Are New York State's Public Authorities Performing Well? Who Knows?

By Dennis C. Smith

> "Producer efficiency in the absence of consumer utility has no economic meaning."
>
> **Vincent Ostrom, "Can Federalism Make a Difference?" 1973**

The creation of public benefit corporations, or public authorities as they are commonly called, is one of the great innovations of the progressive era in American public administration. Some of the largest and most important public authorities in America were created in New York State. The scale of public authorities is reflected in a report of the 2006 Commission on Reform of Public Authorities estimate, and *estimate* is all this expert body could do: public authorities generate "approximately" $28.5 billion in revenue, and had $113 billion in outstanding debt. While some authorities are too small or antiquated to count,[1] the ones that do count are responsible for vital public services.

A list of the defining characteristics of authorities in a chapter on "Other Governments" in Pecorella and Stonecash's *Governing New York State* is a good summary of most of the topics in the discourse on authorities in the literature:

1. They are administered by boards and commissions, most of whose members are appointed by the Governor with the State Senate confirmation.
2. They borrow outside governmental debt limit.
3. They are exempt from taxation for both bonds and property, although in the latter instance, payments may be made in lieu of taxes.
4. They have the power of eminent domain.
5. They have discretion in establishing charges.
6. Their employees are independent of the civil service system.
7. They can pay higher salaries to their employees than the state proper. (Some top executives make more than the Governor.)
8. Their decision-making is isolated from the normal political process.

The idea of using "businesslike" organizations to carry out public functions was viewed as a way to remove politics from administration and achieve efficient government. Woodrow Wilson, in *The Study of Administration*, helped launch the field of public administration in the 1880s with a claim that administration can and should be separated from politics in order to improve performance. Today, that separation which was a favorite design feature of earlier reformers is characterized as lack of accountability by critics. This ironic circumstance is captured well in a classic book *The Public's Business: The Politics and Practices of Government Corporations*. Writing thirty years ago, Annmarie Hauck Walsh observed:

> From time to time, critics charge that public authorities are autocratic, beyond the reach of the people, or unresponsive to political officials, but these criticisms focus on the very characteristics that advocates of government corporations regard as virtues. Public authorities provide a relatively independent base of operations for entrepreneurs in the public sector, providing managers with administrative power that is greater than that usually found within the regular hierarchies and bureaus of government. The corporate form a public authorities permits jobs be done and projects to be completed without the clamorous debates, recurring compromises, and delaying checks and counter checks to characterize the rest of American government. Successes of public authorities have in fact motivated much of the criticism. Critics on the left seek a more purposeful, dynamic and democratically controlled public sector. Those on the right seek to reduce the scope of government enterprise, or at least check its growth, and to limit its activities to those that aid private endeavors.

She went on to write, "In the persistent thrust of American politics toward strategic middle grounds, public authorities have withstood such assaults practically unscathed and continue to claim rights to independent management." In New York, at least, that ability to withstand challenges of lack of accountability may be ending. Part of the vulnerability of public authorities may be found in the flaw in their original design: the lack of provision for regular public reporting on their performance. Public authorities came into prominence at a time when public administration as a field had not developed the concept of performance measurement. In fact, as recently as the 1960s a prominent scholar. Anthony Downs. in a book entitled *Inside Bureaucracy* (1967) argued that a defining feature of public organizations is their inability to measure performance.

The field of public management has changed dramatically in the last several decades, and no place has reflected that change more than the government of New York City. With the inauguration of the Mayor's Management Report in 1977, which twice a year publicly presents measures of agency performance, and with the introduction of performance management, the use of performance measures to manage for better outcomes, in the New York City Police Department in the mid-1990s, the City of New York has been on the cutting edge of public management innovation. The State of New York is only now undertaking to move agencies toward systematically measuring performance. A 2008 report on a national survey of states observed of New York State, "Even though the budget process seems to proceed without any intelligent use of performance measures, the bureaucracy is slowly stumbling toward a more performance-oriented approach to management.[2] Given their relative independence, public authorities may be trailing even the trailing edge of this movement.

Governance and Public Sector Performance

Measuring the performance of public organizations and the uses of those measures in managing outcomes is at the heart of "governance." Governance is, of course, broader than government. "Good" governance requires effective, responsive, efficient, honest and equitable performance of collectively mandated functions. The term "governance" reflects recognition of the role of private and nonprofit sector agencies in achieving public objectives. It also recognizes the role of citizen consumers of public services. Reporting performance is a key to meaningful transparency of government. Public management's focus on results or outcomes, and the use of performance measurement and management to achieve truly good governance, can only work if the public is in the loop in defining and assessing the quality of governance. The idea of "liberating" public organizations from political and other constraints in order to achieve more "efficiency in government," the high hope for some reformers and the firm belief of others, can only be remotely achievable if, as Vincent Ostrom argued long ago, there is some way to include consumer utility in the assessment of performance. That is why this examination of public authority performance here will focus so heavily on public reporting. If performance is invisible to the public, how can anybody expect public accountability?

Keeping the public informed is not merely a ritual obligation embedded in democratic theory. It is also very practical. For far too long the field of public administration in the United States and elsewhere focused almost exclusively on official actors, either political leaders or civil servants, without recognizing the extent to which the production of public services depends upon the private sector, nongovernmental and voluntary organizations, and especially citizen consumers as participants in the process. When they work best, transparency and outcome measurement all are designed and implemented with co-productive governance in mind.

The concept of citizen "co-production" of public goods and services recognizes that public safety, public health, environmental protection, education, transportation, and most of the other services expected from government, depend upon citizen inputs, including their assessments, for effective, efficient, responsive, and equitable delivery. The dependence of urban police forces on citizens (for law-abiding behavior, reporting their own victimization and observed police misconduct, saying something if they see something in the fight against terrorism on subways, as well as serving as witnesses) are now recognized as keys to public safety, as is the critical contribution of students and their families to the efforts of educators. Similarly, health status in the community depends more than on environmental policies and conditions, and on citizens' lifestyle decisions more than on physicians, nurses and pharmaceuticals. Even the clinical contribution to health depends on patients' self-diagnosis of health problems and adherence to medical prescriptions. Therefore, any systematic approach to governance today takes into account the reality of co-production. Performance reporting on the Internet is today a reasonable indicator of the degree to which public agencies are oriented toward being accountable to the public they serve. When properly constructed, performance reporting on the Web also enables citizens to be more effective co-producers of public goods and services.

The goal is good governance (measured in terms of effectiveness, responsiveness, efficiency, honesty and equity). It is *not* e-government, transparent government, or measured government. As important as these are, they are all means to other ends. The achievement of public safety, environmental protection, energy efficiency, public mobility through transit systems, health, economic growth and prosperity, quality of community life depends today on e-government, transparency, and outcome measurement, but they should not be confused with the quality public service they were created to help produce.

New York State Authorities Can Learn from New York City Government

As explained in more detail elsewhere,[3] New York City introduced the measurement of its agencies' performance in a formally transparent way in 1977 and operated that measurement system for almost two decades, without substantially improving public awareness or public sector performance. The key problem was that the measures collected were on dimensions of performance that mattered to citizens and their representative. Today, with a much greater focus on measures of outcomes, and a major expansion in the extent and utility of New York City government performance reporting available in the Citywide Performance Report (CPR) on the Web at http://

home.nyc.gov / html / ops / cpr / html / home / home.shtml, it is evident that in the administration of Mayor Michael Bloomberg the use of the tools of performance management is expected of all agencies. This includes regularly providing meaningful and easily accessible accounts of performance to the public. Citizens can enter their zip codes and find locally relevant indicator at "My Neighborhood Statistics" offered on the Web site of the New York City Mayor's Office of Operations.

From Performance Measurement to Performance Management in New York City

The New York City Mayor's Management Planning and Reporting System (MPRS) has been producing reports twice a year since 1977, but for its first two decades operated well below its capacity. For almost two decades it functioned almost exclusively as a report on certain aspects of performance that today we would characterize as inputs and activities. It had almost no measures of outcomes, and a 1990 study of its use by city agencies at the end of the Koch Administration found that the measures were hardly used for planning or management at all.[4]

The MPRS was designed as both a management tool and ultimately a mechanism for public accountability. The MPRS also provides the City's oversight agencies (e.g., the Office of Management and Budget [OMB], and the Mayor's Office of Operations) with a means to coordinate the large array of service requirements across agencies and to ensure adherence to the City's overall service delivery priorities. The importance of this coordination is expressed through the annual process of budget preparation, which by the late 1980s was based on both resource and service issues. Finally, through the semi-annual Mayor's Management Report, the system provides for accountability to the public. When it was first created it was the most comprehensive and the most transparent system of performance reporting of any big city in the United States. Even today few cities provide such detailed reports on performance, and with the innovative addition of Web-based Citywide Performance Report, updated monthly, other jurisdictions are falling farther behind. That judgment includes the State of New York in general and New York authorities in particular.

The State legislature has moved recently to mandate performance reporting by at least one authority, the MTA. As part of the resolution of a financing crisis facing the Authority this Spring new requirements were added as amendments to the vehicle and traffic law. Shorn of its legislative notation the language of A8180 / Senate 5451 states:

> THE AUTHORITY SHALL SUBMIT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY, ON OR BEFORE OCTOBER THIRTY-FIRST, TWO THOUSAND NINE, A PROPOSED AUTHORITY MISSION STATEMENT AND PROPOSED MEASUREMENTS. THE PROPOSED MISSION STATEMENT AND PROPOSED MEASUREMENTS SHALL HAVE THE FOLLOWING COMPONENTS: A BRIEF MISSION STATEMENT EXPRESSING THE PURPOSE AND GOALS OF THE AUTHORITY; A DESCRIPTION OF THE STAKEHOLDERS OF THE AUTHORITY AND THEIR REASONABLE EXPECTATIONS FROM THE AUTHORITY, WHICH STAKEHOLDERS SHALL INCLUDE AT A MINIMUM: THE RESIDENTS AND TAXPAYERS OF THE AREA OF THE STATE SERVED BY THE AUTHORITY, THE PERSONS THAT USE THE SERVICES PROVIDED BY THE AUTHORITY, AND THE EMPLOYEES OF THE AUTHORITY AND ANY EMPLOYEE ORGANIZATION; THE GOALS OF THE AUTHORITY IN RESPONSE TO THE NEEDS OF EACH GROUP OF STAKEHOLDERS; AND A LIST OF MEASURES BY WHICH PERFORMANCE OF THE AUTHORITY AND THE ACHIEVEMENT OF ITS GOALS MAY BE EVALUATED.
>
> THE AUTHORITY SHALL THEREAFTER REEXAMINE ITS MISSION STATEMENT AND MEASUREMENTS ON AN ANNUAL BASIS, AND PUBLISH ON ITS WEBSITE SELF EVALUATIONS BASED ON THE STATED MEASURES. Assembly A8180, Senate 5451, May 6, 2009.

The legislature, by requiring this public agency to link measures to mission, has in its own way, gone on record to say that it demands an outcome orientation in the move to performance reporting. The tradition of mission statements is that they are to present "a clear and succinct representation of the enterprise's purpose for existence," they are supposed to state what they do *that matters*. This is essentially synonymous with the definition of "outcomes" in contrast, for example, to activities, which refers to what is done in the belief that it will produce outcomes. The reference to multiple "stakeholders" is also a welcome reflection in the law of the reality that public organizations have to be guided by more than a singular (and some would say "mythical") public interest, but must instead balance diverse demands on its performance scorecard. The law's requirement that the mission and measures be reviewed annually is consistent with best practice that recognizes that public performance occurs in a dynamic, not static environment. So there is much to be praised—and to look forward to—in this recent legislation.

If it had been aimed at almost any other State authority it would have been a major advance in the way they are managed, and if it had been directed at all authorities in the State, or even those under the supervision of the

Public Authorities Control Board, it would have been a revolutionary step.

Ironically, in requiring the MTA to comply with these demands, it is only provoking a relatively minor adjustment of that Authorities' current practice. The MTA, almost alone among state authorities, has for a number of years, included performance reports on it Web site.

To answer the question, "What can the public learn about the performance of public authorities in the State of New York by examining their official Web sites"?, a review was conducted of the Web sites of all authorities included in the "List of Authorities" presented in the Public Authorities Control Board Web site. That list of fifty-four authorities conveniently includes their Web site addresses. The short answer to the question of whether the public can determine the mission of these authorities, the answer is mostly yes, if sometimes with some difficulty. To the question do public authorities present to the public up-to-date, clearly interpretable, and meaningful measures of performance in terms of the stated mission, the answer is a resounding, almost universal no. Most of the adjectives (mission related, timely, etc.) are irrelevant: the authorities Web sites typically do not systematically address the question of their performance, or present any systematic measures of the mission-related performance.[5] If they mention "performance" at all it is in the form of anecdotal "success stories." If one probes the Environmental Facilities Corporation's 2008-09 annual report, which presumably aimed at compliance with legal requirements, it devotes the vast majority of it 153 pages to financial audit results. One finds only reports on *activities* (e.g., water projects funded) but no evidence to specifically support its opening claim that it "furthered its mission of improving the quality of life of New Yorkers, reducing and reversing water pollution throughout the State's waterways." (See the Environmental Facilities Corporation, http://www.nysefc.org/home/index.asp).[6]

The outstanding exception to the silence about mission-related performance on the official Web sites of State authorities is the MTA. On its Web site, under "Facts and Figures," one can click on "Financial and Performance Indicators." In turn,[7] under "Performance Indicators" the MTA provides separate reports for each of its properties: New York City Transit, Long Island Railroad, MetroNorth Railroad, Long Island Bus, and Bridges and Tunnels. The NYT stats include some of the same measures (monthly ridership, mean distance between failures, wait assessment, and customer accident injury rate) and some separate measures for each. Buses' collision injury rates and scheduled trips completed are reported, and subways' weekly on-time performance is presented, in each case comparing the current year by month with the past year. The report on performance also presents trend results for 2004-2008. While clearly the list of measures presented does not answer all questions the MTA public might ask about performance related to its mission of safely and expeditiously transporting residents and visitors (Riders, for example, do not use MetroNorth; they use specific lines. Subway riders may use multiple lines of the NYT, but would still find performance reported by line more informative), finding fault with the best example of public authority reporting performance data seems unfair. The MTA could do better, and is now mandated to do better, but most other authorities would well to follow its example.[8]

Prospects of Reform

The finding here that public authorities are not sufficiently accountable to the public is hardly a revelation. In the past decade alone there have been multiple reports by the State Comptroller's office, governors' commissions, public sector watchdog groups, and efforts to legislate greater accountability, with some success, by officials who have specialized in their attention on authorities. However, three years after the Governor's Commission on Public Authorities Reform called for authorities to have annual reports that include a section on "Activities and Accomplishment: Information on what services the Authority has provided, the efficiency of its operations, and the impact on the authorities' customers, using performance measurement techniques; and the authorities' goals for service delivery and performance in the future year or multiyear period," the Citizens Budget Commission report, *Public Authorities in New York State,* which also appeared in 2006, found that authorities' public reporting on their performance is "inadequate to provide accountability"; as reported here there has been little change. Admittedly, the CBC and Governor's Commission on Public Authority Reform reports, like the New York State Comptroller's 2006 report, *Billions of Dollars of Public Funds Committed Without Adequate Oversight*, were almost totally focused on issues of debt and financial "performance." But the fact that after three prominent reports in 2006 called attention to the problem of performance accountability, by the Fall of 2009, the only notable reform specifically addressed at performance reporting is the requirement of the MTA to report to key public officials, not to the public, largely what it already presents on its Web site, suggests the slow pace of reform so far.

The public reporting on authorities' performance, or the lack thereof, which has been the focus here, has followed the increasingly established public management standard, now largely followed in New York City government, that calls for public reporting of *outcomes,* not just the resources used, activities engaged in, or intermediate products or services obtained in pursuit of agency mission of serving the public. Had that outcome orientation guided earlier commission studies and calls for reform, they might have recognized that indebtedness is a means to an end. If an authority is not producing valuable public services, what justification can there be for any level of debt? This is not to discount the need to report on authorities' finances and financial management, but to keep in mind the fact that authorities are not banks or brokerage houses—they are created for, and owe their continued legitimacy to, the public services they provide. They should be required, as the MTA now is required, to set goals for performance, recognizing multiple stakeholders, and report regularly to the Governor, comptroller and the Assembly and Senate measures that reveal the past and present outcomes and their plans for improvement. In addition, those reports should be easily accessible to the public, and all who represent the public. Would these changes make a difference? The experience of governments like New York City and the State of Washington[9] that have pioneered this approach suggests that the answer is "yes."

Endnotes

1. A Citizens Budget Commission report, Public Authorities in New York, counted 583 authorities which, with subsidiaries, some quite large themselves, total 740. The Public Authorities Board's "List of authorities" includes only 54, and the Red Book:, "an illustrated yearbook of authenticated information concerning New York State, its departments and political subdivisions, and officials who administer its affairs," lists 24 authorities.
2. In Governing Magazine's periodic rating of State Government management practices, New York State has consistently received low marks in the categories related to performance measurement and management.
3. Dennis C. Smith with William Bratton, *Performance Management in New York City Compstat and the Revolution in Police Management*, in Dall Forsythe, ed., Quicker, Better, Cheaper? Managing Performance in American Government, Rockefeller Institute Press (2001); Dennis C. Smith, *Making Management Count*, Journal of Policy Analysis and Management, Summer, 2009.
4. As originally conceived, "The MPRS is carried out by individual agencies under the direction of a designated Management Plan Coordinator, and monitored and administered by the Mayor's Office of Operations. The MPRS allows for development of an annual agency plan, including a review of agency **mission** and **programs** which define the job of the agency, **performance plans** which determine how well and how much of the job is to be done, and planned **improvement projects** which detail efforts being taken to upgrade service delivery or operations management.
5. If one digs into the Capital District Transit Authority Web site one finds discussions in their 2008 Strategic Business Plan of "assessments of performance" that will be undertaken, but then lists only a couple measures, such a total number of customers, and customers per resource hour. The CDTA 2008-2009 annual report includes no measures of output or outcomes, but instead primarily inputs (budget numbers and expenditures).
6. Joseph F. Zimmerman in The Government and Politics of New York State (2nd Edition, SUNY Albany Press, 2008) cites, without describing the methodology or measures used, an unpublished dissertation by Wook-Jin Wang, *Are Public Authorities Accountable and Responsible: A Case Study of the New York State Environmental Facilities Fund* (Rockefeller College, SUNY Albany, 2004), that says that the answer is "yes." But the average citizen at most looks at a Web site, and cannot do a "case study."
7. The mission stated here is from interviews with officials. There is no easily obtained mission statement on the MTA Web site. Note: It is reasonable to assume that the legislation passed in May 2009 requiring the MTA to state its mission in a report to State officials will result in its inclusion on its Web sites, but the law does not require it to announce its mission to the general public.
8. While it is only an input measure, the MTA created under its previous president a new office with a full-time director with considerable experience in performance measurement in the NYC Mayor's Office of Operations, to lead and co-ordinate performance measurement and reporting in all the divisions of the Authority.
9. Larisa Benson, in *What Makes Washington State's GMAP [Government Management Accountability Program} Tick?*, recounts how the Governor of the State of Washington adapted the NYPD performance management approach in creating her own performance measurement and management program for state agencies.

Dennis Smith, Ph.D. in political science from Indiana University, has taught courses in public policy analysis and management at the Robert F. Wagner Graduate School of Public Service since 1973. He has written on the problems of measuring the success of reforms in public sector organizations, especially the police management reform called Comp Stat, including a chapter with William Bratton for Dally Forsythe, ed., *Quicker, Better, Cheaper? Managing Performance in American Government*. (Reprinted in *Leading Performance Management in Urban Government*, ICMA Press, 2009).

Bibliography

Larisa Benson, *What Makes Washington State's GMAP [Government Management Accountability Program] Tick?*, Annual Research Conference of the Association of Public Policy and Management, November, 2006, Madison, Wisconsin.

Citizens Budget Commission, Public Authorities in New York State, April, 2006.

Anthony Downs, Inside Bureaucracy, Little, Brown, 1967.

Keith Henderson, *Other Governments* in Robert F. Pecorella and Jeffrey M. Stonecash, ed., Governing New York State, State University of New York Press, 2006.

New York State Comptroller, Billions of Dollars of Public Funds Committed Without Adequate Oversight**,** 2006.

New York State**,** Report of the Commission on Public Authority Reform, 2006.

Vincent Ostrom, *Can Federalism Make a Difference?* in Daniel Elazar, ed., The Federal Polity, a Publius Publication, 1974.

Dennis C. Smith, *Making Management Count*, Journal of Policy Analysis and Management, Summer, 2009.

Dennis C. Smith with William Bratton, *Performance Management in New York City: Compstat and the Revolution in Police Management*, in Dall Forsythe, ed., Quicker, Better, Cheaper? Managing Performance in American Government, Rockefeller Institute Press (2001).

Annmarie Hauck Walsh, The Public's Business: The Politics and Practices of Government Corporations, Twentieth Century Fund Study, 1978.

Wook-Jin Wang, Are Public Authorities Accountable and Responsible: A case study of the New York State Environmental Facilities Fund (Rockefeller College, SUNY Albany, 2004).

Woodrow Wilson**,** *The Study of Administration*, Political Science Quarterly, Vol. 2. No. 2. 1887.

Joseph F. Zimmerman in The Government and Politics of New York State (2nd Edition, SUNY Albany Press, 2008).