



American Council of Engineering Companies of New York

TESTIMONY

Presented to the Joint Committees on Transportation
Tuesday, February 3, 2026
Albany, NY

Introduction:

To the members of the State Senate and Assembly present here today, I appreciate the opportunity to deliver testimony on the proposed Executive Budget for SFY 2026-27 as it relates to engineering, particularly transportation, infrastructure, and construction.

My name is Michael Burrige and I serve as the New York State Director of Government Relations for the American Council of Engineering Companies of New York (ACEC New York).

ACEC New York is comprised of a diverse group of almost 300 consulting engineering firms, collectively employing about 33,000 New Yorkers and nearly ten times that worldwide. Our member firms range from sole proprietors to multi-national corporations across New York State, with a concentrated presence of firms located in New York City. About 25 percent of our membership is comprised of M/WBE and veteran-owned firms.

Engineering's Economic Impact:

ACEC New York supports robust investment in infrastructure across all sectors, including transportation, energy, and the environment. Capital investment creates jobs, reinforces New York's standing as the Empire State and global center of trade and finance, and improves the economic well-being of all New Yorkers.

The ACEC Research Institute, an independent 501(c)(3) non-profit, estimates in its most recent economic analysis that the consulting engineering and design services industry in New York accounts for: (i) \$29.9 billion in GDP; (ii) \$4.2 billion in federal taxes collected, (iii) \$2.7 billion in state and local taxes collected, (iv) 259,000 jobs, and (v) \$20.4 billion in total wages.

Transportation Infrastructure Conditions and Affordability:

Improving affordability and public safety for all New Yorkers is the major theme for this year's budget season and legislative session, and investing in our transportation infrastructure fits squarely within those values. According to the most recent TRIP "New York Transportation by the Numbers" report, a total of 45 percent of New York's major roads are in poor or mediocre condition, while 10 percent of bridges are rated as poor or structural deficient. Current road conditions cost motorists an estimated \$8.8 billion per year (\$718 per motorist) in Vehicle Operating Costs (VOC), which includes accelerated vehicle depreciation, repair costs, increased fuel consumption and increased tire wear.

New York ranks tenth nationally in the number of deficient bridges according to the Federal Highway Administration (FHWA). According to a recent analysis by the State Comptroller's Office, New York City's necessary bridge repairs exceed \$19 billion, with the rest of the state's bridge repairs estimated at \$9.6 billion. Further, the advance of climate change is expected to accelerate the deterioration of bridge conditions due to heat waves, flooding, sea level rise and other effects of climate change.

As this data shows, it is imperative for the New York State to immediately address the rapid deterioration of our transportation infrastructure. Uncertainty related to federal funding for current and future transportation infrastructure projects is a significant concern for the design

and construction industry, and we will be working with our federal partners to help secure the unspent Infrastructure Investment and Jobs Act funding and push back against its elimination. As a state, we should focus on what we can control, and that includes an honest assessment of the current condition of our transportation infrastructure, coupled with the will to aggressively invest to turn the tide.

In August of 2025, ACEC New York submitted comments to the U.S. Department of Transportation (USDOT) regarding the Surface Transportation Reauthorization. We made it clear that IIJA funding commitments should be maintained and set the baseline for the reauthorization. Further, our comments expressed concerns with USDOT proposals to modify funding formulas and insisted that aid to states needs to be distributed on an equitable basis, backed by data and assessments related to transportation infrastructure conditions.

Conversely, the federal government deserves to know that taxpayer dollars will not be wasted on an overly litigious environment where money is siphoned away from capital programs due to a tort system that is unaligned with every other state in the nation. New York's absolute standard of liability for worksite incidents hemorrhages hundreds of millions of dollars from capital programs to pay for additional insurance costs and has driven up construction costs by five to ten percent. If New York wants to find efficiencies in its capital programs, it needs to adhere to a comparative negligence standard which is utilized by every other state except New York.

SFY 2023-27 NYSDOT Capital Plan:

ACEC New York would like to sincerely thank Governor Hochul and the Legislature for including \$800 million in the SFY 2025-26 State budget to restore purchasing power for "core" projects in the NYSDOT 5-year Capital Plan. Despite this increase, the unabated advance of inflationary pressures, tariffs, insurance costs, project delays, and lack of progress on commonsense tort reforms continue to drive up costs.

According to the Consumer Price Index, inflation has eroded an estimated \$3.8 billion of New York's core construction funding from SFY 2021-22 to SFY 2025-26. While the NYSDOT Capital Plan has grown since its adoption, it has not kept pace with the 47 percent increase in construction costs from 2022 through the first half of 2025, as per the estimate of FHWA's national highway construction cost index.

As the data above suggests, New York cannot afford to be complacent in the final year of the NYSDOT Capital Plan. We need a strong finish so we can pivot toward the next plan with a sense of clarity and predictability. Predictability is essential for engineering firms, as it informs budgeting, staffing decisions, and the firm's capacity to respond to solicitations for public work.

Therefore, ACEC New York and its coalition partners are requesting an additional \$950 million in the SFY 2026-27 State budget for NYSDOT's core capital program and an additional \$250 million for CHIPS. This funding need, backed by data we can provide, is necessary to ensure New York is positioned to be a national leader in safe and reliable transportation infrastructure.

Bridge NY:

Since 2016, the Bridge NY program has funded more than 800 projects across the State and has been a significant resource for local governments to replace or repair bridges and culverts. If there is one program out of the five State initiatives for assisting local governments with transportation infrastructure, the Bridge NY program consistently generates exceptional praise from ACEC New York members. In recognition of this success, the State should firmly commit to extending and expanding this program.

ACEC New York will continue to work with the New York Congressional delegation to drive federal resources to the Bridge Formula Program (BFP) and the Bridge Investment Program (BIP) under the IIJA and push for these funds as part of federal appropriations and the Surface Transportation Reauthorization.

MTA and Non-MTA Transit:

ACEC New York strongly supports efforts to fully fund the 2025-29 MTA Capital Program and new capital funding for the preliminary engineering work associated with the extension of the Second Avenue Subway project and the design work related to the improvement of Jamaica Station. We also strongly support expanded efforts to drive capital investment to transit systems outside of the MTA region.

Significant Projects:

Across the state, from Queen City Forward, I-81, Livingston Avenue Bridge, Interborough Expressway, Gateway, and many other significant projects, ACEC New York supports efforts to fund and progress these projects with partners at the federal, state, and local levels.

ACEC New York is very concerned with federal actions to withhold funding for Gateway and other projects across the State and is committed to working with our federal, State, and local partners to advocate for the release of federal funding for these projects.

Article VII Proposals:

Part F and G (TED S.9008/A.10008)- SUPPORT

ACEC New York and its members are extremely concerned for the well-being of the men and women performing work and maintenance on our roads, bridges, and tunnels. These dedicated men and women deserve a safe working environment just like any other trade and profession. We commend the governor's proposal to enhance transportation worker protections under Part F and Part G of the Transportation, Economic Development and Environmental Conservation Article VII legislation (S.9008/A.10008).

Alternative Project Delivery and Procurement:

While there are no proposals to expand the use of alternative project delivery methods in the Executive Budget proposal, ACEC New York believes it is an imperative to grow the project

delivery toolbox for State agencies, public authorities, and certain local agencies with the means to utilize alternative project delivery methods.

ACEC New York supports project delivery systems that guide the design of public and private facilities, are in the best interest of the owner, utilize a Qualifications-Based Selection (QBS) procedure for the selection of design professionals, provide unbiased protection for existing and future infrastructure, and protect the health, welfare and safety of the public. ACEC New York recognizes and supports the traditional design-bid-build project delivery method utilized for most construction projects. However, ACEC New York also acknowledges design-build as an alternative project delivery system that, while not appropriate for every project, is a useful delivery tool to have in certain circumstances for private and public projects.

We support the expansion of different alternative delivery methods, such as construction manager as constructor, construction manager build, and authorization for the use of “progressive design-build.” Progressive design-build (PDB) allows for an accelerated procurement to select and award a contract to the most qualified PDB team.

Fair and Reasonable Contract Terms:

As the State continues to seek ways to efficiently execute projects, public owners’ relationships with and reliance on their consulting engineering partners is of increased importance. The fair and commercially reasonable apportionment of risk is critical to allowing engineering firms to participate in public works projects. The fair and manageable transfer of risk is achieved through negligence-based defense and indemnification clauses in public works contracts. The prevalence of broad-form indemnity and duty to defend clauses in contracts for public work continues to be a major problem for firms providing professional design services in New York and exposes firms to liabilities which are outside their control and are uninsurable.

Broad-form indemnity and defense contract clauses are uninsurable because, unlike contractors, licensed design professionals do not exercise control over a jobsite and therefore should not be required to indemnify the client for liabilities that are due to anything other than the consultant’s professional negligence. Professional liability insurance covers consultants against injuries and damages resulting from their negligent professional acts, errors or omissions.

Unreasonable and uninsurable indemnity and defense clauses in contracts are harmful to every party involved. It not only puts businesses at risk of failing, but it may also prevent individuals who are harmed from just compensation. ACEC New York urges the governor and the legislature to pass legislation (S.4591/A.7379) this year to advance public contract reform and remove these broad-form indemnification and defense clauses from contracts for public work.

Expand Qualifications-Based Selection (QBS):

The use of a qualifications-based approach for the procurement of architectural and engineering services on publicly funded projects was codified into law (P.L. 92-582) by the U.S. Congress in 1972. Also known as the “Brooks Act,” this law requires engineers and architects to be selected for all federal government projects on the basis of qualifications, subject to negotiation of fair



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and reasonable compensation. Today, most states follow QBS procedures for procuring architectural and engineering services, including the state of New York.

In 1980 the New York State Legislature passed, and the governor signed into law, Chapter 562, requiring all State agencies to use QBS when procuring architectural and engineering services in excess of \$25,000. Since that time, §136-a of the State Finance Law has been expanded to include geological, landscape architecture, and land surveying services. QBS is endorsed by the American Bar Association as part of its "Model Procurement Code for State and Local Governments," and is a recommended best practice in the New York State Education Department's "Manual of Planning Standards for School Buildings."

Unlike State agencies, municipal entities and public authorities are not required to use QBS when procuring professional design services—an anomaly among federal and state procurement procedures. We are asking the legislature and governor to establish parity and extend the QBS requirement to public authorities via bill (S.4577/A.5520).

Closing:

New York's efforts to maintain, repair, and build transportation infrastructure are critical to the State's interest in public safety and economic prosperity. ACEC New York is committed to working with our public counterparts to maximize the benefit of every taxpayer dollar spent on the State's transportation and infrastructure programs.

Michael BurrIDGE
NYS Director of Government Relations
ACEC New York