



## ASBESTOS MANAGEMENT AT NYC TRANSIT EAST NEW YORK FACILITY—FINAL REPORT

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### I. EXECUTIVE SUMMARY

In September 2019, employees at the East New York (ENY) bus depot and their union filed complaints, the most serious alleging that: (1) thousands of ENY employees were exposed to asbestos for decades because ductwork for the facility’s air circulation system—the vents that carry air into the 3 floors of the facility—was “lined with asbestos,” (2) ENY management had also learned of asbestos-containing vibration cloths—material connecting the ventilation fans in the fan house to the ductwork—but failed to inform the workers until 6 months later, and (3) there should be medical surveillance of employees who had been present in the ENY boiler room before asbestos containing material (ACM) there was abated.

The allegations received wide coverage in the local media. The then-President (President) of New York City Transit (NYC Transit) expressed confidence that management had responded promptly and appropriately to the employees’ concerns and requested OIG to provide an objective, transparent review. OIG staff spent the next 10 months reviewing the complaints and NYC Transit’s handling of them, as well as the agency’s compliance with its asbestos management policy. We interviewed employees and managers at ENY and NYC Transit’s Office of System Safety (OSS), assessed compliance with policy instructions and regulations, and analyzed asbestos testing data and survey documents.

Overall, we found that OSS and ENY management responded appropriately to the complaints, aside from a communication lapse when OSS took 2 months to share the results of an asbestos survey with ENY management. Our review yielded other issues with NYC Transit’s asbestos management program, and our recommendations for improvement. To summarize:

- **Testing data shows that the vibration cloth was confirmed ACM, though it posed no immediate danger as alleged, and ENY facilities management and OSS addressed it reasonably.** An outside consultant found that while the vibration cloth was confirmed ACM, it presented no immediate danger and abatement was required only if activity would disturb it (e.g. renovation work), in which case OSS should be contacted to coordinate. Upon receiving the positive ACM results for that specific vibration cloth, ENY facilities management asked OSS to test the other cloths in the fan house. After test

results showed that other cloths were also ACM — again with no recommendation other than that the cloths should not be disturbed without first performing remediation — facilities management worked with OSS to perform additional air monitoring in the fan house. This monitoring found readings well within allowable limits. Management then scheduled and completed short-term remediation after posting signage on affected units to protect the safety of the workers. The short-term remediation included encapsulating or removing the cloths. According to OSS, long-term remediation is planned for the spring of 2021, when all units in the ENY fan house are scheduled to be replaced.

- **The air circulation ductwork system was not “lined with” asbestos. Harmful levels of fibers within the ducts were not distributed throughout ENY for decades.** An outside consultant’s survey found no asbestos in the ductwork. Dozens of air monitoring test results conducted in the fan house and throughout the facility between 2017 and 2019 found only trace asbestos, well below levels that the U.S. Occupational Safety and Health Administration (OSHA) deems safe.
- **There was a 2-month lapse in communication (not an intentional 6-month delay, as alleged) by OSS in notifying ENY management about the presence of ACM in the fan house — though in OIG’s view, 2 months is still too long.**
- **Subways and Buses management treated the demands for medical monitoring reasonably, though differently for employees.** ENY is staffed by employees of both the Department of Buses (Buses) and the Department of Subways (Subways). Buses accepted OSS’s guidance that no measurable exposure justifying medical monitoring had occurred, and did not enroll any of their workers in the monitoring program. Subways, however, because of the concerns and pressure from the workers, offered enrollment to their employees despite OSS’s position.
- **OSS did not follow its own policy to document and monitor asbestos found throughout ENY over 9 years ago, in a comprehensive 2011 survey.** OIG discovered the existence of the 2011 survey during our investigation of employees’ complaints. When the complaints were filed about ENY, management did not consult the 2011 survey which, for all practical purposes, seems to have been shelved and forgotten as soon as it was completed. As a result, ENY facilities management only learned that the fan house vibration cloths were ACM in response to worker complaints and through commissioning 2 asbestos reviews that were redundant because of the 2011 survey. By not following the policy, OSS put itself in a reactive position when workers raised concerns. This lack of communication and documentation of critical information that could impact worker safety is unacceptable.

- **OIG asked OSS to inspect 25 potentially vulnerable areas identified in the 2011 survey whose status was unknown because NYC Transit OSS lacks a tracking system and failed to monitor existing locations.** This resulted in the abatement of 2 additional areas.

NYC Transit responded to the OIG recommendations on December 15, 2020 expressing appreciation to the OIG for providing recommendations to improve the asbestos management program. NYC Transit agreed to implement the OIG's 5 recommendations, noting that maintaining a database of current, known asbestos locations is a significant, long-term, ongoing project.

## II. BACKGROUND

### A. Asbestos Regulations and Guidance

The mere existence of asbestos is not in and of itself an actionable safety concern. Asbestos is present in the ENY facility, and likely exists in other older buildings across the MTA properties. Regulations established by the U.S. Environmental Protection Agency (EPA) and OSHA provide guidance on how to manage locations containing asbestos. An important consideration addressed in the guidance is whether a material that contains asbestos is considered a "friable" material. Friable materials are those capable of being crumbled and reduced to powder by the use of hand pressure. Non-friable materials that contain asbestos are generally not considered to be as much of a health risk because the fibers are normally bound or contained in the building material itself, but should nevertheless not be disturbed. Significantly, the EPA and OSHA guidelines do not require the removal of either type of material except under specific and well-defined circumstances, as this Report explains below.

### B. The ENY Facility

The ENY fan house serves the entire facility, which comprises the bus depot, boiler room, offices, and other work spaces. The fans circulate air throughout the facility by blowing air through ductwork connected to the fans. Because the fans vibrate when in operation, these vibrations can be transferred to the metal ducts if the ducts are directly attached to the fan housing. To isolate the fans from the metal ducts, cloth vibration dampers are inserted between the fans and the ducts to absorb the vibrations and seal the duct connections on both the inlet and outlet sides. The cloths were original equipment from the manufacturer installed prior to the facility being used as a bus depot. The ducts themselves do not contain asbestos.

### C. The Complainants' Allegations about Asbestos in ENY

In 2019, the complainants made specific allegations to MTA management about the presence of asbestos in ENY, including the following:

- Allegation #1: Thousands of ENY employees were exposed to asbestos for decades because nearly all the ducts that carry air to the 3 floors of the facility are “lined with asbestos.”
- Allegation #2: Management failed to inform employees at the depot about asbestos-related conditions in the fan house and ductwork between February and September 2019 and allowed them to persist. Because signs were posted on fan house ventilation units in August 2019 warning workers not to touch or disturb the asbestos-containing cloths, the allegation also states that this signage is evidence of an ongoing problem.
- Allegation #3: Management did not provide medical monitoring for individuals who felt they might be at risk from exposure by being in the ENY boiler room.

That same month, the President requested that the OIG investigate these allegations and his agency's response. Two months later, OIG briefed the President on our preliminary findings.

## III. FINDINGS: THE 2019 COMPLAINTS

### A. Management Actions on the 2019 Complaints were Responsive

On February 18, 2019, a Maintenance Supervisor/Buses informed the Environmental Compliance Manager/Facilities at ENY that employees had encountered possible ACM during a steam trap assessment at the depot. The supervisor cited 3 locations, including the fan house, and requested testing of these areas.

According to NYC Transit's operating protocol, prior to any repair work that may disturb any suspect material, a worker should contact the facility's Department Asbestos Representative (Asbestos Rep) — who serves as the facility's liaison with OSS — and request that a survey be conducted. No work should be performed before the Asbestos Rep receives guidance from OSS.

Following these guidelines, the Compliance Manager and the Asbestos Rep received the supervisor's request regarding the fan house and submitted an Asbestos Survey Request Form to OSS the next day. An outside consultant surveyed the 3 areas and submitted its written results to OSS in March 2019, confirming that the cloth at the fan unit in question was ACM (the March 2019 Survey). The March 2019 Survey advised only that any renovation activity that would

disturb this asbestos material would first require asbestos abatement — otherwise no action needed to be taken.

Just over two months later, on June 5, 2019, OSS conveyed the written results of the March 2019 Survey to the Asbestos Rep. While there is no required time frame for OSS to share such a report, facilities need the results to schedule repairs and maintenance. Two months is an unnecessarily long period of time to await such a survey, and affected ENY management’s ability to schedule necessary work in the fan house.

The Asbestos Rep quickly provided the positive ACM results to the original requestor, the Maintenance Supervisor, 2 days later—on June 7, 2019. When told of the results of the March 2019 Survey, the Maintenance Supervisor asked that the areas be abated “as early as possible” because steam repairs in the fan house were planned for the summer season.

On August 8, 2019, the Superintendent of Environmental Compliance at ENY (Superintendent of EC) contacted the Asbestos Rep to relay that a worker was expressing concern that air moving over the cloth in the fan house could be blowing asbestos throughout the depot. The next day, August 9, 2019, the Asbestos Rep explained to the Superintendent of EC that abatement had been scheduled for the following 2 weekends. Since questions were being raised by workers about the safety of the fan unit, the Chief Facilities Officer at ENY had the fan taken out of service. That same day, the Superintendent of EC asked OSS to have all the vibration cloths proactively tested for asbestos and their general condition assessed. The outside consultant to OSS performed this survey within the week, on August 14-15, 2019 (the August 2019 Survey).

The August 2019 Survey found that after testing 49 fans (which typically use 2 cloths each, for a total of 98 cloths), 71 cloths were found to be ACM; 55 of them were in “good” condition and 16 were listed as “damaged.” Based on these findings, the contractor advised that before any renovation activity occurred that would disturb the ACM in a given location, asbestos abatement would be required. ENY contacted OSS and jointly developed signage to post on all fan units with ACM cloths, warning workers not to touch or disturb the cloths. Although ENY stated that activity that would disturb the vibration cloths would have been highly unlikely, NYC Transit officials told us they took these steps out of an abundance of caution. On September 12, 2019, the consultant further recommended that 4 of the damaged cloths be replaced and the remaining cloths be periodically monitored as part of an Operations and Maintenance Program. Based on the August 2019 Survey, the ENY Chief Facilities Officer took the fans with the 4 damaged cloths out of service in September 2019 and kept them out of service until after abatement in October 2019.

OIG learned that as an additional response to the August 2019 Survey and worker concerns, ENY and OSS scheduled remediation of all vibration cloths in the ENY fan room. This remediation, which consisted of removing or encapsulating all ACM cloths, was framed as an interim measure; OSS officials told OIG that their goal is to remove all ACM cloths as soon as practicable in order to allay concerns. OSS's consultant filed the interim remediation plan with the New York State Department of Labor (DOL), including an explanation of the "Encapsulation and Wrapping of Asbestos Vibration Dampers as an Interim Measure," which DOL accepted. Between October 13 and November 9, 2019, all ACM vibration cloths in the ENY fan house were remediated.

In response to employees' concerns and the August 2019 Survey results, OSS also conducted air monitoring in the ENY fan house and electrical distribution room on August 15, 2019. OSS recorded results of <.001 fibers per cubic centimeter of air, which is well below the OSHA Permissible Exposure Limit of 0.1 f/cc. Between August 15 and November 20, 2019, OSS conducted air monitoring 20 times in the fan house and on lift and overhead heaters, and no results exceeded .002 f/cc.

Accordingly, aside from a lapse in communication when OSS took 2 months to share the results of the March 2019 Survey with ENY management, overall OSS and ENY management acted appropriately in response to the 2019 fan house complaints. The Asbestos Rep requested surveys as appropriate and OSS had the tests performed quickly. When a concern arose from employees that asbestos might be distributed through the ducts, ENY management shut down that fan equipment the next day and proactively requested surveys of all other cloths. Upon learning from the subsequent testing that ACM was present in additional cloths, management scheduled and completed short-term remediation after posting signage on affected units to protect the safety of the workers. According to OSS, long-term remediation is planned for the spring of 2021, when all units in the ENY fan house are scheduled to be replaced by the New York Power Authority, which will update all equipment in the fan house, thus removing all ACM vibration cloths permanently.

#### **B. The Demand for Medical Surveillance: Management's Reasonable, Albeit Differing, Results for Subways and Buses Employees**

In a separate complaint, in March 2019 the Transport Workers Union (TWU) representatives asserted that OSS, Buses, and Subways had ignored the previous health and safety-related complaints regarding ACM in the ENY boiler room which employees had been making to the Chief Officer, General Superintendent, and Superintendent of Infrastructure HVAC since 2017.

OSHA regulations require that NYC Transit must offer employees the ability to enroll in an asbestos medical surveillance program if they are known to have been exposed to asbestos at certain levels. TWU requested that management enroll 59 workers, plus an unspecified number of student interns who had been in the ENY boiler room, in such a surveillance program. In March 2019 TWU cited the employees' presence in the boiler room's break room, which had asbestos-containing floor tile (prior to the tile's abatement in 2018), and the discovery of loose asbestos on a catwalk in the boiler room in June of 2018. OSS tested the asbestos from the catwalk with other asbestos locations in the boiler room but stated they could not match its source. TWU also questioned why 6 previously enrolled workers had not been given any results from the screening tests they had undergone.

Under OSHA standards, such surveillance would include licensed medical professionals regularly assessing the enrollees' physical condition in a clinical setting. According to OSHA, "[t]he employer shall institute a medical surveillance program for all employees who are or will be exposed to airborne concentrations of fibers at or above the Time-Weighted Average and/or excursion limit."<sup>1</sup> The Time-Weighted Average limit is defined as exposure to "an airborne concentration of asbestos in excess of 0.1 fiber per cubic centimeter of air as an (8)-hour time-weight average." Any direct contact with disturbed asbestos could also warrant enrollment.

Our review showed that OSS conducted air monitoring 89 times at the ENY facility between April 2017 and November 2019. None of the 89 instances returned readings that met the 0.1 f/cc Time-Weighted Average level requiring medical surveillance. These included 5 instances of air monitoring in the boiler room in 2017 and 2018. Additionally, OSS sent a letter to ENY management at the time citing similar results from air monitoring tests conducted in the facility by Public Employees Safety & Health<sup>2</sup> over the same 3-year period: All of the tests recorded results below the enrollment criteria. In addition, the boiler room break room floor tile that contained asbestos was not considered hazardous by OSS unless significantly disturbed—which, in this case, did not occur until it was remediated in 2018.

OSS had previously enrolled 5 employees in 2017, and a 6<sup>th</sup> in 2018, who may have been exposed when ACM floor tiles on the 3<sup>rd</sup> floor were disturbed during removal to install radiators and work behind walls. In response to the charge that employees had not been given their screening results, Subways explained to the union representative that due to confidentiality rules, employees had to request their own results from the medical facility and that if any issues were found, the medical facility would call an employee back for more tests. Subways does not receive any medical information.

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<sup>1</sup> See [OSHA Standard 1910.1001](#) Asbestos, Part (I) Medical surveillance part (1)(i).

<sup>2</sup> A division of DOL.

Regarding medical surveillance, OSS notified TWU in May 2019 that there was no indication that the remaining individuals had been exposed to ACM simply by being present in the boiler room, based on air monitoring results over the previous 3 years. Working through ENY management, OSS had asked TWU representatives via email in March 2019 and again in May 2019, to provide an explanation as to why they believed that the workers had been exposed to asbestos “other than being present at the facility.” According to OSS, TWU did not respond.

OIG found that complaints from workers were not ignored. At the times of the original requests for enrollment, OSS reviewed the circumstances and found that the justifications offered for enrolling additional employees did not meet the criteria for enrollment. While the September 2019 complaint stated that the request for enrollment of the 59 employees was not addressed, OIG learned that OSS advised Buses and Subways management that enrollment was not justified.

The Subway and Bus departments have the ability to unilaterally refer employees to an NYC Transit Medical Assessment Center for various medical concerns, including asbestos monitoring. Buses followed OSS’s advice not to enroll its employees, pending any additional information from the employees that could cause management to adjust its position – information which was never supplied. Buses continues to defer to OSS’s determination and has not enrolled employees or interns in the medical surveillance program.

In contrast, Subways offered enrollment to its employees, despite OSS’s position, and has been doing so since September 2018. As of September 2019, the date of the formal complaint, 35 Subways employees had already been offered monitoring in the program. It should be noted that OSS has explained that the risks to the employees associated with ongoing medical surveillance, such as the need to undergo periodic X-rays, are weighed in the decision to recommend enrollment.

There was no evidence that the 59 workers had been exposed to hazardous material. NYC Transit delegates to each department the ability to refer its own employees in a medical surveillance program, regardless of the position taken by OSS. Both departments’ actions were consistent with this policy.

#### IV. FINDINGS: THE ASBESTOS MANAGEMENT PROGRAM

##### A. OSS Did Not Follow the Policy Instruction Directing Creation of a Database and an Asbestos Monitoring Plan

While reviewing NYC Transit’s response to the 2019 fan house allegations, OIG found that OSS had collected information on the location of asbestos in the ENY facility, including the vibration cloths, in 2011. However, that information was not memorialized, nor were the locations monitored over the years. We also found that since 2009, OSS has had an established asbestos management policy that provides direction on how to proceed if ACM is identified. This policy – if adhered to – can reduce the risk of exposure and the cost of redundant consultant surveys. By not following the policy, OSS put itself in a reactive position when workers raised concerns about ACM in the fan house, and for the same reason ENY facilities management only learned that the fan house vibration cloths were ACM in reaction to worker requests and complaints.

###### 1. Asbestos Management Policy Instruction—Operations and Maintenance Programs

In 2009, OSS adopted a comprehensive policy instruction on asbestos management (the Instruction).<sup>3</sup> One of the stated purposes of the Instruction is “[t]o prevent or minimize employee/customer/contractor exposure to ACM in the workplace and public facilities.” It designates OSS as responsible for “developing procedures for Operations and Maintenance (O&M) Programs in response to the need for long-term management of facilities which are known to contain asbestos.”

Appendix A of the Instruction lists 10 phases of a consultant asbestos survey program that was underway when the document was written in 2009. Its stated goals were: “Using a phased approach, [to] survey the entire NYC Transit System, to determine the location, amount and condition of asbestos on the system; ***to develop a database that identifies these parameters***; and to develop priorities for future abatement as part of the OSS’s Proactive Asbestos Search program.” (Emphasis added).

According to the Instruction, each facility’s O&M program should be designed to ensure the clean-up of asbestos fibers already released, prevent future release by minimizing ACM disturbance or damage, establish procedures to monitor the condition of ACM, and require the development of appropriate work procedures for maintaining ACM or equipment with or near

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<sup>3</sup> See *New York City Transit Asbestos Management Policy Instruction 10.16.4*, issued March 2009.

ACM. The program should remain in effect until all ACM has been removed from the facility or until the facility has been demolished. The Instruction specifically states that OSS shall “develop the O&M program (procedures) for areas/materials where employees may contact or potentially disturb ACM based upon the asbestos assessment of that facility and work procedures” and “submit the O&M program to the Departmental Asbestos Representative.”

Although the Instruction seems reasonably detailed and thorough, OIG found that OSS had not fully followed its guidance. OSS established protocols for facilities to request surveys prior to performing repairs and to request abatement if ACM would be disturbed as part of their O&M program. OSS did not, however, establish the database necessary for OSS or ENY to easily track known locations of ACM, update the database if ACM has been removed, or record changes in each locations’ condition over time. Given the confirmed presence of ACM in multiple areas of the facility, ENY should have been provided a comprehensive O&M plan outlining what was needed in response to the 2011 survey findings. If this had been in place, ENY and OSS would have had immediate answers to employees’ concerns.

## 2. Asbestos Surveys Conducted Before 2009 and in 2011

Given the existence of the 2009 asbestos management Instruction, OIG expected to be able to learn (1) where asbestos was located in ENY including the fan house and (2) what the required monitoring reports had shown over the last 10 years. The appendix to the Instruction stated that all bus depots and a central warehouse that existed in 2009 had been “completed” – that is, included in the latest survey at that time. In 2019 OIG requested copies of the pre-2009 surveys referenced in Appendix A, but OSS could not supply the surveys until September 2020. OIG then reviewed the 1996 asbestos survey of the ENY facility and found that only 74 samples were taken throughout the facility, limited to items such as floor tiles and mastic, sheetrock, plaster walls, pipe fittings & insulation, and ceiling tiles. The air handling units (fans) and ductwork were not sampled and the vibration cloths were not tested.

OIG also learned that a previous Chief Facilities Officer had commissioned a separate comprehensive asbestos survey of ENY’s facility in 2011. This survey was conducted by an outside consultant, who conveyed the results to OSS in October 2011. As part of the survey, the company collected 1,362 samples to test for the presence of ACM, including multiple samples from the fan house vibration cloths. The survey reported approximately 225 presumed locations of ACM and approximately 345 additional *confirmed* locations. The survey classified the confirmed ACM as friable or non-friable and within each category noted the condition of the material as good, fair, or poor. Twenty-five of the locations were deemed friable ACM and were further identified as being in either “fair” condition (20 locations) or “poor” condition (the remaining 5).

OSS gave the ENY Asbestos Rep a hardcopy of the 2011 survey report when it was completed. However, OIG identified several shortcomings after that point:

- Neither OSS nor its contractor supplied an O&M (Operations & Maintenance) plan to accompany the report. The only direction provided was to prohibit work on any of the confirmed ACM sites without first performing an abatement.
- OSS failed to create a database to capture the 345 confirmed and 225 presumed locations and their conditions.
- OSS has no records of monitoring for any of these locations since 2011.

OSS's current protocol requires ENY staff to notify OSS if construction or repair work is planned, so that OSS staff can determine if the work might disturb ACM. These consultations, however, start from scratch; that is, the initial step is to determine if asbestos is present. The 2011 survey is not consulted and, for all practical purposes, seems to have been shelved as soon as it was completed. This represents a missed opportunity to take advantage of reliable information gathered in the past. Indeed, when questioned, OSS officials confirmed to OIG that no independent remediation action was taken by their office as a direct result of the 2011 survey's results.

The EPA states that, "A visual inspection of all ACM should be conducted at regular intervals as part of the O&M program to help ensure that any ACM damage or deterioration will be detected and corrective action taken."<sup>4</sup> The EPA goes on to "recommend a visual and physical evaluation of ACM during re-inspections to note the ACM's current condition and physical characteristics. Through this re-inspection, it is possible to determine both the relative degree of damage and assess the likelihood of future fiber release." As far as the OIG can determine, no one at OSS conducted any periodic monitoring of any of the identified locations, including the higher-risk "fair" and "poor" locations identified in the 2011 survey. Some ACM is less risky to people in that the asbestos will not become friable – window caulking, for example. But it is particularly important to monitor locations deemed friable, i.e. those that could produce airborne fibers if cut or broken.

We found that current ENY facilities management officials were unaware of the presence or condition of the cloths and other ACM in the facility until survey requests were again made in 2019. OIG discovered the existence of the 2011 survey during our investigation of employees' complaints. This lack of communication and documentation of critical information that could

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<sup>4</sup> See [EPA guidance](#) on "Monitoring Asbestos-Containing Material (ACM)." Last updated June 14, 2018.

impact worker safety is not acceptable. OSS must establish a reliable mechanism to capture and record areas of concern and a means to share that knowledge with future administrations.

### **B. OIG Requested Inspection of 25 Vulnerable Areas Identified in 2011 Whose Current Status was Unknown**

When any work involving demolition, repairs, replacement, or other significant modification is anticipated, the Asbestos Rep (or other appropriate individual) is responsible for submitting an Asbestos Survey Request Form to OSS for the affected area. The survey will identify the presence of any ACM before any work is scheduled and, if necessary, the asbestos will be remediated prior to the planned work. For this reason, ACM locations found in 2011 may have been addressed through this normal abatement process as repairs were performed throughout the buildings. However, because OSS did not update the 2011 survey results or track the status of the 2011 ACM locations, their presence and condition was unknown in February 2019, thus requiring the agency to perform a redundant survey to support planned work in the fan house.

The 2011 survey was extensive and comprehensive. Along with the over 500 presumed and confirmed ACM locations identified, equally important was the knowledge of what tested negative for ACM. Because many repairs have been conducted in ENY since the survey was performed, ACM locations that existed then will have been remediated – but no updating of the survey has taken place. And because no monitoring has taken place, it cannot be known if the condition of the ACM remaining from 2011 has remained unchanged. This lack of follow-through has severely compromised the value of the survey.

OIG was concerned about the current condition of the 25 most vulnerable areas identified by the 2011 ATC survey, particularly those that had not been resolved during routine renovations. As a test, OIG selected the 25 “fair” and “poor” friable locations from the 2011 survey and asked OSS to report whether the asbestos in each area had been remediated or, if the asbestos remained, what its current condition was. OSS commissioned ATC, the same firm that had completed the 2011 survey, to re-survey the locations in November 2019.

Of the 25 locations, ATC found that 14 had been abated during OSS’s support of ongoing construction activities. For example, the 2<sup>nd</sup> floor women’s locker/bathroom location was abated prior to its recent refurbishment. The consultant found that 9 of the remaining 11 locations still contained ACM but did not recommend any immediate action. Lastly, in 2 locations where the ACM condition had been noted as “poor” in 2011, the new survey found that they had not been abated, and abatement was actually performed on November 15, 2019 in those locations. OSS officials explained that because of the concerns that had been raised, they chose to abate those 2

areas to “err on the side of caution.” While OIG has no evidence that workers were at risk, leaving management of asbestos to serendipity does not seem prudent.

To ensure workers’ safety, management needs accurate information about conditions that might represent potential workplace hazards. There is diminished value if surveys of facilities to determine the presence of asbestos are not memorialized in an accessible way and updated as ACM is removed or remediated. The 2011 survey was much more comprehensive than the 1996 survey cited in the policy instruction, testing over 1,300 samples compared to only 74 in 1996, and identifying many more ACM locations than were even tested in 1996. This was not immediately evident as OSS did not comply with its policy instruction to create a database and monitor locations with ACM. The establishment of a tracking database updated to reflect changes in condition as well as any ACM removed over time could have ameliorated many of the issues experienced in the facility.

## V. RECOMMENDATIONS

While the specific 2019 allegations were not substantiated, NYC Transit can and should improve its management of known ACM in its facilities. Documenting known ACM locations, monitoring the condition of friable asbestos, and proactively abating locations as their conditions warrant in a transparent way should make the facilities not only safer for all who work in them but will foster confidence in all who must work in them. OSS must comply with the agency’s policy instruction governing asbestos management.

1. OSS should create a database of existing known Asbestos Containing Material in all NYC Transit facilities based on each facility’s latest completed surveys.

*Agency Response: Agreed. “OSS has begun efforts to incorporate asbestos survey information into the Enterprise Asset Management System (EAM). OSS will develop EAM framework with EAM group in Q1 2021.” NYC Transit wrote that it will begin to incorporate known locations that contain asbestos material into EAM beginning Q2 2021 and will continue adding new locations going forward. The agency stated that this will be a significant, long-term ongoing project.*

2. OSS should implement a protocol to update the database as locations are re-inspected or remediated.

*Agency Response: Agreed. "OSS will establish protocols to ensure that the survey information in the EAM remains current. OSS will establish the protocols in Q1 2021...."*

3. OSS should establish a routine monitoring program of known friable Asbestos Containing Material – independent of planned repair work – to identify changes in conditions.

*Agency Response: Agreed. "NYCT Class IV Maintenance personnel who are trained to identify suspect Asbestos Containing Material (ACM) will monitor all known suspect ACM and will report changes in condition (consistent with OSHA standards). This reporting will be communicated via a recently developed form submitted to their supervisor who will submit to the Departmental Asbestos Representatives ("DAR"). The DAR will submit these forms to OSS who will investigate and address as appropriate and document findings. As the asbestos survey information becomes incorporated into the EAM system, it will become a resource available to these trained personnel as they continue to monitor suspect ACM."*

4. OSS should evaluate the condition of any known friable Asbestos Containing Material to determine its current condition and risk of being disturbed.

*Agency Response: Agreed. See response to #3.*

5. OSS should share the database information in a timely manner with each facility's management.

*NYCT Response: Agreed. Facility management will have access to the survey information as it becomes available in the EAM."*

In its response, the agency also explained that NYCT management and OSS plan to host 3 employee town halls in 2021 to discuss the asbestos program, listen to employees' concerns and ideas and respond to questions. We hope these town halls will provide a foundation for management and employee communication that will foster confidence in our program.