, 2003, page 126, line 25 to page 127, line 6.

MTA officials often did not request such documents from the agencies.[25] When pressed for examples of how they review the agency's budget estimates, MTA budget officials stated that reviews are based upon experience and their attendance at agency budget briefings.[26]

The examination found that while the MTA budget officials retained documents that supported the revenue estimates in the December Plan, they were generally unable to document the expenditure estimates, with the exception of debt service costs. We were informed that the agencies retain their respective documentation.

For example, MTA budget officials were unable to document how the personal services estimates for New York City Transit were calculated. Officials testified that New York City Transit uses models that are keyed off their payroll systems and that the agency had the documents.[27] We requested the documentation from New York City Transit on March 19, 2003, but were told we needed permission from the MTA's General Counsel before the documents could be released. The MTA's General Counsel subsequently directed New York City Transit to provide the documents and we finally received them on March 28, 2003. The estimates in the documents came very close to the personal services costs in the December Plan but did not match. In another case, the Director of Finance (Budget) made the point that five members of their staff had spent a full day organizing the files to support the pension estimates in the December Plan.[28] Our review of those records, however, found that in no case was the information complete or comprehensively documented.

E. Mandated Five-Year Plan

On February 28, 2003, the MTA produced a five-year plan in response to the State Comptroller's demand that it comply with the Public Authorities Law. In a departure from past practice, however, the format was different from the one used for the December Plan and the last five-year plan produced in September 1999. The five-year plan acknowledges that the MTA utilized "projection methodologies and assumptions that differ in significant ways from those customarily employed by MTA in producing its [financial plan]."[29] It further notes that: "…while this information

[25] Transcript of the Comptroller's examination, February 26, 2003, page 79, line 19 to page 80, line 7; page 86, line 14 to page 87, line 1; and page 199, lines 15-20.

[26] Transcript of the Comptroller's examination, February 28, 2003, page 93, lines 6-24.

[27] Transcript of the Comptroller's examination, February 26, 2003, page 198, line 15 to page 199, line 20.

[28] Transcript of the Comptroller's examination, March 14, 2003, page 57, line 8 to page 58, line 11.

[29] Strategic Business Plan 2003-2008, Metropolitan Transportation Authority, February 2003.

provides a useful management tool for conducting operations, it cannot be interpreted as a financial plan."[30]

Given these limitations, the five-year projections produced by the MTA fail to respond to concerns and legitimate questions about whether the MTA will need another fare increase in 2005. For example, the five-year estimates assume that fares will increase each year at the projected inflation rate—an unrealistic assumption—and shows balanced budgets through 2008, thereby sidestepping questions about when the next fare hike will be needed.

The five-year plan also assumes that the federal, State, and City governments will contribute to the next MTA capital program at historic levels, which ignores the existing fiscal constraints faced by each level of government. For example, the five-year plan assumes that the State will fund 5 percent of the capital costs during 2005-2008. While this represents the average historic contribution between 1982 and 2004, the State made no direct contribution to the 2000-2004 capital program. Similarly, the five-year plan assumes that the City of New York will fund 7.4 percent of the capital costs during 2005-2008, which represents the historic average during 1982 through 2002, but ignores the Mayor's proposal to cut support to the MTA capital program by 30 percent. Under the five-year plan, the City's contribution would rise from an average of $85 million during 2002 through 2004 to an average of $334 million during 2005-2008.

[30] Strategic Business Plan 2003-2008, Metropolitan Transportation Authority, February 2003.

IV. Internal Gap-Closing Actions

On November 22, 2002, the MTA announced that it faced a cumulative two-year budget gap of nearly $2.8 billion during calendar years 2003 and 2004. Public documents showed budget gaps of nearly $1.1 billion in 2003 and $1.7 billion in 2004. According to these documents, more than 70 percent of the two-year budget gap was attributable to New York City Transit and the balance was attributable to the commuter railroads (see Table 1). According to the MTA, the major factors behind the projected gaps include higher debt service and pension costs, a reduction in the level of nonrecurring resources, a reduction in projected tax revenues; and the economic slowdown.[31]

Table 1
MTA Projected Budget Gaps
(Before Gap-Closing Actions)
(in millions)

	2002	2003	2004	Total
NYC Transit	$ 15.2	$ (815.2)[32]	$ (1,193.7)	$ (1,993.7)
Commuter Railroads	9.4	(294.5)[33]	(504.8)	(789.9)
Total	**$ 24.6**	**$ (1,109.7)**	**$ (1,698.5)**	**$ (2,783.6)**

Source: Metropolitan Transportation Authority

On December 18, 2002, the MTA Board approved an interim financial plan for 2002-2004. The December Plan included $1.8 billion of internal actions that comprised the MTA's Program to Eliminate the Gap (PEG), which reduced the two-year budget gap to $951 million. From the very beginning of our examination, we asked the MTA to substantiate its initial $2.8 billion budget gap estimate, but MTA officials were unable to produce detailed financial plan estimates that excluded its gap-closing program.[34] As a result, we were unable to independently verify the MTA's gap estimates or the extent to which the factors identified by the MTA contributed to the gaps.

[31] *Challenges and Choices*, Metropolitan Transportation Authority, November 22, 2002; and February 14, 2003 letter from the MTA Chairman to State Comptroller Hevesi.

[32] Gap before the use of a $15.2 million cash balance for 2002.

[33] Gap before the use of a $9.4 million cash balance for 2002.

[34] Transcript of the Comptroller's examination, February 26, 2003, page 21, lines 12-14.

In contrast, the City of New York produces two equally detailed versions of its four-year financial plan. The first shows detailed baseline financial plan projections for each category of revenue and expense, with detailed backup documentation for each subcategory. The difference between projected revenues and expenditures accounts for the projected budget gaps. New York City also produces a financial plan reconciliation that shows the major changes since the prior financial plan as well as the factors behind the projected budget gaps. The second financial plan produced by the City incorporates the gap-closing program by each revenue and expense category. As a result, the size and factors driving the gaps, and how the gaps were closed, can be independently verified. MTA officials explained that they did not produce such a pre-PEG financial plan and that the MTA budget gaps were estimated by subtracting the value of the gap-closing program from the bottom line of projected closing cash balances.[35] Moreover, the MTA did not reconcile the December Plan to the March 2001 financial plan—the last plan publicly released by the MTA—which makes comparisons difficult. In contrast, the City of New York modifies its financial plan at least quarterly.

Our examination also found that the gap-closing program included changes in baseline estimates and did not exclusively rely on management actions to reduce costs or increase revenues. For example, the program included $165.3 million in: additional fare and toll revenues (the MTA's initial estimates were overly conservative); changes in collective bargaining assumptions; and savings from not filling vacancies and revised paratransit ridership projections. As a result, we concluded that the MTA's $2.8 billion gap estimate was inflated by at least $200 million, but a more precise estimate was limited by the lack of proper documentation.

Table 2
MTA Projected Budget Gaps
(After Internal Gap-Closing Actions)
(in millions)

	2003	**2004**	**Two-Year Total**
Pre-PEG Budget Gaps	**$ (1,085.1)**	**$ (1,698.5)**	**$ (2,783.6)**
Debt Restructuring Savings	315.2	315.2	630.4
Agency Actions	529.0	443.6	972.6
MTA Corporate Restructuring	5.0	25.0	30.0
Additional 2004 PEG	- - -	77.8	77.8
Increased Governmental Aid	- - -	121.3	121.3
Total	**849.2**	**982.9**	**1,832.1**
Post-PEG Budget Gaps	**$ (235.9)**	**$ (715.6)**	**$ (951.4)**

Source: Metropolitan Transportation Authority

[35] Transcript of the Comptroller's examination, February 26, 2003, page 22, line 4 to page 23, line 11.

The December 2002 gap-closing program was comprised of six categories: debt restructuring savings; agency actions; additional 2004 agency actions; MTA corporate restructuring; increased governmental assistance; and other. These actions were expected to generate resources of $849.2 million in 2003 and $982.9 million in 2004, which reduced the projected gaps to $235.9 million in 2003 and $715.6 million in 2004, a two-year total of $951.4 million (see Table 2).

A. Debt Restructuring Savings

The MTA's gap-closing program included $630.4 million in operating budget savings from the MTA's debt restructuring initiative. In response to questioning, the Director of Budgets and Financial Management testified that this figure represented additional debt restructuring savings beyond the amount reflected in previous financial plans.[36] When asked whether he had supporting documentation, the Director of Budgets and Financial Management testified that the MTA's financial consultant provided the number.[37] He also testified that the MTA adjusted "the debt service payment schedule so that we would get the benefit of that $630 million in the two years 2003 and 2004."[38] This would be accomplished by prepaying future debt service costs in 2002, which helped to create a budget gap in 2003.

B. Agency Actions

Agency actions were projected to yield $972.6 million over a two-year period, or more than half of the $1.8 billion two-year MTA gap-closing program. The agency program was comprised of $804.3 million in expenditure reductions and $168.3 million in increased revenues, with New York City Transit responsible for almost 60 percent of the total (see Table 3). MTA budget officials explained that, as part of the budget process, they inform agency officials of their bottom-line cash deficit targets, which effectively determine the size of the agency gap-closing program. When asked how such targets are established, the Director of Budgets and Financial Management testified that the targets are "based on a judgment of what they [the agencies] need and what we think they [the agencies] will be able to cut."[39]

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[36] The Director of Budgets and Financial Management testified that previous financial plans assumed savings of $1.2 billion from the debt restructuring initiative, but that the level of anticipated savings increased by $630.4 million due to a favorable interest rate environment and other factors. Transcript of the Comptroller's examination, February 26, 2003, page 125, line 1 to page 126, line 16.

[37] Transcript of the Comptroller's examination, February 26, 2003, page 121, lines 10-14.

[38] Transcript of the Comptroller's examination, February 26, 2003, page 126, line 25 to page 127, line 4.

[39] Transcript of the Comptroller's examination, February 26, 2003, page 61, lines 7-9.

MTA budget officials testified that the agencies submit their gap-closing initiatives to the budget office, where they are reviewed to see if the bottom-line target has been met. MTA budget officials were unable to provide useful documentation that showed how individual gap-closing initiatives were calculated, the implementation dates, and milestones for implementation. For example, the Director of Finance (Budget) provided a spreadsheet that she said would document New York City Transit's agency actions. To demonstrate how the value of the actions could be calculated from this document, the Director of Finance (Budget) chose a small initiative that she was able to explain using the information in this document.[40] When asked to provide documentation for a larger initiative, she referred to another box of documents that contained documentation, but it was not the final version and only accounted for $5.8 million of the initiative's $7.4 million value in 2002.[41] The Director of Finance (Budget) testified: "…that particular difference of a million dollars and change in 2002 is not considered a material difference in terms of our review process."[42] The Director of Finance (Budget) further explained that some gap-closing actions had documentation that was self-contained and others had documentation that was spread throughout the 17 boxes of MTA documents, but that there was nothing in the New York City Transit spreadsheet that would make it possible for someone outside the MTA to distinguish between them.[43]

Even when the MTA requested more details of certain gap-closing actions from their agencies, documentation was not always retained or recorded. When asked to provide documentation for a Long Island Railroad initiative, the Director of Finance (Budget) responded that the railroad had the documentation and that "It's not information that the MTA has or has further detailed information. It was neither requested nor provided. It may have been as a result of a telephone call between one of my staff and professional staff at Long Island Railroad, but I do not know."[44] When asked to provide documentation for a gap-closing action that was discussed in a meeting with New York City Transit, the Director of Finance (Budget) replied, "I was not given any retainage on it. They showed it to me and they took it back. Yes, we saw it and they have it."[45]

[40] Transcript of the Comptroller's examination, February 28, 2003, page 31, line 9 to page 33, line 21.

[41] Transcript of the Comptroller's examination, February 28, 2003, page 38, line 4 to page 44, line 14.

[42] Transcript of the Comptroller's examination, February 28, 2003, page 46, lines 2-6.

[43] Transcript of the Comptroller's examination, February 28, 2003, page 49, line 25 to page 52, line 9.

[44] Transcript of the Comptroller's examination, February 28, 2003, page 100, line 19 to page 101, line 4.

[45] Transcript of the Comptroller's examination, February 28, 2003, page 53, line 15 to page 54, line 19.

According to internal MTA records, of the $972.6 million in agency actions, $421.1 million (43 percent) was classified under administrative and agency-wide programs, such as savings from employment vacancies and attrition, and the reduction or consolidation of clerical and managerial positions. Another $168.3 million (17 percent) came from increased fare and toll revenue that the MTA expected because of its conservative projections. About 15 percent of the agency actions, $144.7 million, was from maintenance programs, such as the revision of central maintenance facility procedures. Another $99.4 million came from service adjustments such as revised paratransit ridership projections and adjustments to bus schedules. Customer convenience initiatives offered another $89.4 million, with $29.6 million of that amount coming from the proposal to close 177 token booths, which was subsequently mostly restored.

Table 3
Agency Actions
(in millions)

	Admin.	Customer Convenience	Service Adjustments	Maintenance	Other	Revenue	Total
NYC Transit	$ 282.9	$ 70.8	$ 90.6	$ 44.5	$ 4.9	$ 68.4	$ 562.0
LIRR	58.7	11.6	2.5	56.5	1.9	- - -	131.1
Metro-North	42.4	6.9	5.1	42.6	1.9	11.1	110.1
TBTA[46]	12.3	- - -	- - -	1.0	0.1	88.8	102.3
L.I. Bus	1.5	- - -	1.3	0.2	- - -	- - -	3.0
S.I. Railway	1.0	- - -	- - -	- - -	- - -	- - -	1.0
MTA H.Q.	22.3	- - -	- - -	- - -	40.7	- - -	63.0
Total	**$ 421.1**	**$ 89.4**	**$ 99.5**	**$ 144.7**	**$ 49.6**	**$ 168.3**	**$ 972.6**

Source: Metropolitan Transportation Authority

C. MTA Corporate Restructuring

The December 2002 financial plan anticipated savings of $5 million in 2003 and $25 million in 2004 from corporate restructuring. This initiative would entail merging the administrative and operational functions of various existing MTA agencies.[47] The Long Island and Metro-North railroads would be merged, as would the subway divisions of New York City Transit and the Staten Island Railway. In addition, the bus operations of New York City Transit would be merged with Long Island Bus and the seven private bus lines currently subsidized by New York City. A separate entity, MTA Capital, would oversee the MTA's long-term capital projects such as the Second Avenue Subway and the East Side Access projects. MTA Bridges and Tunnels would continue in its current form. Newspaper accounts reported that the

[46] Triborough Bridge and Tunnel Authority (TBTA).

[47] The MTA will need legislative approval for certain aspects of the reorganization.

MTA Chairman said that this initiative could generate hundreds of millions of dollars in savings over five or six years.[48] The Director of Budgets and Financial Management, however, could not produce working papers to show how he arrived at his estimates for the December Plan.[49]

D. Additional Agency PEG

The gap-closing program included savings of $77.8 million in 2004 from unspecified agency actions. Of this amount, $50 million was allocated to New York City Transit and $27.8 million to the commuter railroads. MTA officials were unable to produce working papers that showed how this estimate was calculated, but explained that it represented two components: the shortfall in the recurring value of the actions already identified by the agencies, and an additional savings target for 2004.[50] The MTA should move quickly to identify the additional actions that will be needed to meet this savings target.

E. Increased Governmental Assistance

The December 2002 financial plan assumed that additional governmental assistance or other actions would produce $121.3 million in 2004. MTA budget officials could not produce a working paper that would show how this number was calculated, but explained that it was based on professional judgment derived through an iterative process.[51] In light of the fiscal constraints at the State and City level, the MTA should not expect an increase in governmental assistance and there is even a risk of a reduction in subsidies. However, the MTA has not yet reached a final settlement with its insurance carriers for losses related to the attack on the World Trade Center, and tax revenues could be greater than projected by the MTA should the economy improve.

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[48] *The Journal News*, "MTA Plans to Restructure Operations", Caren Halbfinger, October 10, 2002.

[49] Transcript of the Comptroller's examination, February 26, 2003, page 171, lines 14-24.

[50] Transcript of the Comptroller's examination, February 26, 2003, page 162, line 6 to page 165, line 2.

[51] Transcript of the Comptroller's examination, February 26, 2003, page 172, line 17 to page 173, line 24.

V. Undisclosed Resources

The December Plan projected a year-end cash balance of $24.6 million in 2002, and gaps of $235.9 million in 2003 and $715.6 million in 2004. To close the two-year gap of $951.5 million, the MTA proposed raising subway, bus, and commuter railroad fares by as much as 33 percent beginning in March 2003, and raising tolls on the MTA's largest bridges and tunnels by $0.50 in July 2003.

Our examination, however, found that the MTA grossly underestimated the size of the 2002 surplus in its public presentations by undertaking a series of undisclosed transactions that shifted resources from 2002 to future years. These transactions effectively created the 2003 budget gap.

In the absence of these transactions, the MTA would have generated a surplus of $537.1 million in 2002, $512.5 million more than the $24.6 million projected by the MTA in its public presentations (see Table 4). These resources largely represented dedicated tax revenue that was advanced from the State to avert fare hikes or service reductions in 2002, but was not needed in that year because debt service savings and revenues from mortgage-recording taxes, fares, and tolls exceeded the MTA's conservative estimates. More than half of the undisclosed 2002 surplus was shifted to 2004 by prepaying debt service and transferring resources to an off-budget account; the balance was used in 2003.

Table 4
2002 Cash Surplus Exceeded
MTA Public Estimate by Over $500 million

(in millions)

2002 Projected Surplus as Shown in MTA Publications	**$ 24.6**
MTA Adjustments:	
Debt Service Prepayments	205.0
Transfers to Stabilization Accounts	182.5
Transfer to MTA Corporate Account	125.0
Total	**$ 512.5**
2002 Surplus Before Transfers and Prepayments	**$ 537.1**

Source: Metropolitan Transportation Authority; OSDC analysis

Our examination also uncovered previously undisclosed reserves, which if not needed in 2004 would reduce the two-year gap projected by the MTA from $951.5 million to $833.3 million. These reserves were funded with some of the resources that were shifted from 2002 to 2004. MTA budget officials explained that the reserves were needed because of the unpredictable behavior of riders in response to contemplated changes in the fare structure and uncertainties about the economy. The MTA, however, failed to disclose the existence of these reserves in the December Plan and our examination uncovered evidence that suggests that the MTA intended to use these resources to help balance the 2005 budget.[52]

In addition, our examination revealed the availability of other resources that were not disclosed in the December Plan. These include $44 million in pension fund prepayments and $10.8 million in interest income from reserves maintained in the New York Transit Stabilization Account (see Table 5). These resources were allocated by the MTA to 2004, but were available for use in 2003.

Table 5
Other Available Resources

(in millions)

Pension Fund Prepayments	$ 44.0
Interest Income on Stabilization Account	10.8
Total	**$ 54.8**

Source: Metropolitan Transportation Authority

If all of these undisclosed resources had been applied to 2003, the MTA could have avoided a fare hike in that year (see Table 6). The use of these resources in 2003, however, would have widened the 2004 budget gap by an equal amount. While it would have been imprudent to use all the resources in 2003, there was far more flexibility in the size and timing of the fare hike than was acknowledged by the MTA. MetroCard and E-ZPass enable an endless combination of fare and toll increases and discounts. The MTA itself offered seven possible fare proposals and ultimately delayed the implementation of the fare hike from March to May 2003.

The MTA's failure to disclose the available resources to the public and its elected officials foreclosed options other than those proffered by the MTA and stifled public debate over a fare hike. Given the size of the 2004 budget gap, it may have made sense to raise fares in 2003 to build up a surplus to help balance the 2004 budget, but the actions of the MTA give the appearance that it was unwilling to candidly present its case to the public and its elected officials. Failure to disclose the availability of these resources calls into question whether the MTA Board was fully informed when it voted to raise fares. It also means that the public hearings were, in effect, a sham because the public and its elected officials did not have the information necessary to make informed comments about the December Plan.

[52] Transcript of the Comptroller's examination, March 28, 2003, page 10, lines 10-20.

Table 6
Sufficient Resources Were Available
To Avoid a Fare Hike in 2003

(in millions)

New York City Transit Budget Gap	**$ (234.7)**
MTA Corporate Account	125.0
2004 Debt Service Prepayment	95.2
Pension Fund Prepayment	44.0
Interest Income on Stabilization Account	10.8
Total	**40.3**
Commuter Railroad Budget Gap	**(1.2)**
2004 Debt Service Prepayment	44.0
Total	**42.8**
MTA-Wide Total	**$ 83.1**

Source: Metropolitan Transportation Authority; OSDC analysis

A. Debt Service Prepayments

Although never mentioned by the MTA in any of its public documents, internal MTA documents reveal that the MTA planned to prepay $205 million in debt service costs in 2002 in order to shift resources from 2002 to 2003 and 2004. This transaction not only reduced the size of the 2002 surplus by $205 million, but also shifted $139.2 million to 2004 (see Table 7). Of this latter amount, New York City Transit benefited by $95.2 million and the commuter railroads by $44 million. It appears that the MTA Board was not informed of this planned transaction.

The Director of Budgets and Financial Management testified that he believed that this transaction was identified in a slide show presentation to the MTA Board given on November 22, 2002, but he was unable to find such a reference in a hard copy of the slide show.[53] The Director of Budgets and Financial Management then testified that he had informed the board verbally during his presentation, but stated that there was no transcript.[54] Upon further discussion, MTA counsel suggested that there might be a video of the board hearing, which we requested from the MTA.[55] We reviewed the tape and did not see the Director of Budgets and Financial Management explain this transaction or its implications to the board.

[53] Transcript of the Comptroller's examination, March 10, 2003, page 72, line 18 to page 75, line 4.

[54] Transcript of the Comptroller's examination, March 10, 2003, page 74, line 21 to page 75, line 4; and page 79, lines 20-21.

[55] Transcript of the Comptroller's examination, March 10, 2003, page 74, lines 4-7; and page 79, line 24 to page 80, line 2.

Prepaying debt service is often used by New York City to move surplus resources from one year to the next because under generally accepted accounting principles (GAAP) the City cannot balance its budget with surplus funds from prior years. The City, however, discloses these prepayments. In the MTA's case, however, prepaying debt service is unnecessary because its budget is balanced on a cash basis. Any cash left at the end of the year is applied to the next year's budget. If the MTA had not planned to prepay debt service, the 2002 year-end cash balance would have increased by $205 million and the entire amount would have been available in 2003.[56]

Table 7
Impact of Debt Service Prepayments

(in millions)

	Better/(Worse) 2002	2003	2004
NYC Transit	$ (130.0)	$ 34.8	$ 95.2
Commuter Railroads	(75.0)	31.0	44.0
Total	**$(205.0)**	**$ 65.8**	**$ 139.2**

Source: Metropolitan Transportation Authority

B. Transfers to Stabilization Accounts

In 1996, the MTA established an off-budget reserve, held by the MTA Treasurer, to stabilize MTA cash flow requirements. The stabilization reserve consists of two accounts, the MTA New York City Transit Account and the MTA Commuter Railroad Account. The MTA transferred surplus resources to the New York City Transit Account in the amounts of $82.5 million in 1996 and $113 million in 1998 (see Table 8). Only $5.7 million was deposited in the Commuter Railroad Account in 1996, and these resources were used in the operating budget the following year.

New York City Transit began to draw upon these resources beginning in 1999 when it used $82.5 million to help fund the purchase of subway cars. The Director of Budgets and Financial Management testified on March 4, 2003 that a drawdown of $45.4 million in 2002 was "the last of the funds that were in the general reserve."[57] The internal version of the December Plan, however, revealed that $10.8 million, which was earned on deposits to the MTA New York City Transit Account in prior years, still resided in the reserve and would be used in 2004. These resources were available and could have been used in 2003.

[56] Transcript of the Comptroller's examination, March 10, 2003, page 32, lines 8-23.

[57] Transcript of the Comptroller's examination, March 4, 2003, page 48, line 23 to page 49, line 17.

Moreover, the internal December Plan disclosed that in addition to the \$45.4 million that was to be drawn down in 2002, the MTA planned to transfer \$139.5 million to the MTA New York City Transit Account and \$43 million to the MTA Commuter Railroad Account in December 2002. The Director of Finance (Budget) testified that such transfers were identified in MTA financial plans in past years, but the Director of Budgets and Financial Management acknowledged that they were not disclosed in the December Plan.[58] If the MTA had not planned to transfer these resources to the stabilization accounts, the resources would have been part of the 2002 surplus and available in 2003. Since the MTA planned to use the resources in the stabilization accounts to benefit 2003 anyway, we can only conclude that the transaction misled the public about the size of the 2002 surplus.

Table 8
MTA Stabilization Accounts
Deposits and Withdrawals

(in millions)

Deposits/(Withdrawals)

	NYC Transit			Commuter Railroads		
	Deposit	**Withdrawal**	**Year-End Balance**	**Deposit**	**Withdrawal**	**Year-End Balance**
1996	\$ 82.5	\$ - - -	\$ 82.5	\$ 5.7	\$ - - -	\$ 5.7
1997	- - -	- - -	82.5	- - -	(5.7)	- - -
1998	113.0	- - -	195.5	- - -	- - -	- - -
1999	- - -	(82.5)	113.0	- - -	- - -	- - -
2000	- - -	(22.6)	90.4	- - -	- - -	- - -
2001	- - -	(45.0)	45.4	- - -	- - -	- - -
2002 *	139.5	(45.4)	139.5	43.0	- - -	43.0
2003 *	NA	(139.5)	- - -	- - -	(43.0)	- - -
2004 *	NA	(10.8)	- - -	- - -	- - -	- - -
Total	**\$ 335.0**	**\$ (345.8)**	**\$ (10.8)**	**\$ 48.7**	**\$ (48.7)**	**\$ - - -**

Source: Metropolitan Transportation Authority * planned per December Plan

C. MTA Corporate Account

The Director of Budgets and Financial Management testified that mortgage-recording tax revenues, unlike other forms of intergovernmental aid, can be allocated at the MTA Board's discretion and that a 1987 accounting ruling determined that the MTA did not have to account for the resources in the Corporate Account until used.[59] Using this authority, the MTA planned to transfer \$125 million in mortgage-recording

[58] Transcript of the Comptroller's examination, March 25, 2003, page 40, line 19 to page 48, line 1.

[59] Transcript of the Comptroller's examination, March 25, 2003, page 16, lines 8-17.

tax revenues from 2002 to the MTA Corporate Account and then use these resources in 2004 to fund reserves. The $125 million from the MTA Corporate Account was found in New York City Transit's cash flow adjustments for subsidies in 2004, which were not detailed in the December Plan. If not for the planned transfer, the 2002 surplus would have been greater by this amount, making the revenues available for use in 2003.

D. Pension Fund Prepayments

According to internal documents and testimony by MTA budget officials, prior to 2001 but probably in 2000, New York City Transit used surplus resources to make an additional payment of $90.4 million to the Manhattan and Bronx Surface Transit Operating Authority (MaBSTOA) pension plan, which administers retirement benefits for certain New York City Transit employees. New York City Transit drew upon these resources in 2001 and 2002 to help meet its required contribution to the MaBSTOA pension plan and planned to do so again in 2003 (see Table 9). Internal MTA documents indicate that the MTA intends to use the remaining $44.4 million in 2004. These remaining resources, however, could have been used in 2003.

Table 9
Use of Pension Fund Prepayments
(in millions)
Deposit/(Drawdown)

	2000	**2001**	**2002**	**2003**	**2004**
NYC Transit	$ 90.4	$ (10.7)	$ (2.2)	$ (33.1)	$ (44.4)*

Source: Metropolitan Transportation Authority * planned

E. Reserves

MTA internal documents reveal $118.2 million in hidden reserves in 2004, which effectively increased the size of the budget gap for that year by reducing available resources. These reserves, which were funded with resources from the MTA Corporate Account, were identified in internal MTA documents as "New Governmental Assistance," an offset to available subsidies for New York City Transit ($58.2 million); and "Stabilization Fund," cash adjustments for MTA Headquarters ($60 million). The reserves were not disclosed in the December Plan and the significance of these entries could not be discerned before questioning MTA officials.

The Director of Budgets and Financial Management explained that these resources were set aside because of the unpredictable behavior of riders in response to contemplated changes in the fare structure and uncertainties about the economy.[60] The Director of Budgets and Financial Management reluctantly acknowledged the existence of these reserves only after extensive questioning.[61] The MTA failed to disclose the existence of these reserves in the December Plan and the examination also uncovered evidence that suggested that the MTA intended to use these resources to help balance the 2005 budget.[62]

[60] Transcript of the Comptroller's examination, March 14, 2003, page 23, line 14 to page 25, line 16.

[61] Transcript of the Comptroller's examination, March 14, 2003, page 25, line 17 to page 28, line 13.

[62] Transcript of the Comptroller's examination, March 28, 2003, page 10, lines 10-20.

VI. Capital Needs and Finance Costs

The MTA has increasingly relied on debt to finance its capital programs as the contribution from the State has declined. The amount contributed by New York State toward MTA capital programs—both its direct contribution and proceeds from bonds supported by State-authorized dedicated taxes—declined, from an average of 18 percent of the total resources for the MTA's first two capital programs to 7 percent in the 1995-1999 program. The State is not making any direct contribution to the 2000-2004 capital program and the amount supported by dedicated taxes is not yet known.

The State had planned to allocate $1.6 billion of the proceeds from the Transportation Bond Act to the 2000-2004 MTA capital program, which would have funded about 9 percent of the program, but voters rejected the act in November 2000. To help fund the current capital program and produce short-term debt service savings to help balance the operating budget, the MTA restructured $13.5 billion in outstanding debt. These resources were created by taking advantage of lower interest rates and freeing up reserves, but also by pushing debt into the future.

Efforts to obtain the latest estimates of pre- and post-restructuring debt service costs were hindered before the State Comptroller subpoenaed records and testimony from the MTA. The information was requested during a meeting with MTA budget officials on January 3, 2003, and again in the Comptroller's letter to the MTA chairman on February 7, 2003. In both cases, the MTA provided projections that were used at the April 2002 New York Institutional Investor Conference before the restructuring initiative was completed. MTA budget officials testified, however, that the MTA Board was provided with the results of the completed restructuring on January 30, 2003, and finalized the presentation shortly before that.[63]

According to the data provided by the MTA during our examination, annual debt service costs will now be, on average, $220 million less than previously scheduled through 2015, but will be much higher in subsequent years. Debt service costs will be lower by $2.8 billion between 2003 and 2015, but higher by $8.6 billion between 2016 and 2032, a net increase of $5.8 billion. While debt service costs were previously scheduled to decline sharply over a 15-year period beginning in 2015, debt service costs will now remain level through 2031, at about $1 billion just for the bonds currently outstanding (see Graph 1). Consequently, the MTA has locked itself into a relatively high level of debt through 2031, which will make affording future capital programs more difficult.

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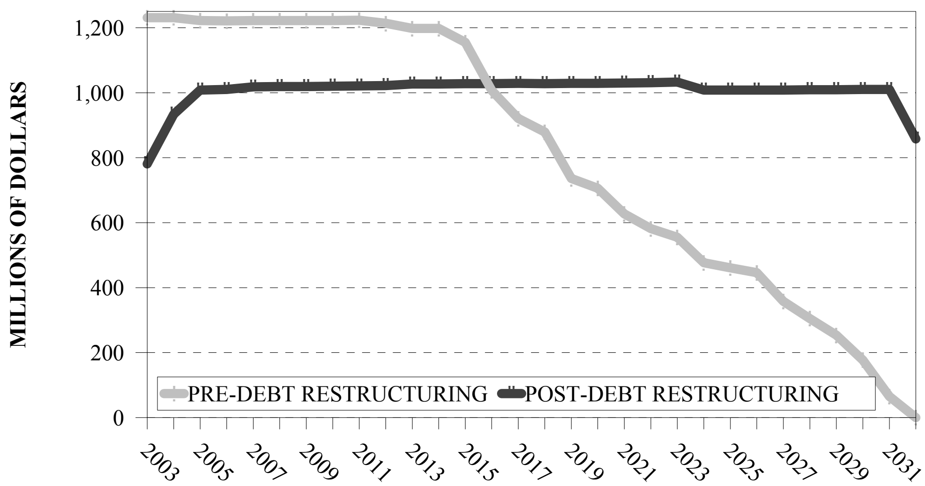
[63] Transcript of the Comptroller's examination, February 27, 2003, page 56, line 25 to page 57, line 2.

Graph 1

COMPARISON OF DEBT SERVICE COSTS PRE- AND POST-DEBT RESTRUCTURING



Source: Metropolitan Transportation Authority

Note: Does not include new money issuances.

A. The 2000-2004 Capital Program

The capital program for 2000-2004 totals $18.9 billion, with most of the resources dedicated to maintaining and upgrading the existing mass transit system. A significant portion, however, will be devoted to network expansion and new security needs that were identified after the attack on the World Trade Center (see Table 10).

Table 10

2000-2004 Capital Program
Allocation of Resources

(in millions)

New York City Transit	$ 10,161
Long Island Railroad	2,209
Metro-North Railroad	1,381
Network Expansion	3,398
Bridges and Tunnels	1,035
Security	591
WTC Recovery	162
Total	**$ 18,936**

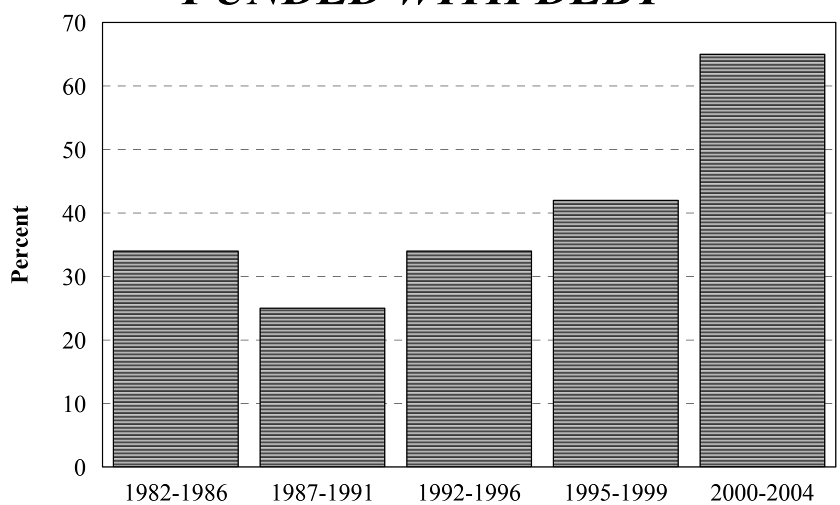
Source: Metropolitan Transportation Authority

Nearly \$10.2 billion, or more than half of the capital program, is devoted to New York City Transit. Of this amount, nearly \$2.6 billion has been allocated to purchase subway cars and buses, \$1.9 billion has been allocated to renovate subway stations, and \$1.2 billion has been allocated to upgrade and modernize signals and communications. The MTA has allocated nearly \$3.4 billion for network expansion, including \$1.5 billion for East Side Access, \$1.05 billion for the Second Avenue subway, and \$645 million for LaGuardia Airport Access. A new addition to the capital program is the allocation of \$591 million for security. About 55 percent of the resources have been allocated to improve security at New York City Transit, with the balance distributed nearly evenly among the Long Island Railroad, Metro-North Railroad, and Bridges and Tunnels.

The current \$18.9 billion five-year capital program is funded with \$12.3 billion in borrowed money—twice the level in the prior program. In total, nearly two thirds of the funding for the current capital program is expected to come from debt, far more than prior capital programs (see Graph 2). While the federal government is expected to fund nearly \$4.9 billion, or 25 percent, of the total capital program, the City contribution has been minimal, about \$105 million annually, and could be reduced by 30 percent if Mayor Bloomberg's recommendation is adopted by the City Council. New York State is not expected to make any direct contribution to the 2000-2004 capital program.

Graph 2

PERCENT OF CAPITAL PROGRAMS FUNDED WITH DEBT



Source: Metropolitan Transportation Authority; OSDC analysis

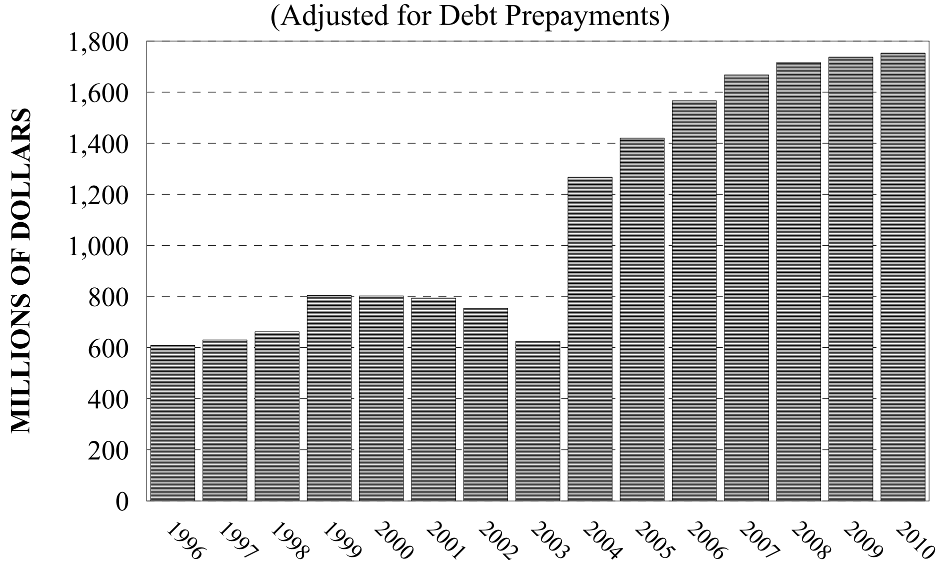
B. Debt Service Burden

MTA officials were able to produce detailed working papers to support the debt service estimates in the December Plan. After adjusting for prepayments, which can distort expenditure patterns, debt service costs were projected to rise from about $794.7 million in 2001 to nearly $1.3 billion in 2004—an increase of 59 percent. With the issuance of $7.9 billion in new money bonds to finance the current capital program, debt service costs will increase by another 38 percent to $1.7 billion by 2010—more than twice the 2000 level (see Graph 3).

Graph 3

MTA DEBT SERVICE COSTS

(Adjusted for Debt Prepayments)



Source: Metropolitan Transportation Authority; OSDC analysis

If debt service costs grow faster than revenues, fewer resources would be available to fund other expenses such as labor agreements, maintenance, and existing services. The MTA's reliance on debt to finance capital improvements is already putting pressure on the operating budget. Debt service costs as a percent of revenues totaled 13.4 percent in 2000 but were projected to rise to 19.7 percent in 2004 before the increase in fares and tolls. An August 2002 analysis prepared by the MTA with the assistance of its financial advisor compared the MTA's future debt burden with those of other New York State authorities and other entities in other states. The MTA projected that its debt service burden would reach 25.5 percent by 2020, higher than the current burdens for other New York State authorities and the Port Authority of New York and New Jersey.

C. Financing Future Capital Needs

These debt service estimates, moreover, do not reflect the MTA's future capital needs beyond 2004. The MTA estimates that $63 billion in capital improvements will be needed between 2005 and 2019 (see Table 11). Such an investment would fulfill the MTA's longstanding commitment to restore and maintain the regional mass transit system in a state of good repair and to complete several key expansion projects. These projects, which include the Second Avenue subway, East Side Access for the Long Island Rail Road, and an expansion of the No. 7 subway line to the West Side of Manhattan, are critical to the region's economic development.

Table 11
Capital Needs for the 2000-2019 Period

(in billions)

	20-Year Capital Needs	Allocation in 2000-2004 Capital Program	Amount to be Funded During 2005-2019 Capital Programs
State of Good Repair			
NYC Transit	$ 42.5	$ 10.2	$ 32.3
LIRR	7.5	2.2	5.3
Metro North	6.7	1.4	5.3
Subtotal	**56.7**	**13.8**	**42.9**
Expansion Projects	22.6	3.4	19.3
Security	1.0	0.6	0.4
Subtotal	**23.6**	**4.0**	**19.7**
Total	**$ 80.3**	**$ 17.8**	**$ 62.6**

Source: Metropolitan Transportation Authority

Note: Columns may not add due to rounding.

The MTA's last capital needs assessment, which was released in 1999, estimated that the MTA would need to invest $56.7 billion by 2019 just to maintain the current mass transit system in a state of good repair. The current 2000-2004 capital program allocates $13.8 billion for this purpose, a shortfall of nearly $43 billion that will have to be funded during the 2005-2019 period. In addition, preliminary estimates indicate that five planned network expansion projects and enhanced security will cost $23.6 billion, but the current capital plan includes funding of only $4 billion, a shortfall of $19.7 billion.

The lack of funding to maintain the existing system and to complete expansion projects is a problem the MTA has faced before with unfortunate and costly results. The Second Avenue subway—initiated in 1929 and restarted in the early 1970s—was abandoned during the 1970s fiscal crisis. Construction on the 63rd Street Tunnel was started in 1969 but abandoned in 1978 for nearly a decade. The unused tunnel was allowed to deteriorate and required millions of dollars in repairs before it could finally be utilized.

D. Need for a Long-Term Financing Strategy

The federal government's relatively generous commitment to the current capital program derives from the Transportation Equity Act for the 21st Century. The act expires on September 30, 2003, however, and even the MTA's current capital program presupposes a level of federal funding in 2004 that may not materialize. After the act expires, the amount of funding could decline in light of projected federal budget deficits and increased competition from other states for a smaller pool of mass transit resources.

While New York State presses the federal government for assistance, the MTA needs to develop a long-term capital financing strategy to ensure that the existing mass transit system is properly maintained and that expansion projects are financed to completion, especially during this period of fiscal constraints on all levels of government. MTA officials testified, however, that they have not conducted any analyses to determine how much additional debt the agency could afford to help fund successive capital programs.[64]

MTA budget officials also testified that the MTA and the rating agencies did not have any concerns about the MTA's ability to continue to issue debt for its capital programs.[65] Although the rating agencies upgraded the MTA's credit rating in response to the MTA debt restructuring initiative and noted a number of MTA strengths, the agencies did in fact express concerns about the size of the MTA's capital needs and its reliance on debt to finance those needs.[66]

As previously discussed, the five-year plan produced by the MTA included estimates of future capital funding from the federal, State, and City governments. These estimates, however, were based on historic averages and may not be realistic. Even the MTA acknowledged that its estimates of capital contributions from the City of New York were aggressive.[67] As a result, the MTA will likely have to rely on borrowed money to finance its capital programs to a greater degree than in the past.

[64] Transcript of the Comptroller's examination, February 27, 2003, page 75, line 15 to page 77, line 13.

[65] Transcript of the Comptroller's examination, February 27, 2003, page 66, line 14 to page 67, line 11.

[66] See Moody's Investor Service Credit Report, April 24, 2002; Standard & Poor's Rating Services Credit Report, April 12, 2002; and Fitch, Inc., April 18, 2002.

[67] Strategic Business Plan 2003-2008, Metropolitan Transportation Authority, February 2003.

VII. Subsequent Developments

On March 6, 2003, the MTA Board met to approve a 33 percent increase in subway and bus fares, and a 25 percent average increase in commuter railroad fares. In addition, the board approved an increase in bridge and tunnel tolls and higher fares for other services, such as express buses. To mitigate the impact on subway and bus riders, the board also approved deeper discounts on certain MetroCard passes. In addition, the board agreed to study Mayor Bloomberg's proposal to adopt CityTicket, which would charge commuters a fixed rate of $2.50 for traveling between two points within New York City on the commuter railroads. In the face of stiff opposition from the unions, transit advocates, and elected officials, the board's original proposal to close 177 token booths was scaled back to close no more than 62 booths, and the board has left open the possibility that the final number of token booth closings could be even lower.

These actions would produce a cash surplus of $160 million by the end of 2003, which would be used to help balance the 2004 budget. By the end of 2004, the MTA projected a closing cash balance of $59.8 million, of which $40 million would be set aside as a contingency fund (see Table 12).

Table 12
Impact of March 6, 2003 MTA Board Actions
(in millions)

	2003	**2004**	**Two-Year Total**
Post-PEG Budget Gaps	**$ (235.9)**	**$ (715.6)**	**$ (951.5)**
Fare Increase	358.0	541.8	899.8
Bridge and Tunnel Tolls	49.0	97.9	146.9
Rescind Token Booth Cuts	(7.2)	(19.2)	(26.4)
Other	(4.0)	(5.0)	(9.0)
Total	**395.8**	**615.5**	**1,011.3**
Prior Year Cash Balance	NA	160.0	NA
Closing Cash Balance	**$ 160.0**	**$ 59.8**	**$ 59.8**

Source: Metropolitan Transportation Authority

As we were preparing to conclude our examination of the December Plan, the MTA Board approved a revised financial plan on March 27, 2003 (the "March Plan"). While outside the scope of our review, a preliminary review of the March Plan found a continuation of the pattern of concealing resources that was uncovered in our review of the December Plan. A full understanding of the March Plan, however, was not possible from the public documents released by the MTA or even from the limited discussions on the March Plan that occurred near the close of our examination.

The March Plan includes revenues from the fare and toll increases that were approved by the MTA Board on March 6, 2003, and other changes, including an increase in planned debt prepayments and transfers to the stabilization accounts. The internal version of the March Plan and documents prepared by the MTA at our request show that the MTA shifted $509 million in surplus resources from 2002 to 2003 and 2004 (see Table 13). While the amount of the surplus that was shifted to future years in the March Plan is only slightly less than in the December Plan, the allocation between years has changed. It appears that most of the surplus resources that had been shifted from 2002 to 2004 in the December Plan were used in the March Plan in 2003 to help fund a reported increase in debt service costs and the labor agreement with the Transport Workers Union (TWU), which means that these resources may no longer be available to mitigate a fare hike in 2003.

Table 13
Resources Shifted From 2002 to Future Years
Per the March Plan
(in millions)

	2002	**2003**	**2004**
Transfers to Stabilization Accounts	$ (289.6)	$ 289.6	$ - - -
Debt Prepayments	(219.6)	176.1	43.5
Total	**$ (509.2)**	**$ 465.7**	**$ 43.5**

Source: Metropolitan Transportation Authority; OSDC Analysis

During the examination we spent a considerable amount of time inquiring into how the MTA intended to fund the recent labor agreement with the TWU and where those resources could be found in the December Plan. The Director of Budgets and Financial Management responded:

> This is not a treasure hunt. This is not the way to do labor. There are not hidden pots of money buried deep in the financial plan that you can go to the backyard and dig up with a spade. So the answer is, I'm sorry, but the financial plan is the financial plan. It states the resources of the MTA.[68]

When the financial plan was revised on March 27, 2003, the MTA reallocated a portion of the surplus resources that had been shifted to 2004 in the December Plan to help fund the TWU agreement and other costs. While the March Plan includes the cost of the new agreement with the TWU, it does not include any productivity savings from newly gained management rights such as merging the bus operations of New York City Transit and MaBSTOA. Newspaper accounts at the time the MTA reached

[68] Transcript of the Comptroller's examination, March 4, 2003, page 96, line 24 to page 97, line 6.

its agreement with the TWU reported that the MTA Chairman stated that productivity savings of $60 million could be realized in the second year of the contract.[69]

The March Plan projects a closing cash balance of $92 million in 2003 and $59.8 million in 2004, including a $40 million reserve for contingencies. A review of the internal version of the March Plan, however, found undisclosed reserves of $27.5 million, which would raise the 2004 surplus to $87.3 million. (While the hard copy of the internal March Plan showed undisclosed reserves of $42.5 million, it was only after a review of the electronic version that we found that $15 million of this amount was already counted by the MTA toward its $40 million contingency reserve.) If productivity savings of the magnitude described by the MTA Chairman materialize, the 2004 surplus could exceed $140 million. Moreover, the surplus could be even greater if the loss in riders due to fare increases is less than projected by the MTA. We estimate that the March Plan assumes a revenue loss of $227 million due solely to a loss in ridership from higher fares.

On April 21, 2003, the MTA released its review of the actual results for 2002. For the first time, the MTA identified the transactions that it used to move surplus resources from 2002 to 2003 and 2004. Even those references, however, were unclear and did not disclose the full import of the MTA's actions. Nowhere did the MTA state that it would have had an additional surplus of more than $500 million in 2002 if not for these transactions.

A. Subway and Bus Fares

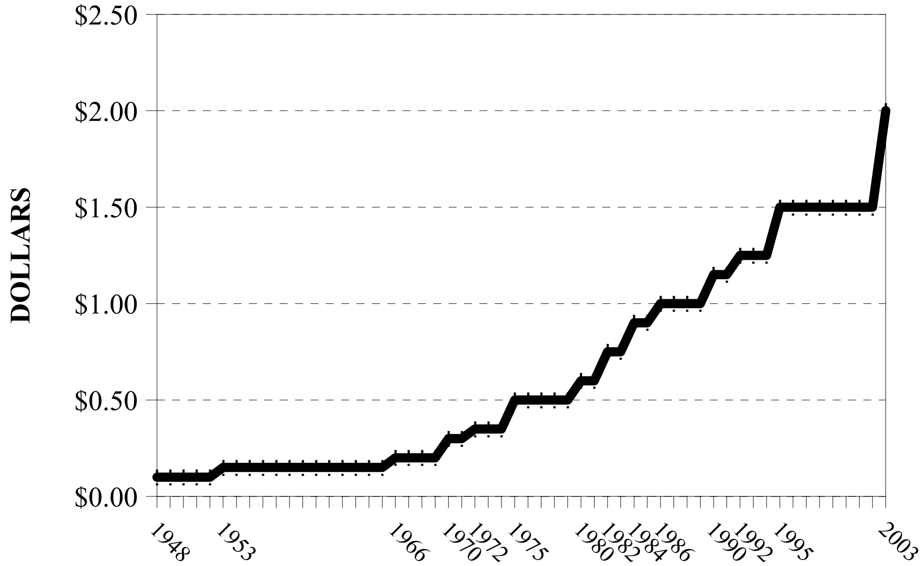
Since the opening of the subway in 1904, the fare has been raised 14 times, from $0.05 to $2.00 (see Graph 4). The $0.05 fare remained in place for 44 years until it was raised to $0.10 in 1948. In 1953, the fare was raised to $0.15 and remained at that level until 1966 when it was raised to $0.20. The fare was raised three times during the 1970s and four times during the 1980s. During the 1990s the fare was raised three times, with the last increase coming in 1995 when it reached $1.50. The $1.50 fare has been in effect for eight years. The fare hike approved by the MTA Board on March 6, 2003, will increase subway and bus fares to $2.00, the largest single monetary increase in the City's subway and bus history.

While the base subway and bus fare would rise from $1.50 to $2.00, an increase of 33.3 percent, the MTA notes that after discounts subway and bus fares would average $1.30 under the new fare structure—lower than the 1996 level before MetroCard discounts were introduced—an increase of only 25 percent over the current average fare.

[69] *New York Times*, "Contract Gains Won't Finance Higher Wages", Steven Greenhouse, December 18, 2002.

Graph 4

SUBWAY AND BUS FARE HISTORY



MTA budget officials were able to produce detailed working papers, prepared by New York City Transit, showing how the new fare structure would generate $715.3 million over the balance of 2003 and through 2004 (see Table 14). The analysis also predicts a loss of subway and bus ridership as a result of the fare increase, which has been the case in the past when the fares were increased.

Table 14
New York City Transit
Impact of Fare Increase on
Revenues and Ridership

(in millions)

	Current Fare Structure	New Fare Structure	Change
Fare Revenue			
2003	$ 2,118.3	$ 2,403.8	$ 285.5
2004	2,145.7	2,575.6	429.9
Two-Year Total	**$ 4,264.0**	**$ 4,979.4**	**$ 715.3**
Ridership			
2003	2,173.9	2,117.7	(56.2)
2004	2,201.1	2,116.6	(84.5)
Two-Year Total	**4,375.0**	**4,234.3**	**(140.7)**

Source: Metropolitan Transportation Authority

During the eight months in 2003 in which the new fare structure will be in effect, New York City Transit projects additional revenues of $285.5 million but a loss of 56.2 million riders. In 2004, New York City Transit projects additional revenues of $429.9 million and the loss of another 84.5 million riders. In total, New York City Transit projects a loss of nearly 141 million riders due solely to the fare increase, which would result in a revenue loss of $174 million. Should the loss in ridership be lower than projected, fare revenue could exceed forecasts.

B. Commuter Railroad Fares

Commuter railroad fares in New York State are scheduled to rise, on average, by 25 percent, although commuters who purchase tickets on the train and those traveling to more distant zones will pay slightly more. (Commuter fares to and from Connecticut stations are controlled by the Connecticut Department of Transportation.) MTA budget officials produced detailed working papers that show how an increase in commuter railroad fares will increase revenues by $175.4 million during the balance of 2003 and through 2004 (see Table 15). These estimates assume a loss of 10 million riders due solely to the fare increase, which would result in a revenue loss of $53 million. Should the loss in ridership be less than projected, fare revenues could exceed the forecast.

Table 15
Commuter Railroads
Impact of Fare Increase on
Revenues and Ridership

(in millions)

	Current Fare Structure	New Fare Structure	Change
Fare Revenue			
2003	$ 715.7	$ 784.7	$ 69.0
2004	737.6	844.0	106.4
Two-Year Total	**$ 1,453.3**	**$ 1,628.7**	**$ 175.4**
Ridership			
2003	158.7	154.6	(4.1)
2004	163.0	156.8	(6.2)
Two-Year Total	**321.7**	**311.5**	**(10.3)**

Source: Metropolitan Transportation Authority

C. Bridge and Tunnel Tolls

On May 18, 2003, tolls will rise from $3.50 to $4.00 on the Bronx-Whitestone Bridge, Throgs Neck Bridge, Triborough Bridge, Verrazano Narrows Bridge,[70] Brooklyn Battery Tunnel, and the Queens Midtown Tunnel. Tolls will increase by $0.25 on the Cross Bay Veterans Memorial Bridge, Gil Hodges Memorial Bridge, Henry Hudson Bridge, and Marine Parkway. E-ZPass users will continue to receive a $0.50 discount. Since the bridges and tunnels already generate far more revenue than is needed to cover their expenses, surplus revenues are used to subsidize the operating and capital budgets of New York City Transit and the commuter railroads. MTA budget officials project that the higher tolls would raise revenues by $48.9 million in 2003 and $97.9 million more in 2004. The operating budgets of New York City Transit and the commuter railroads would each benefit by $73.4 million.

[70] Commuters pay a one-way round-trip toll on the Verrazano Narrows Bridge.

VIII. Proposed Reforms to Improve Accountability

This report identifies many problems with the way the MTA currently prepares and presents its budget and financial plans. It is also clear that the agency is insufficiently attentive to its responsibilities to taxpayers, the riding public, and its other stakeholders. In short, the MTA has squandered the most important resource it possesses—the confidence of the public.

To restore that confidence and ensure that the agency does not continue to engage in the practices criticized in this report, the State Comptroller will pursue two courses of action. First, as an exercise of his constitutional authority to supervise the accounts of certain public corporations, he will promulgate regulations that require the MTA to submit its budget and financial plan in a manner that is transparent, reasonable, and timely. Second, the Comptroller will request that the Legislature pass and Governor approve a law that prevents the MTA from taking action on any future fare and toll increase until the State Comptroller reviews the MTA's financial plan to determine whether it is based on reasonable assumptions and methodologies.

A. Regulation of the MTA Budget Process

Under Article X, Section 5 of the New York State Constitution the Comptroller is charged with the responsibility to "supervise the accounts" of certain public corporations. Public authorities, like the MTA, are public corporations. This grant of authority under the Constitution empowers the Comptroller to prescribe the format of a budget or financial plan to be presented by a public authority and to require the maintenance of supporting documentation that supports budget assumptions and forecasts.

The State Comptroller will use this authority to promulgate regulations to require the MTA to adopt budget and financial plan disclosure practices that instill public confidence in the veracity and accuracy of its filings. These regulations will be formally announced pursuant to the State Administrative Procedure Act and will be subject to public review and comment prior to their final adoption. As a basis for these reforms, the State Comptroller will use not only the findings in this report, but also the New York State Financial Emergency Act of 1975 and the New York City Charter. These laws are the legal frameworks governing New York City and have proven to be invaluable tools for the City over the last quarter of a century.

The Comptroller's regulations will normalize the process of clear, comprehensive, and open reporting on the MTA's financial affairs, a process that is currently lacking. By requiring these financial protocols of the MTA, the riding public and all of the stakeholders in the region's mass transportation system will be better informed. The specific financial disclosures envisioned will provide more opportunity for informed public comment on matters pertaining to fare and toll increases, quality of service, major improvements to trains, buses, other physical plant issues, borrowing practices, labor agreements and other critical financial matters that are now too often conducted in secrecy.

B. Statutory Change

Under current law the MTA has broad latitude to make adjustments to the amounts charged for use of the subways, buses, commuter railroads, and bridges and tunnels under its authority. As a matter of good operating practice, the MTA should retain this authority. However, the findings of this report demonstrate that the MTA has lost sight of its responsibility to use this power in a judicious, fair, and open manner.

The regulatory framework the Comptroller prescribes will improve public disclosure and create the climate for greater public comment on the assumptions used and plans proposed by the MTA. The opportunity to comment regularly on the agency's budgetary matters should be a powerful check on any future attempts by the agency to manipulate financial information to further its own agenda.

The abuses uncovered in this report, as well as reports issued by the New York City Comptroller, suggest that an additional oversight tool be employed with respect to fare and toll increases. The State Comptroller is recommending legislation that would:

- Require the MTA to submit documentation and all relevant financial and budgetary data for the current year and future years to the State Comptroller prior to required public hearings regarding any proposed fare and/or toll increase.
- Prohibit the MTA from taking action on proposed fare and toll increases until this information has been reviewed and the State Comptroller has determined whether the MTA is relying on information that is reasonable.

The State Comptroller's review would be completed shortly after receiving all relevant information from the MTA, provided that the MTA complies with the enhanced regulations that are contemplated and described in the previous section.

This review would be discretionary and the State Comptroller would notify the MTA of his intent to exercise this authority. In the future, should the MTA consistently and regularly provide accurate and reasonable information to the public and submit all financial information as required in newly promulgated regulations, the State Comptroller could decide such prior review is no longer necessary.

The Comptroller believes this proposed statutory change preserves the authority of the MTA to raise fares and tolls as it deems necessary, but balances that discretion with the public's right to have confidence in the MTA's financial reporting and the choices it makes, which affect the lives of every New Yorker.