

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

METROPOLITAN TRANSPORTATION)	
AUTHORITY,)	
)	
Plaintiff,)	
)	
v.)	No. 26-422C
)	Judge Hadji
THE UNITED STATES,)	
)	
Defendant.)	

DEFENDANT’S NOTICE REGARDING STATUS OF ADMINISTRATIVE REVIEW AND REIMBURSEMENT PROCESSING

Defendant, the United States, respectfully provides the following notice to the Court in advance of the oral argument on plaintiff’s motion for partial summary judgment, which is scheduled to take place today, April 16, 2026, at 1:30 p.m. EDT.

Today, the U.S. Department of Transportation (DOT) sent the attached letter to plaintiff, the Metropolitan Transportation Authority (MTA). In the letter, DOT explains that it has completed its administrative review and MTA is now able to submit all reimbursement requests that have not previously been paid due to the suspension on which plaintiff’s breach claims in this action are based.

Defendant’s counsel advised plaintiff’s counsel of this development this morning, as soon as we were free to do so and just prior to DOT sending the letter, and we have spoken with plaintiff’s counsel. We also have provided plaintiff’s counsel with a copy of this notice just prior to filing. Based on our assumption that MTA will very soon submit these reimbursement requests such that they may be processed in the ordinary course (which historically has taken less than a week), we expect to move for dismissal of Counts I-III of plaintiff’s complaint on mootness grounds, once payment is complete.

Given these recent events, we respectfully suggest that the Court may prefer to reschedule today's oral argument until a time when the status of reimbursements is settled, in order for the parties to recalibrate their litigation positions based on these developments, and to allow plaintiff's motion for partial summary judgment to be heard in conjunction with defendant's expected motion to dismiss. To the extent the Court would rather hold oral argument today as scheduled, defendant's counsel will be prepared to discuss these developments with the Court.

Respectfully submitted,

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Attorneys for Defendant

April 16, 2026

ATTACHMENT



U.S. Department of
Transportation

Office of the Secretary
of Transportation

Departmental Office of Civil Rights
1200 New Jersey Avenue, S.E., W76-401
Washington, DC 20590

April 16, 2026

Mr. Janno Lieber
Chairman and Chief Executive Officer
Metropolitan Transportation Authority
2 Broadway
New York, N.Y. 10004

Re: Conclusion of Administrative Review for the Second Avenue Subway Project

Dear Mr. Lieber:

The U.S. Department of Transportation (DOT) has completed its civil rights administrative review of the Metropolitan Transportation Authority (MTA) Second Avenue Subway Project, conducted pursuant to the terms of the Full Funding Grant Agreement (FFGA) executed between MTA and the Federal Transit Administration (FTA). DOT conducted this review to ensure that all disbursements of Federal funds for the Project are consistent with the Equal Protection principles of the U.S. Constitution, Federal nondiscrimination requirements under Title VI of the Civil Rights Act of 1964, and Executive Order 14173.

DOT's review uncovered troubling information revealing that MTA and its prime contractors appear to have engaged in contracting practices that consider race and sex as part of both the prime and subcontract bidding and contract awards, including through the use of "Diversity Compliance" evaluation criteria. DOT strongly objects to these practices, which are inconsistent with Equal Protection principles of the U.S. Constitution, with Federal law, and with the fundamental principle that all Americans should be treated equally, without regard to their race or sex.

As a result of DOT's review, MTA has agreed to take several corrective actions:

- (1) MTA has certified that it has ceased or will immediately cease the solicitation, collection, or use of any requirements that consider a bidder's or contractor's record of successful minority and/or women-owned business enterprise (MWBE) or disadvantaged business enterprise (DBE) usage on past or current projects.
- (2) MTA has agreed that for purposes of projects receiving funding from the DOT, all previous DBE certifications are no longer in effect.

- (3) MTA has certified that it will work in concert with the other members of the New York Unified Certification Program (UCP) to complete the DBE reevaluation process required by 49 CFR 26.111, and it has indicated that it anticipates the completion of the reevaluation process no later than August 2026.
- (4) MTA has certified that it will take all necessary actions, within 60 days of the conclusion of the reevaluation process, to ensure that all projects receiving funding from DOT are in compliance with 49 CFR Part 26. DOT reiterates that if any previously certified DBE contractor performing work under a Project contract fails to retain its certification after the UCP reevaluation process is complete, and that contract continues to be needed in carrying out the Project, MTA should cancel and relet that contract or subcontract. Failure to take action may result in suspension or termination of federal funding under the FFGA.

In light of MTA's agreement to take corrective actions, DOT has completed its review and is resuming the processing of reimbursement requests pursuant to normal procedures. MTA may now resume submitting reimbursement requests through FTA's Electronic Clearing House Operation (ECHO) payment system pursuant to the terms of the FFGA. Please be advised that MTA will have to resubmit any reimbursement requests that have not been paid to ensure prompt payment.

Please do not hesitate to contact me with any questions about the review. If you have questions about the resumption of reimbursements, please contact Adam Schildge, Acting FTA Associate Administrator for Budget and Policy, (202) 366-0778, adam.schildge@dot.gov.

Sincerely,

**SEAN METRICE
CLAYTON**

 Digitally signed by SEAN
METRICE CLAYTON
Date: 2026.04.16 10:36:48 -04'00'

Sean Clayton
Acting Deputy Director
Departmental Office of Civil Rights