

# A Control Board Equipped for for the Next Phase of MBTA Reform

By Jim Stergios

## Introduction

In its recent findings, the Safety Review Panel joins many others in highlighting the value of the Fiscal and Management Control Board (FMCB), which has overseen the MBTA since 2015. Specifically, the panel points to the strides that have been made in budget planning, attracting top talent to leadership positions and improving capital project delivery.

In addition to these accomplishments, it is important to underscore the public service the FMCB has performed by bringing transparency to a legendarily insular agency. The dedication of board members is to be applauded.

Pioneer Institute first proposed the control board concept in February 2015. Today, we are pleased to join organizations like Transit Matters and A Better City in calling on the state Legislature to extend the FMCB beyond its current June 30, 2020 sunset date.

In 2015, the MBTA's performance collapsed in the snow and the agency was, for all intents and purposes, bankrupt. It was only reasonable that, during a first phase of reform, the FMCB focused on cost control, labor productivity and efficiency.

But times change, and to continue to be effective, the control board must evolve in order to address the transit authority's most significant challenges. Five years later, fiscal issues remain critical, but so are challenges like resilience and responding to climate change, problems revealed by the Safety Review Panel report, and roadway congestion has mushroomed.

The great strength of the FMCB is that it is composed of experts rather than political appointees. It would be a mistake to change that. If the board were to include a representative of the City of Boston for example, as has been proposed, it would only be a matter of time before there would also be representatives from MetroWest, the North Shore and the South Shore, and other constituencies. A wiser choice is to ensure that the FMCB continue as an expert board that is focused on the transit agency's most pressing problems.

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## Confronting new challenges

In a second phase of reform, the FMCB's greatest challenge will be to create the culture of accountability and management capacity that a successful 21st-century transit agency requires. To facilitate that, we urge Governor Baker and the Legislature to ensure that the control board be composed of individuals with expertise in areas where the T has demonstrated chronic weakness.

We believe that the following areas are where board-level expertise is required:

- Capital delivery
- System maintenance
- Operations
- Procurement and contracting
- Project management (including internal projects)
- Performance measurement and auditing
- Transportation technology

To illustrate this recommendation, consider the recent problems with implementation of a new fare collection system at the MBTA. At a recent FMCB meeting, MBTA officials appeared before the board to explain why the timetable for completion of the \$723 million Automated Fare Collection 2.0 project had to be extended by two years, why a new contract had to be negotiated, and why the estimated cost had risen to approximately \$1 billion.

Afterwards, in bemoaning the presentation's partial scope, the secretary of transportation underscored that it failed to explain that one of the major reasons for the delay was that "technology that we assumed would be available earlier was just not mature at the time the original contract was signed." After complaining that the agency lacked answers to even superficial questions, another member of the control board stated in frustration, "We can't go through another iteration in two years." The FMCB chair pointed to the agency's lack of "sufficient talent."

**The FMCB's greatest challenge will be to improve the T's culture of accountability and management capacity.**

The fact is that the FMCB has attempted to hold the authority accountable for progress on the AFC 2.0 project, but in order to do so, it needs expertise in project management and transportation technology. Without experience in these areas, the FMCB will be at a continuing disadvantage in ensuring that the MBTA has the talent and processes to deliver similarly complex projects.

It is important to note that calling for board members to have specialized expertise is not a suggestion that that the FCMB supplant the role of managers, who must remain responsible for day-to-day operations. Subject matter expertise allows board members to ask the right questions and leverage audits,

studies and other data to drive change and improve management practices. It allows the board to identify areas where talent is lacking and press for changes.

## Time on task

Another reason for the FMCB's success has been its intense focus on seeking improvement. That close oversight has come with a cost, with board members and top managers often meeting on a weekly basis. But as the Safety Review Panel pointed out, preparing for board meetings is now taking too much staff time. The frequency of the meetings may also have led to too much focus on "managing up" and not enough time communicating throughout the organization the authority's highest priorities. Pioneer urges the legislature to consider having the control board meet on a bi- or even tri-weekly basis during the next phase of reform.

## Ensuring accountability

Finally, the control board's success thus far is also a function of its benefitting from "leverage." Because of a now-expired three-year exemption from the Commonwealth's anti-privatization law, the FMCB was able to quickly build momentum and leverage significant changes in the T's operations. The exemption provided an incentive for labor and management to work together on developing solutions. When that couldn't be done, the MBTA could seek out public-private partnerships, such as ones that produced dramatic savings and substantial service improvements in MBTA cash counting and warehousing and logistics operations.

It appears unlikely that the Baker administration or the Legislature will bring back the exemption from the so-called Pacheco Law. And, as important as an ongoing Pacheco Law exemption would be, many of the MBTA's most pressing challenges today are related to serious shortcomings in management, which may be better addressed by an FMCB that is equipped with a different mechanism to drive change at the transit authority.

Pioneer Institute recommends that the Legislature create an independent audit office that focuses on operations and finances and reports directly to the FMCB. The Massachusetts Department of Transportation has an internal audit function, but that office reports to the secretary of transportation, who is a political hire. While the state auditor also has the responsibility to audit the MBTA, the amount of accountability needed at the T requires ongoing review and dedication beyond the

**To drive change, the Control Board needs "leverage." In a second phase of reform, we must equip the FMCB with an independent auditor.**

resources that the state auditor could provide. While KPMG conducts an annual audit of the MBTA's financial statements, the scope of the firm's services is limited. Moreover, by having an independent audit function that reports to the FMCB rather than the MassDOT secretary or the MBTA's GM, the FMCB will have power to speed improvements in the authority's management structure and processes and, if need be, to subject specific areas to further examination.

An instructive parallel can be found in the implementation of the landmark Massachusetts Education Reform Act (MERA) of 1993. MERA's passage led to the creation in 2000 of the Office of Educational Quality and Accountability (EQA), which functioned as a truly independent auditor, performing comprehensive audits of public-school districts.

For the first years of its operation, EQA acted as an accelerator for implementation of the law at the district level, especially in the urban districts on which EQA focused. But once the independent auditor was folded under the control of the commissioner of education, supposedly to enhance "coordination," it was redirected to less pressing and certainly less controversial matters. By 2010, it was a shadow of its former self, focusing on audits of specific school programs, no longer capable of driving change at the district level.

The FMCB could use this audit office to examine the issues bulleted above, looking into areas such as talent recruitment and retention, contracting and payment processes. To provide an eventual independent audit office with a roadmap of the biggest challenges to tackle, Pioneer further recommends that the FMCB once again engage the LaHood panel to look more broadly at MBTA management deficiencies.

The Safety Review Panel report, produced by former U.S. Transportation Secretary Ray LaHood, former Federal Transit Administration administrator Carolyn Flowers, and former New York City Transit Chair Carmen Bianco, did more than address safety shortcomings; it also pointed out serious underlying management deficiencies, including employees not reporting safety issues for fear of reprisals, and inadequate controls and tracking mechanisms that could provide the control board with meaningful data on a range of T initiatives.

It was the FMCB that appointed these independent experts, who issued a hard-hitting report that MBTA General Manager Steve Poftak called "sobering." It included 34 recommendations and suggested 61 corrective actions. It is no accident that the Safety Review Panel's report pulls no punches compared to other supposedly independent assessments of transit agency management. The weaker assessments are often commissioned by transit managers themselves, not independent oversight boards.

The assessments in management-commissioned audits are routinely rosy. One such recent audit found that "no modifications" were needed to the New York Metropolitan Transit Authority capital program, despite the fact that half of the MTA's capital budget is consistently left unspent. A close observer of an audit commissioned by the Oregon Department of Transportation noted that it "looks more like an orchestrated attempt to restore ODOT's image than an honest evaluation of its performance."

## Conclusion

The Massachusetts Legislature should extend the life of the MBTA's Fiscal and Management Control Board beyond the current fiscal year ending on June 30 and fine tune it to address new challenges the transit agency faces. Doing that successfully will require that the legislature continue to prioritize transit expertise over politics and focus on individuals with expertise in capital delivery, project management, operations, maintenance, transportation technology, and performance measurement. Finally, success in increasing the T's capacity to drive needed changes will require a mechanism to ensure leverage and accountability; we believe this mechanism should be an independent audit office that reports to the FMCB.

