

Report Highlights

OPEGA Report No.
SR-MTA-10

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Maine Turnpike Authority – Strong Planning Process Drives Bond and Toll Decisions; Some Contracting Practices and Expenditure Controls Should Be Improved; Additional Clarity Needed Around Surplus Transfer and Operating Expenses



What issues did OPEGA identify during the course of this review?

- Current Definition of Operating Surplus Makes Transfers to MaineDOT Unlikely
- Nature of MTA's Relationship with Contracted Engineering Firm has Implications for Capital Program and Bondholder Protections
- Management of Services Contracts Often More Informal than Prudent
- MTA is Sole Sourcing Services that Could be Competitively Bid
- MTA's Operating Budget Does Not Include All Operating Expenses
- MTA's Sponsorships and Donations Suggest Expansion of Mission and Present Risk of Inappropriate Expenditures
- Policies Governing Expense Approvals, Required Documentation and Allowable Expenses Not Effectively Implemented, Particularly for Travel and Meal Expenses

More information about these issues, including OPEGA's recommendations for addressing them, is included in the Recommendations section of the full report.

What questions did this review focus on, and what are OPEGA's answers?

1. *Why hasn't MTA been transferring operating surplus to MaineDOT as required by statute? Does MTA have an operating surplus as defined by 23 MRS.A §1964? What other types of financial support has MTA been providing to MaineDOT, if any? To what degree can MTA provide financial support to MaineDOT without increasing toll rates?*

MTA maintains there has been no operating surplus per the definition in statute. OPEGA agrees there is technically no surplus given the statutory definition of operating surplus. The Legislature and MaineDOT appear to have been satisfied with this explanation, since no surplus funds have been transferred or specifically requested by the Legislature since 1997.

MTA is still paying on bonds it issued for MaineDOT's benefit in 1996. The Authority has also provided significant support for the State's transportation infrastructure and other efforts. Examples include paying all costs associated with State Police Troop G that patrols the Turnpike, conducting and/or funding transportation studies, and paying a portion of costs associated with constructing interchanges.

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Any required transfer of funds to MaineDOT would affect the Authority's current financial situation and, therefore, its strategy for achieving stated objectives and maintaining a strong bond rating. MTA would likely make other adjustments to compensate for the transfer after analyzing various options and their impacts. Those options include changing the amount and timing of toll increases. Modifications to future bond amounts and their timing, the schedule for planned capital projects and/or the level of operating expenses could also be considered. MTA is constrained, however, in how much it can adjust any given area.

2. *What factors most significantly affect MTA's bond rating? How is the bond rating affected by legislative oversight actions, including OPEGA reviews, or by changes in MTA's operations, governance structure, revenue stream, etc?*

The three major rating agencies consider similar factors when determining bond ratings for tolling entities, but they do not specify which are most significant. Their assessments appear more subjective than formulaic. OPEGA's observation is that those factors most directly affecting the level and stability of MTA's revenue stream, and its ability to pay bondholder obligations, are most significant. Factors most frequently mentioned in rating agency reports include independent ability to raise tolls, a history of raising tolls when necessary, and maintaining an acceptable debt service coverage ratio.

OPEGA noted legislative and other events since 1991 that could have concerned rating agencies. Nonetheless, MTA's revenue bond ratings have been stable, strong, and gradually improved between 1997 and 2003. These favorable ratings were likely due to the fact that none of the changes resulting from the activity substantially interfered with MTA's ability to repay bondholders and/or there were other positive factors offsetting any changes perceived as negative.

There is risk, however, of certain legislative actions negatively impacting MTA's bond rating. Any actions that could adversely affect MTA's revenue stream, or its ability to repay bondholders, should be approached with caution and a thorough understanding of potential impacts.

3. *What specific obligations does MTA have to its bondholders as expressed in the Bond Resolution? Are these typical obligations for an entity that issues revenue bonds?*

MTA's Bond Resolution includes specific obligations that prevent it from issuing more bonds than can be paid, assure it has sufficient money to repay existing bonds, and require it to maintain the Turnpike in adequate condition. These obligations are generally typical of revenue bonds, but MTA's are more specific in some areas when compared to bond resolutions for other tolling authorities. The additional specificity provides all parties with more clarity and, while it could restrict MTA more in some situations, it does not appear to be unreasonable.

The Bond Resolution is a contract between MTA and bondholders. There is risk that legislative actions could result in a violation of this contract which could result in legal action being brought against the State. Legislators should proceed cautiously when considering action that would impact MTA's ability to meet its obligations under the Resolution.

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4. *Is the amount of bond debt currently held by MTA reasonable, and has the full amount of that debt been necessary to ensure the Authority could effectively carry out its mission?*

Overall, MTA's debt level appears reasonable. The Authority currently owes just over \$400 million in bonds. This amount does not exceed the statutory bond cap, and rating agency reports have not included any negative comments about MTA's debt level. MTA uses cash to fund a portion of its capital and maintenance projects. Bond funding is limited to longer term capital improvements.

The Board has a strong, established process for deciding when to bond, and for how much, based on the Authority's 20 year financial and capital plan. OPEGA observed that decisions to refinance existing debt are well supported and justified in terms of cost savings or cashflow improvements. Decisions to issue new debt have been tied to capital projects related to MTA's mission.

5. *Are MTA's policies, procedures and processes for selecting contractors and administering contracts adequate to ensure that MTA receives best value for contracted services?*

MTA manages its contracts for construction projects well. Processes and practices for selecting and monitoring construction contractors are sound, consistent and adequate to ensure best value. The same is true for contracts involving the procurement of goods. Services contracts, however, are not handled as well. Processes for selecting service contractors, and administering those contracts, are informal and do not consistently include practices typically relied upon to ensure best value.

6. *What entities have a role in governing and overseeing MTA? What role is each entity supposed to play and how effectively does each entity carry out that role? How does MTA's governance structure compare with those of similar authorities in other states?*

MTA is overseen by a number of public and private entities, all of which appear to have appropriate and adequate authority to fulfill their roles. Effectiveness in filling these roles can vary with the characteristics, perspectives and priorities of the individuals representing these entities. Taken together, these oversight entities form a comprehensive governance structure that is not substantially different from the governance structures of tolling entities in other states OPEGA selected for comparison.

The specific entities overseeing the MTA include: the Legislature, which approves the operating budget and confirms board members appointed by the Governor; the Authority Board, which approves all significant financial matters, capital plans, and general operations; MaineDOT, which has a position on MTA's Board and separately approves all MTA construction contracts; the Consulting Engineer, responsible for inspecting the Turnpike and ensuring the Authority is in compliance with the Bond Resolution; and, the Trustee, responsible for ensuring MTA has adequate funds to repay bondholders and releasing bond funds for appropriate expenditures.

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7. *What is MTA spending its toll revenue on? How does MTA define reasonable expenditures? Are the Authority's expenditures reasonable?*

MTA spends its toll revenue on three major categories of expenses: operations, including routine maintenance; payments and required reserves for outstanding bonds; and projects to construct, reconstruct or repair the Turnpike and Authority facilities.

The Authority defines reasonable expenditures as any that are legal, consistent with MTA's mission and goals, within approved budgetary limits, and authorized for payment. Whether outsiders would judge MTA's expenditures reasonable depends on their perception of the Authority's mission, and their expectations for how this quasi-governmental agency should conduct its business.

OPEGA observed that MTA's current expenditures are consistent with the culture of a regulated private entity that is financially sound, values quality, desires to stay current, believes in being a good corporate citizen, recognizes its employees and assertively promotes its own best interests. From this perspective, MTA's expenditures overall could be judged as reasonable. However, certain categories of operating expenditures – by virtue of their nature or magnitude – might be questioned as to their reasonableness, appropriateness or necessity when judged against expectations for fiscal stewardship or adherence to statutory purpose typically applied to State agencies.

8. *How does MTA compare to toll authorities in other states on financial and performance measures such as personnel and management costs and cost per mile?*

OPEGA attempted to compare MTA to a number of its peers in other states based on 26 selected financial and performance measures. MTA provided all data requested, but we encountered significant issues in collecting the necessary data from the other tolling entities. Those issues included difficulty finding truly comparable entities, incomplete survey responses and inconsistent publicly available data. In the end, we had too little useful data to complete a meaningful analysis on our selected measures within the timeframe for this review.

Bond ratings encompass both financial and other performance considerations and offer one general comparison point among tolling authorities. We noted that MTA's bond ratings compare favorably with those of other tolling entities. OPEGA also observed that MTA is pursuing some financial and performance objectives and is collecting performance-related data. We shared with MTA the performance indicators we had identified and discussed the benefits of establishing a more formalized performance measurement effort.