



**New York State Office of the State Comptroller**  
Thomas P. DiNapoli

Division of State Government Accountability

# Utilization of the Arch Street Yard and Shop Facility

## Metropolitan Transportation Authority – Long Island Rail Road



Report 2016-S-78

December 2017

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## Executive Summary

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### Purpose

To determine whether the Metropolitan Transportation Authority (MTA) – Long Island Rail Road (LIRR) Arch Street Yard and Shop Facility (Facility) was constructed before it was needed for East Side Access (ESA) completion; whether the MTA has any plans for the use of the Facility before the expected 2022 opening of ESA; and whether the Facility is maintained and secured and at what cost. Our audit covered the period from May 3, 2002 to May 23, 2017.

### Background

As part of the MTA's mammoth ESA project, it constructed the new Facility in Long Island City, adjacent to the No. 7 line Hunters Point Ave. Station. The Facility was designed to provide inspections, maintenance, and cleaning for trains that will operate into Grand Central Terminal. The Facility was completed in December 2004 at a cost of \$81.4 million. Funding for the project was provided by federal (\$60.3 million) and non-federal sources (\$21.1 million).

### Key Findings

- The Facility was constructed before it was needed for ESA. The LIRR requested that this Facility be built as early as possible so that it could be used as an acceptance and inspection facility for its new M-7 electric rail cars, which Bombardier began delivering in 2002. According to a staff summary dated May 3, 2002, "Upon completion of the M-7 acceptance program, LIRR's Maintenance of Equipment Department will utilize the Facility to perform periodic inspections as well as scheduled and unscheduled repairs for the M-7 and M-3 fleets."
- The Facility was never used as intended for the acceptance and inspection of the M-7 cars. Moreover, except for occasional use of the wheel truing equipment to round off flat spots on rail car wheels, the Facility was also not used for periodic inspections or repairs by the Maintenance of Equipment Department.
- Since its construction in December 2004, the Facility has undergone periods when it was vacant (for over 3.5 years), leased to the M-7 vendor to make warranty repairs, and licensed twice; once as a parking lot to accommodate a tenant displaced from an MTA project, and once to a contractor to perform modifications on Metro-North Railroad rail cars. The LIRR incurred costs of \$2.43 million to maintain and secure the facility from January 1, 2013 to June 30, 2016.

### Key Recommendation

- Perform a written cost-benefit analysis to determine what the best use is for the Facility and the equipment until ESA is open.

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**State of New York**  
**Office of the State Comptroller**

**Division of State Government Accountability**

December 8, 2017

Mr. Joseph J. Lhota  
Chairman  
Metropolitan Transportation Authority  
2 Broadway  
New York, NY 10004

Dear Mr. Lhota:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Utilization of the Arch Street Yard and Shop Facility*. This audit was performed pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

This audit's results and recommendation are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller*  
*Division of State Government Accountability*

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This report is also available on our website at: [www.osc.state.ny.us](http://www.osc.state.ny.us)

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## Background

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The Metropolitan Transportation Authority (MTA) is a public benefit corporation providing transportation services in and around the New York City metropolitan area. It is governed by a 23-member Board of Directors – including a Chairman, 16 voting members, and six non-voting members – all of whom are appointed by the Governor with the advice and consent of the State Senate. The MTA has five subsidiaries, including the Long Island Rail Road (LIRR), Metro-North Railroad (MNR), and MTA Capital Construction.

As part of the MTA's mammoth East Side Access project (ESA), it constructed a new yard and shop facility at Arch Street (Facility) in Long Island City, adjacent to the No. 7 line Hunters Point Ave. Station. This facility was designed to provide inspections, maintenance, and cleaning for LIRR trains that will operate into Grand Central Terminal. However, the latest projections are that this service, which is contingent upon ESA completion, will not begin until 2022.

The Facility was completed in December 2004. Funding for the project included \$60.3 million in federal funds and \$21.1 million in non-federal funds.

Since the completion of the Facility, LIRR officials have worked with MTA Real Estate Operations to lease or license the Facility to others.

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## Audit Findings and Recommendation

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The Facility was constructed before it was needed for ESA. At the time the contract to construct the Facility was approved in May 2002, the estimate was that ESA would open in 2011. However, the LIRR requested that the MTA Board approve the construction of the Facility as early as possible so that it could be used as an acceptance and inspection facility for its new M-7 electric rail cars. The Facility was completed in December 2004, and was never used as intended for the initial acceptance and inspection of the M-7 cars. Moreover, except for occasional use of the wheel truing machine to round off flat spots on wheels, the Facility has not been used for periodic inspections or repairs by LIRR's Maintenance of Equipment Department, which was the intended purpose after completion of the M-7 acceptance program.

Instead, since its completion, the Facility has been vacant at times (for over 3.5 years), leased to the M-7 vendor to make warranty repairs, and licensed twice; once as a parking lot to accommodate a tenant displaced by an MTA project, and once to a contractor to perform modifications on MNR rail cars. The ESA opening date has been extended several times, most recently to December 2022. However, the MTA does not have any formal plan for the use of the Facility after the current licensing agreement expires in August 2018. The Facility has been maintained and secured at a cost of \$2.43 million from January 2013 to June 2016. Currently, the Facility is licensed to a contractor at no cost.<sup>1</sup>

We recommended that the MTA perform a written cost-benefit analysis to determine what the best use is for the Facility and the equipment until ESA is open.

### Utilization of Arch Street Yard and Shop Facility

The Facility has not been used for its intended purpose. The LIRR requested that this facility be built as early as possible so that it could be used as an inspection and acceptance facility for its new M-7 electric rail cars, which Bombardier began delivering in 2002.

In its May 3, 2002 staff summary, the LIRR stated: "Upon completion of the M-7 acceptance program, LIRR's Maintenance of Equipment Department will utilize the facility to perform periodic inspections as well as scheduled and unscheduled repairs for the M-7 and M-3 fleets. Once the mid-day storage yard is opened in 2011, the Maintenance facility will support inspection and repair of ESA trains." Trains that would serve Grand Central Terminal via the ESA project were expected to be maintained at the Facility. LIRR officials indicated that the Hillside Maintenance Complex did not have the capacity to handle the additional work generated by ESA.

However, while awaiting the completion of ESA, instead of using the Facility for acceptance of new rail cars and for periodic inspections and repairs of cars, the LIRR leased the property once and licensed it twice, as follows:

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<sup>1</sup>This license requires MNR to cover "incremental costs" related to the Facility during the term of the license.

- From January 7, 2005 to December 31, 2009, the Facility was leased to a contractor. The contractor was responsible for performing "...among other things, warranty and modification work on M-7 cars on behalf of LIRR and MNR (the 'M-7 Retrofit Work')." The MTA received about \$2.3 million during the term of this lease.
- From August 20, 2012 to July 31, 2015, the Facility was licensed to a tenant for approximately \$472,000. The Facility was used to park and dispatch a combined total of 55 trucks.
- From August 31, 2016 to August 30, 2018, the Facility is being licensed for use by a contractor to retrofit MNR cars with Positive Train Control, at no cost, other than the incremental costs described on the prior page.

Based on information provided by the LIRR, the operating cost for the Facility from January 2013 to June 2016 totaled \$2,547,710. We tested the operating costs and found they were overstated by \$115,468, and the cost to LIRR was \$2.43 million.

According to LIRR and MTA officials, the construction of ESA went through a succession of deadline revisions and cost escalations. Initially a \$4.3 billion project with a completion date of December 2011, it eventually became a \$7.2 billion project to be completed by February 2015. As of January 2017, it was still under construction, with the completion date now forecast to be December 2022 at a projected cost of about \$10.2 billion.

After repeated inquiries to LIRR officials about the useful life of the building and equipment, they indicated that the Facility has a depreciable life of 30 years. In addition, the LIRR provided a schedule of the 33 pieces of equipment that were purchased for the maintenance of trains. The lifespan of this equipment ranges from 15 to 30 years. Based on an estimated ESA opening date of December 2022, the building and equipment will be 18 years into their useful life when ESA opens.

LIRR officials stated that the warranties for the 33 pieces of equipment, with a total value of \$3,222,199, are all expired and the maintenance of equipment did not start until after warranty expiration.

During our visit to the Facility on February 1, 2017, we were told that five pieces of equipment (one crane, one conveyor, two computers, and the truing machine) were not being utilized. The remaining 28 pieces of equipment were being utilized by the licensee.

As part of the Facility's construction, Amtrak and the LIRR entered into a Force Account Agreement. Under this Agreement, Amtrak was to do track and third rail construction, which would provide access between the Facility and the LIRR's main line tracks. LIRR officials confirmed the Amtrak work was completed. Since Amtrak has completed the third rail track work, trains have access to the Facility. In August 2013, LIRR closed the Vanderbilt Yards in Brooklyn and lost use of the West Side Yard Maintenance Facility due to construction. As of August 18, 2017, the West Side Yard Maintenance Facility was still not in service. Instead, the additional work was directed to the Hillside Maintenance Complex in Queens. An LIRR official stated that there is no plan to use the Facility after the current license expires in August 2018; the Facility will be dormant until ESA is completed. While the MTA has considered some alternative uses for the Facility until then, such



as receiving the new M-9 rail cars in 2019, there is currently no written plan.

In response to the preliminary findings, LIRR officials in conjunction with MTA Real Estate Operations will continue to explore opportunities to utilize the Arch Street facility between 2019 and the completion of ESA.

## Recommendation

1. Perform a written cost-benefit analysis to determine what the best use is for the Facility and the equipment until ESA is open.

## Audit Scope, Objectives, and Methodology

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To determine whether the Arch Street Yard and Shop Facility (Facility) was constructed before it was needed for East Side Access (ESA) completion; whether the MTA has any plans for the use of the Facility before the expected 2022 opening of the ESA; and whether the Facility is maintained and secured and at what cost. Our audit covered the period May 3, 2002 to May 23, 2017.

To accomplish our objectives, we reviewed policies, procedures, and guidelines related to the processes for addressing construction, utilization, and maintenance of the Facility. In addition, we reviewed records regarding the justification for the project, the cost incurred to operate and maintain the Facility, and equipment warranties. We interviewed LIRR and MTA management and employees to evaluate the relevant internal controls related to these areas. We visited the Facility and observed that it was being used to retrofit cars as described in the 2016-2018 licensing agreement.

In addition, we judgmentally sampled three (Maintenance of Equipment, Engineering, and Security) out of six departments based on the highest operational costs. We reviewed the supporting documentation for a sample of \$1.6 million out of the reported \$2.54 million total operating costs from January 2013 to June 2016.

We met with the Maintenance of Equipment Department to discuss the warranties for the 33 pieces of equipment at the Facility.

We examined payments and refunds from the one rent-generating lease entered into by the LIRR Facility. From a contractor's ledger, which was presented on the Yardi system (MTA's real property management system), we judgmentally selected 14 of 162 transactions (refunds, credits, rent, and other miscellaneous items) for the purpose of verifying that the transactions were valid and in compliance with the selected lease terms, and for support that the funds were processed as required. Additionally, from the ledger, we judgmentally selected a credit of \$83,707 because it was described as "Credit 2006-2007."

We also examined a judgmental sample of 15 of 74 rent payments and credits from the contractor's ledger on Yardi for verification of backup documentation and support of the payment or credit.



We also interviewed management and staff from MTA's Real Estate Operations and MTA's Business Service Center. In addition, we met with the third-party real estate manager to obtain an understanding of its processes and to review its records.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

## Authority

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The audit was performed pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

## Reporting Requirements

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A draft copy of this report was provided to MTA officials for their review and formal comment. Their comments were considered in preparing this final report and are attached in their entirety at the end of it. MTA officials replied that the audit finding is inaccurate because they have a plan for the future use of the Facility until ESA opens in 2022. However, when supporting documentation was requested, MTA officials did not provide any additional information. Our rejoinders to certain MTA comments are included in the State Comptroller's Comments.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Chairman of the Metropolitan Transportation Authority shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees advising what steps were taken to implement the recommendation contained herein, and where the recommendation was not implemented, the reasons why.

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## Contributors to This Report

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**Carmen Maldonado**, Audit Director  
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### Vision

A team of accountability experts respected for providing information that decision makers value.

### Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

# Agency Comments

2 Broadway  
New York, NY 10004  
212 878-7000 Tel

**Joseph J. Lhota**  
Chairman



**Metropolitan Transportation Authority**

State of New York

October 6, 2017

Ms. Carmen Maldonado  
Audit Director  
The Office of the State Comptroller  
Division of State Government Accountability  
59 Maiden Lane, 21<sup>st</sup> Floor  
New York, NY 10038

**Re: Draft Report #2016-S-78 (Utilization of the Arch Street Yard and Shop Facility)**

Dear Ms. Maldonado:

This is in reply to your letter requesting a response to the above-referenced draft report.

I have attached for your information the comments of Patrick A. Nowakowski, President, MTA Long Island Rail Road, which address this report.

Sincerely,

A handwritten signature in blue ink that reads "Joseph J. Lhota".

Joseph J. Lhota

c: Donna M. Evans, MTA Chief of Staff  
Michael J. Fucilli, Auditor General, MTA Audit Services

Attachments

*The agencies of the MTA*

MTA New York City Transit  
MTA Long Island Rail Road

MTA Metro-North Railroad  
MTA Bridges and Tunnels

MTA Capital Construction  
MTA Bus Company

Jamaica Station  
 Jamaica, NY 11435-4380  
 718 558-8254 Tel  
 718 657-9047 Fax

Patrick A. Nowakowski  
 President



October 5, 2017

Mr. Joseph J. Lhota  
 Chairman  
 Metropolitan Transportation Authority  
 2 Broadway  
 New York, NY 10004

RE: MTA Long Island Rail Road  
 Utilization of the Arch Street Yard and Shop Facility  
 Report 2016-S-78

Dear Chairman Lhota:

As required by Section 170 of the Executive Law, detailed below is the LIRR's response to the Office of the State Comptroller's draft audit report on the Utilization of the Arch Street Yard and Shop Facility ("Facility").

The LIRR is committed to conducting capital project work as efficiently as possible and strives to time project completions to coincide with operational needs. Here, the State Comptroller's draft audit report states that the LIRR does not have a formal plan for the use of the Facility after 2018 and contains one recommendation for the LIRR to develop such a plan. This finding is inaccurate. The LIRR has consistently used the Facility, and has a plan to occupy and utilize the Facility from the present until the completion of the East Side Access project ("ESA Opening Day").

\*  
 Comment  
 1

**LIRR Usage of the Arch Street Facility**

The goal of the East Side Access project is to carry LIRR trains to the east side of Manhattan. Construction is taking place in the vicinity of Harold Interlocking and Penn Station, which is one of the busiest railroad hubs in the nation – serving LIRR, New Jersey Transit and Amtrak. With regard to the Facility, the LIRR has utilized the Facility consistently throughout its existence starting in 2005, and has plans to utilize it from now until ESA Opening Day.

\*  
 Comment  
 2

Background:

**2005 - 2009:** In its 2001 and 2002 letters to the Federal Transit Administration ("FTA") requesting approval to begin construction of the Facility, the LIRR indicated its first use would be as the location to conduct acceptance and warranty work on the new M7 fleet. Upon completion of the Facility, it was used for this exact purpose from 2005 to 2009.

*The agencies of the MTA*

MTA New York City Transit  
 MTA Long Island Rail Road

MTA Metro-North Railroad  
 MTA Bridges and Tunnels

MTA Capital Construction  
 MTA Bus Company

\*See State Comptroller's Comments, page 15.

Mr. Joseph J. Lhota  
 October 5, 2017  
 Page two

**2009 - 2012:** By the time the M7 warranty work was completed, ESA Opening Day had shifted to September 2016. While initial justifications for the project had indicated that Arch Street could be utilized for M3 and M7 inspections, it was subsequently determined that the absence of a direct rail connection between the Facility and the Main Line would make this operationally inefficient. In addition, it was learned that even if this connection was installed (it eventually was), each individual train move would be complex and require Amtrak clearance. While suitable for limited efforts, this procedure was deemed unfeasible for daily M3 and M7 inspection and maintenance work – which the LIRR has satisfactorily conducted since at its other facilities. The Facility was vacant for this two-and-a-half-year period.

\*  
 Comment  
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**2012 - 2015:** MTA Real Estate entered an agreement in 2012 to lease a portion of the Facility to Fresh Direct, so that it could temporarily store its delivery trucks to accommodate another MTA-LIRR capital project. Fresh Direct occupied the site until 2015.

**2016 - Present:** At the time that Fresh Direct’s occupancy ended, LIRR immediately began to consider alternative interim uses. In August 2016, the LIRR entered an agreement with Metro North Railroad (MNR) for a third party to conduct Positive Train Control (PTC) work on its fleet at the Facility. This work, which is expected to continue through August 2018, will enable MNR to meet the deadline to comply with federal PTC requirements.

\*  
 Comment  
 1

**Future Uses:** The State Comptroller’s draft audit report states that the LIRR does not have a formal plan for the use of the Facility after 2018. This is incorrect. The LIRR plans to occupy and utilize the Facility from the date the MNR PTC work is completed until ESA Opening Day for the following purposes:

- M9 car modification work is expected to take place between October 2018 and 2022.
- Commissioning of ESA Rescue Locomotives and LIRR/NYAR work locomotives is expected to take place between July 2020 and August 2021.
- M9A car testing and commissioning is expected to take place between April 2021 and September 2023.

**Other Clarifications to the Report**

- The Background section of the report misstates the corporate governance structure of the MTA. The first paragraph thereof should be rewritten as follows: “The Metropolitan Transportation Authority (MTA) is a public benefit corporation providing transportation services in and around the New York City metropolitan area. It is governed by a Chairman and 16 other voting Members, two non-voting Members and four alternate non-voting Members, all of whom are appointed by the Governor with the advice and consent of the State Senate. Of the voting Members, four Members must reside in Dutchess, Orange, Putnam and Rockland counties, respectively, and cast one collective vote. The MTA has five subsidiaries, including Long Island Rail Road (LIRR), Metro-North Railroad (MNR), and MTA Capital Construction and two affiliates.”

\*  
 Comment  
 4

Mr. Joseph J. Lhota  
October 5, 2017  
Page three

- The report states that even though the lifespan of equipment in the Facility ranges from 15 to 30 years, based on an ESA estimated opening date of December 2022, much of it would already be 18 years into its useful life when the ESA project opens. However, it is important to note that the estimated lifespan of the Facility assets was set based on a much higher level of usage than has occurred. In many cases, actual wear and tear has been minimal, and it is expected that their useful life will be extended.
- The report states: "An LIRR official stated that there is no plan to use the Facility after the current license expires in August 2018." This is incorrect. Moreover, the State Comptroller did not identify which LIRR official made this statement, so the LIRR has no ability to follow-up with this individual.

\*  
Comment  
5

Sincerely,



Patrick A. Nowakowski  
President

Mr. Joseph J. Lhota  
October 5, 2017  
Page four

Cc: M. Young  
D. Kubicek  
C. Daly  
J. Allen  
J. Rosado  
H. Cutler  
L. Kearse  
M. Fucilli  
D. Jurgens  
Pres. Log # 287092



## State Comptroller's Comments

1. On October 31, 2017, subsequent to the formal response to the draft report, LIRR officials produced three documents they claim represent a formal plan to use the Facility. While one document is described as an anticipated usage plan, it was last updated in January of 2016 – almost two years ago. A review of this plan shows that it is based on key events that should have occurred in 2015 and 2016, but did not. For instance:
  - According to this document, the Facility was to be used for positive train control modification, with this work to be completed by the fourth quarter of 2016. However, that did not occur and the vendor is still located at the Facility. Moreover, this vendor has a license from August 31, 2016 to August 30, 2018.
  - The document states the LIRR is to begin the track overbuild in the July 2017, but that has not happened.
  - The document refers to the use of the Facility in April 2017 for the M-9 and M9A acceptance, but these cars are in the testing phase and are not expected to arrive until at least spring 2018.

As this anticipated usage plan is based on events that did not occur and has not been followed even in the period it has been in place, we question not only its relevance but why the MTA did not update it when it was clear the assumptions upon which it was based were no longer accurate. In their response to our preliminary findings dated June 16, 2017, LIRR officials stated “...in conjunction with MTA Real Estate we will continue to explore opportunities to utilize the Arch Street facility between September 2019 and ESA Opening day.” We encourage LIRR officials to follow this path as part of their development of a formal plan that is based on current assumptions.

2. The Facility has not been used consistently since 2005. In total, it was vacant for 3.5 years, leased once, and licensed twice. Moreover, as stated in the report, the Facility was not used for the “inspection and acceptance” of the M-7 rail cars – the stated purpose of building the facility early. Instead, the Facility was leased to a contractor for M-7 retrofit work and then licensed twice, including once for almost three years to provide parking for Fresh Direct, an online grocery store.
3. Contrary to what the MTA states in its response, the Facility was not used as “planned.” The retrofit work was, in part, the result of a settlement between a contractor and the MTA that was signed after the Facility was built. As part of this settlement, monthly rent was reduced and the LIRR agreed to reimburse the vendor for 50 percent of its expenses associated with the monthly maintenance, utility, and security costs at the Facility. Moreover, the response acknowledges that the MTA did not use the Facility for inspections of M-3 and M-7 rail cars as planned.
4. We revised the final report, as appropriate, based on information in the response to the draft report.

5. OSC, as a policy, does not identify agency officials by name. Moreover, if the MTA does in fact have a formal plan, we question why officials have refused to provide it or any supporting documentation, despite repeated requests.