Surface Transportation Board

Performance and Accountability Report

Fiscal Year 2019

MESSAGE FROM THE CHAIRMAN

November 12, 2019

The Fiscal Year (FY) 2019 Performance and Accountability Report for the Surface Transportation Board (STB or Board) has been prepared to provide a complete and reliable reflection of the Board's performance and financial data. During FY 2019, the Board continued to promote its strategic goals and support its mission as detailed in this Report.

The STB became fully independent less than four years ago upon enactment of the Surface Transportation Board Reauthorization Act of 2015, Pub. L. No. 114-110. While the Board has been focused on the successful fulfillment of its core mission—the efficient, timely, and sound resolution of surface transportation issues and disputes subject to its jurisdiction—the Board has also been intent on meeting its new administrative demands. The STB's cybersecurity program has matured during this time, and the most recent Federal Information Security Management Act audit resulted in no new recommendations for FY 2019. And, the audit of the Board's financial statements found no material weaknesses.

In sum, during FY 2019, the STB made notable progress toward achieving its mission and is committed to further improving its administrative processes. The Board will continuously strive to use resources wisely and ensure that the Board is responsive to its stakeholders and the public.

Sincerely,

Ann Begeman
Chairman

Table of Contents

Introduction

This Performance and Accountability Report (PAR) serves as a progress report wherein the Surface Transportation Board (STB, Board, or agency) demonstrates accountability by presenting performance and financial information for Fiscal Year (FY) 2019. The PAR enables the President, Congress, and the public to assess the Board's activities and accomplishments relative to its mission and the resources entrusted to it. The PAR describes the specific performance goals and strategies the Board will take through 2022 based on the STB's FY 2018 – FY 2022 Strategic Plan, and reports the STB's FY 2019 achievements of those performance goals. The PAR also serves as the STB's annual report on its activities.

The PAR satisfies the following legislation:

- *The Surface Transportation Board Reauthorization Act of 2015* (STB Reauthorization Act) requires the STB to submit an annual report on its activities.
- *The Federal Manager's Financial Integrity Act of 1982* (FMFIA) requires continuous evaluations and reporting of the adequacy of systems of internal accounting and administrative controls.
- *The Chief Financial Officers Act of 1990* provides for the production and submission of complete, reliable, timely, and consistent financial information for use by the Executive Branch of the government and the Congress in the financing, management, and evaluation of Federal programs.
- *The Inspector General Reform Act of 2008* amends the Inspector General Act of 1978 to enhance the independence of Inspectors General, to create a council of the Inspectors General on Integrity and Efficiency, and for other purposes.
- *The Government Management Reform Act of 1994* requires the submission of audited financial statements.
- *The Reports Consolidation Act of 2000* authorizes agencies to consolidate several reports to provide performance, financial, and other related data in a more useful manner.
- *The Government Performance and Results Modernization Act of 2010* (GPRA Modernization Act) requires an annual report that measures the performance results of the agency against the established agency goals.
- *The Improper Payments Elimination and Recovery Act of 2010* (IPERA) provides for estimates and reports of improper payments by Federal agencies.
- *The Digital Accountability and Transparency Act of 2014* (DATA ACT) amends the Federal Funding Accountability and Transparency Act of 2006, requiring the establishment of government-wide data standards for spending information.

How This Report is Organized

Management's Discussion and Analysis provides an overview of the STB's financial results; a high-level discussion of program performance; management assurances on internal controls and financial management systems compliance; and other management information, initiatives, and issues.

Program Performance Information describes the Board's strategic goals and targets and provides progress of its accomplishments in meeting those goals during the fiscal year.

Financial Information provides financial details, including a message from the Chief Financial Officer, the independent auditor's report, and the audited financial statements.

Required Other Information includes an analysis of programs identifying improper payments, a summary of the financial statement audit, and required supplementary information.

The PAR is posted on the STB's website: www.stb.gov.

Management's Discussion and Analysis

Mission Statement

The STB exercises its statutory authority and resolves disputes in support of an efficient, competitive, and economically viable surface transportation system that meets the needs of its users.

History

The bipartisan Board was established in 1996 as the successor to the Interstate Commerce Commission (ICC). The Board was administratively aligned with the Department of Transportation (DOT) until enactment of the STB Reauthorization Act, which established the Board as a fully independent agency as of December 18, 2015. The STB Reauthorization Act also expanded the Board's membership from three to five Board members.

Responsibilities

The STB is primarily charged with the economic oversight of the nation's freight rail system. The economics of freight rail regulation impact the national transportation network and are important to our nation's economy. For this reason, Congress gave the STB sole jurisdiction over railroad entry and exit licensing, mergers, and consolidations, exempting STB-approved transactions from federal antitrust laws and state and municipal laws. The Board also has exclusive authority to determine whether certain railroad rates and practices are reasonable.

While a majority of the Board's work involves freight railroads, the STB also performs certain oversight of passenger rail matters, the intercity bus industry, pipelines other than water, gas, or oil, household goods carriers' tariffs, certain collective activities in the trucking industry, and rate regulation of non-contiguous domestic water transportation (marine freight shipping involving the mainland United States, Hawaii, Alaska, Puerto Rico, and other U.S. territories and possessions).

Organizational Structure

Board Members

The Board is authorized to have five members nominated by the President and confirmed by the Senate. As of September 30, 2019, there are three members serving on the Board and two vacancies. Each member has a term of five years, unless appointed to fill an unexpired term. If a member leaves the STB before the end of his or her term, a successor may be appointed to the vacant seat for the remainder of that term. The Board's governing statute permits a member to serve up to one year after the expiration of that member's term, unless a successor is appointed.

STB Office Overview

In addition to the Board members' offices, the staff of the STB is organized into six offices. These six offices are comprised of attorneys, economists, and financial, transportation, and environmental analysts, as well as human resource specialists, paralegals, IT specialists, facilities managers, and contractors providing support to ensure the STB has the capabilities to meet its statutory responsibilities.

The Office of Economics (OE) provides economic, cost, financial, and engineering analyses for the Board. OE also makes available to the public a variety of statistical and financial analyses of the railroad industry. OE manages the Board-prescribed Uniform System of Accounts and cost accounting systems. OE also audits Class I carriers to ensure their compliance with these systems and uses the data provided by carriers to develop and disseminate the Uniform Rail Costing System (URCS).

The Office of Environmental Analysis (OEA) assists the Board in meeting its responsibilities under the National Environmental Policy Act (NEPA), and other related federal statutes. NEPA requires the Board to consider the potential environmental impacts before making its final decision in certain cases. OEA conducts an independent environmental review of cases filed with the Board; prepares any necessary environmental documentation; conducts public outreach to inform the public about proposals before the Board and invites stakeholders' comments; and provides technical advice and recommendations to the Board on environmental matters.

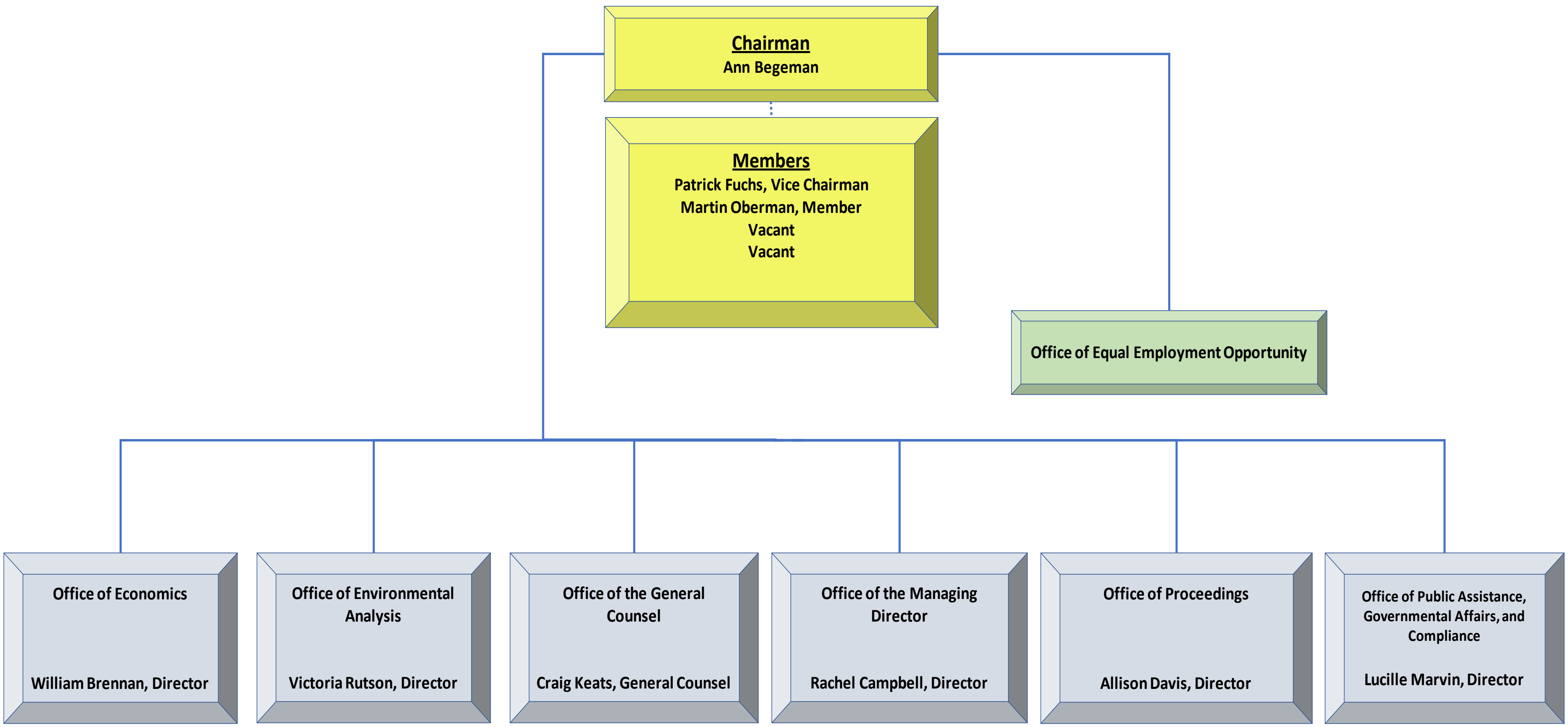
The Office of the General Counsel (OGC) is legal counsel to the Board. In that role, OGC evaluates and advises on the defensibility of the agency's decisions and defends those decisions when challenged in court. OGC also advises the Board on various mission-related matters, including the Freedom of Information Act (FOIA), the Privacy Act, the Paperwork Reduction Act, the Equal Employment Opportunity Act, as well as records management. Finally, OGC assists both the Department of Justice in responding to ancillary litigation related to Board proceedings and the Solicitor General in transportation-related Supreme Court litigation.

The Office of the Managing Director (OMD) provides a wide range of administrative services in support of the Board's mission, including human resource management, financial services, IT support, cybersecurity, and facilities management.

The Office of Proceedings (OP) has primary responsibility for managing the public record in formal cases (or proceedings) filed with the Board, making recommendations regarding the resolution of issues presented in those cases, and preparing the decisions issued by the Board. Specifically, OP oversees the Board's caseload, providing legal and policy recommendations (in conjunction with other Board offices, as needed) to the Board members for resolving the issues presented, and preparing drafts of decisions. OP also performs administrative services for the Board, including receiving and processing formal filings from the public; administering the Board's voting process; coordinating with the Federal Register for publication of decisions; and tracking the Board's casework. In addition, OP maintains a database for recording and perfecting secured transactions involving vessels and railroad rolling stock.

The Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) serves as the STB's principal point of contact for the U.S. Congress, federal agencies, foreign, state and local governments, interested stakeholders, the public, and the news media. OPAGAC's mission is to aid the public in participating in matters before the STB, to disseminate accurate information concerning the agency and its work, and to help the public understand the law and the agency's decisions. This office is responsible for external operations including governmental affairs, communications, and compliance, as well as internal operations such as rail operations and service analysis, tariffs, certain passenger rail matters monitoring and analysis, the Board's library, and mediation coordination. OPAGAC is also responsible for the management of the Rail Customer and Public Assistance (RCPA) program, which assists the public by answering questions pertaining to Board regulations and procedures and facilitating informal private-sector dispute resolution of rail operational and service-related issues and other matters wherever possible.

STB Organizational Chart
(as of September 2019)



Summary of Significant Performance Results

Strategic Goals

This section provides a summary of the Board's strategic plan, goals, and objectives. The Board's performance measures, discussed in *Program Performance Information*, are based on these goals.

Every four years, the STB updates its Strategic Plan as required by the GPRA Modernization Act. The STB's Strategic Plan defines its mission, goals, and progress measurements that demonstrate whether the Board has achieved its mission over a four-year period. During FY 2018, the STB updated its Strategic Plan for FYs 2018-2022. That document provides a blueprint for the agency to plan, implement, and monitor work needed to achieve the Board's mission for the next four years. It also establishes strategic goals, long-term strategies, and performance expectations, and it provides a basis for the agency's annual performance budget and its PAR.

The work that the Board conducts to carry out its responsibilities is guided by the following four strategic goals:

First strategic goal: Protect and further the public interest in surface transportation matters.

Strategic Objectives-

- Promote and ensure reasonable transportation rates and practices for users of freight railroads, non-energy pipelines, household goods movers, motor carriers acting collectively, and those providing or receiving service in the noncontiguous domestic water trades;
- Ensure that railroad restructurings (mergers, acquisitions, constructions, and abandonments) are consistent with the public interest and that any resulting economic, environmental, or operational harm is minimized to the extent practicable;
- Promote efficient and reliable surface transportation service that is responsive to the needs of customers, with adequate capacity to meet the needs of a changing economy; and
- Ensure consideration of environmental concerns in agency decision-making consistent with existing laws and regulations.

Second strategic goal: Foster economic efficiencies through reliance, where possible, on marketplace factors to encourage the development and continuation of economically sound, efficient, and reliable surface transportation systems that have adequate capacity to meet the needs of our economy.

Strategic Objectives-

- Encourage the efficient management and operation of surface transportation industries under the Board's jurisdiction;
- Promote a climate that encourages carriers to invest in needed additional capacity; and
- Minimize Federal regulatory control over surface transportation systems.

Third strategic goal: Provide a timely, efficient, and decisive regulatory process that enables stakeholders in the surface transportation industry to plan and conduct their operations more effectively and with minimal regulatory costs.

Strategic Objectives-

- Ensure that there is sufficient transparency with respect to the Board's dispute resolution activities to enable parties to make informed decisions as to whether they should voluntarily settle their disputes or litigate before the Board;
- Ensure the timeliness of Board adjudicatory decisions by setting and adhering to appropriate processing timelines; and
- Ensure that the Board's decisions comport with the applicable statutes, precedents, and policies.

Fourth strategic goal: Ensure that the STB has the organizational structure, managerial leadership, and skilled workforce necessary to carry out the agency's strategic goals.

Strategic Objectives-

- Organize management, deploy staff, and track operational performance throughout the agency to ensure the achievement of the Board's strategic goals;
- Recruit, retain, and train staff with a focus on critical needs, skills shortages, and diversity; and
- Employ new technologies to improve the Board's operational efficiency.

Relationship Between Strategic Goals and Performance Goals

While the strategic goals broadly state the purposes for which the Board was created and shape how the Board achieves its mission, the Board's annual performance budget identifies budget program activities and establishes more specific performance goals. The performance goals establish check points by which the Board may determine how successful it has been in accomplishing its mission and its strategic goals.

The performance goals provide a system to evaluate the results of the Board's activities by setting objectives and establishing metrics to determine the Board's progress. Where possible, the performance goals incorporate objective measurements of the Board's activities. In instances where the goals do not lend themselves to objective measurement, intermediate outcome and process measurements are identified to assess the timeliness and responsiveness of Board actions.

Achieving Strategic Goals

Results

The STB has developed performance goals that promote its strategic goals and support its mission. Together, performance measures and targets under each strategic goal were designed to enhance and further those strategic goals each fiscal year. The Board and its staff have worked to achieve maximum return for the efforts given. The STB applies a combination of practical approaches and experience to develop creative resolutions to difficult surface transportation disputes and service issues and to achieve the strategic objectives and performance goals for each strategic goal.

External Factors that Could Affect the Achievement of Strategic Goals

The following factors could affect, or require changes to, the Board's goals:

- Changes in the Board's budget, staffing, and resource limits, and authorization;
- Changes in market demand and strategic direction in the surface transportation industries under the Board's jurisdiction;
- Unanticipated nationwide or regional economic growth or recession;
- Major changes in the ability of surface transportation carriers to compete effectively or provide responsive and reliable service; and
- The impact of ongoing homeland security activities on the surface transportation industry.

Annual Performance Measures

Summary of Strategic Goals and Performance Measures			
STRATEGIC GOAL 1: Protect the public interest in surface transportation matters.			
Performance Goal 1: Facilitate greater understanding among and between carriers, shippers, and other stakeholders by supporting and participating in the work of the National Grain Car Council, the Railroad-Shipper Transportation Advisory Council, and the Rail Energy Transportation Advisory Committee.	**2019 Actual**	**2020 Target**	**2021 Target**
Performance Measure 1: Facilitate formal outreach efforts to promote effective compliance programs by hosting a minimum of seven collaborative meetings a year to discuss emerging challenges and industry trends with various stakeholder groups.	**Met**	Meet	Meet
Performance Goal 2: Encourage the voluntary resolution of rail operational and service-related issues involving shippers, railroads, state and local governments, and the public by providing informal access to the Board through the RCPA.	**2019 Actual**	**2020 Target**	**2021 Target**
Performance Measure 1: Informal inquiries and complaints from stakeholders and the public are responded to by RCPA within 3 days of receipt.	**Met**	Meet	Meet
Performance Goal 3: Conduct responsive, impartial, and timely adjudications.	**2019 Actual**	**2020 Target**	**2021 Target**
Performance Measure 1: Use resources efficiently to issue timely Decisions that are responsive to the needs of the public and are consistent with applicable laws and precedent greater than 90% of the time.	**Met**	Meet	Meet
Performance Measure 2: Board decisions are responsive to the comments, evidence, and argument, such that court decisions fault the agency for failing to address issues raised less than 25% of the time.	**Met**	Meet	Meet
Performance Measure 3: Board decisions are substantively supported, such that court decisions set aside agency rulings as beyond the agency's authority, or arbitrary, capricious, or an abuse of discretion, less than 25% of the time.	**Met**	Meet	Meet

Summary of Strategic Goals and Performance Measures (continued)			
Performance Goal 4: Ensure early and continuing opportunities for public participation and stakeholder input for projects that trigger review under NEPA and other related environmental laws by conducting public outreach, and informational meetings to inform and educate the public, and managing rail-related information databases for public use. Provide consistent, coordinated, and predictable environmental reviews and authorization processes for infrastructure projects.	**2019 Actual**	**2020 Target**	**2021 Target**
Performance Measure 1: Prepare environmental service lists and conduct public outreach through meetings, webinars, and websites, as appropriate, at least 80% of the time in cases requiring environmental review.	**Met**	Meet	Meet
Performance Measure 2: Process environmental reviews and authorization decisions for major infrastructure projects within 2 years to the maximum extent practicable consistent with Executive Order No. 13807, greater than 80% of the time.	**Met**	Meet	Meet
Performance Goal 5: Ensure that the public, through efficient FOIA processing, can obtain information about the Board, the programs it administers, and the actions it takes.	**2019 Actual**	**2020 Target**	**2021 Target**
Performance Measure 1: Promote transparency and public confidence in the Board's programs by responding to requests under FOIA, within the statutory time frame of 20 business days, excluding statutory-authorized extensions.	**Met**	Meet	Meet
STRATEGIC GOAL 2: Foster economic efficiencies through reliance, where possible, on marketplace factors to encourage the development and continuation of economically sound, efficient, and reliable surface transportation systems that have adequate capacity to meet the needs of our economy.			
Performance Goal 1: Collect and publish statistical data permitting the public to better understand trends in traffic volumes, rates, and the financial health of the rail industry.	**2019 Actual**	**2020 Target**	**2021 Target**
Performance Measure 1: Publish Monthly, Quarterly, and Annual Statistical Reports within 30 days of receiving all needed inputs.	**Met**	Meet	Meet
Performance Measure 2: Collect and publish rail service metrics within 24 hours of receipt.	**Met**	Meet	Meet

Summary of Strategic Goals and Performance Measures (continued)			
Performance Goal 2: Support the maintenance and development of adequate surface transportation systems to sustain the Nation's economic growth.	**2019 Actual**	**2020 Target**	**2021 Target**
Performance Measure 1: Recordations are entered into the Board's public database within one business day, at least 90% of the time.	**Met**	Meet	Meet
Performance Measure 2: The Board issues licensing authority within the required statutory and/or regulatory timeframe, at least 95% of the time.	**Met**	Meet	Meet
STRATEGIC GOAL 3: Provide a Timely, Efficient, and Decisive Process			
Performance Goal 1: Make key, disclosable information from the Board's internal case monitoring and management system available to the public so that stakeholders can be informed about the expected timing for specific Board decisions.	**2019 Actual**	**2020 Target**	**2021 Target**
Performance Measure 1: Prepare, post, and provide delivery to Congress quarterly reports on status of rate reasonableness cases, formal complaints, informal complaints, and pending regulatory proceedings.	**Met**	Meet	Meet
Performance Measure 2: Publishes the Semi-annual Regulatory Agenda.	**Met**	Meet	Meet
STRATEGIC GOAL 4: Ensure Proper Agency Structure			
Performance Goal 1: Identify and alleviate current and future skills gaps by succession planning and by providing appropriate training to staff to prepare for impending retirements of senior staff.	**2019 Actual**	**2020 Target**	**2021 Target**
Performance Measure 1: The Board will assess annually the training and development needs of staff, at least 90% of the time.	**Met**	Meet	Meet
Performance Goal 2: Ensure that Board members and staff are properly trained on, and abide by, applicable ethics rules, so that they can maintain the public's trust in impartial Board decisions issued without conflicts of interest.	**2019 Actual**	**2020 Target**	**2021 Target**
Performance Measure 1: Conduct yearly ethics training.	**Met**	Meet	Meet
Performance Measure 2: Provide initial response to employee's ethic inquiries within 48 hours, at least 80% of the time.	**Met**	Meet	Meet

Agency Oversight and Mission Challenges

Regulatory Responsibility and Oversight

The Board is charged with advancing the national transportation policy goals enacted by Congress[1] and promoting an efficient, competitive, safe, and cost-effective freight rail network.

While much of the agency's work involves freight rail carriers, the Board also has certain oversight of passenger rail carriers, pipeline carriers other than water, gas, or oil, intercity bus carriers, household goods motor carriers, trucking companies involved in collective activities, and water carriers engaged in non-contiguous domestic trade (i.e., trade involving Alaska, Hawaii, or U.S. territories or possessions).[2] The STB also has certain regulatory authority over the National Railroad Passenger Corporation (Amtrak); its operations on other railroads' track; disputes over use; and cost allocation for Amtrak operations. The agency has wide discretion to tailor its regulatory approach to meet the nation's changing transportation needs.

The STB is committed to vigilant oversight and the rendering efficient, timely, and sound resolution of surface transportation issues and disputes. Where regulatory requirements can be eliminated or reduced, the Board applies its exemption authority to the maximum extent consistent with the law to streamline approval processes.[3]

The Board's regulatory jurisdiction includes, among other things, railroad rate and practice reasonableness, mergers, line acquisitions, new rail line construction, and abandonments of existing rail lines. Because the economics of freight rail regulation impact the national network and are important to our national economy, Congress gave the STB sole jurisdiction over rail entry and exit licensing, mergers, and consolidations, exempting such transactions from federal antitrust laws and state and municipal laws. The STB also has exclusive authority to determine whether railroad rates and practices are reasonable. The Board also has authority, which was provided under the STB Reauthorization Act, to investigate issues of national or regional significance on its own initiative.

To carry out its regulatory responsibilities, the Board primarily engages in three types of formal activities: adjudication, rulemaking, and licensing. First, the Board adjudicates disputes between shippers and railroads on the reasonableness of the carriers' rates and

[1] 49 U.S.C. §§ 10101 (rail), 13101 (motor and water), 15101 (concerning pipelines).

[2] 49 U.S.C. §§ 13101-14914, 15101-16106.

[3] 49 U.S.C. § 10502(a).

practices or other statutory or regulatory provisions. In some instances, the Board also adjudicates disputes between the carriers themselves, or between the carriers and local communities in which their lines are located.

Second, the Board conducts rulemaking proceedings, in which the agency proposes, modifies, or eliminates regulations that it believes carry out the agency's mission. After issuing a notice of the proposed rulemaking, the Board receives comments from its stakeholders and other interested parties and, based on those comments, decides whether and how to adopt the proposed regulations. Third, the Board licenses rail line acquisition, construction, abandonment, or discontinuance of service, as well as rail carrier mergers and consolidations, to ensure that the transactions satisfy applicable statute and regulation.

Collaborative Discussions

In FY 2019, the Board continued to hold collaborative meetings pursuant to Section 5 of the STB Reauthorization Act, which permits a majority of the Board to hold a meeting that is not open to public observation to discuss official agency business, provided that certain conditions are met.[4]

Quarterly Reports

The Board has continued to prepare and post its quarterly reports on rate-review metrics, formal and informal rail service complaints, and unfinished regulatory proceedings. The reports can be viewed on the STB website, www.stb.gov.

Investigations

The STB Reauthorization Act provided a basic framework for the Board to conduct investigations on its own initiative. The STB established a three-stage process for conducting investigations: preliminary fact-finding; Board-initiated investigation; and the formal Board proceeding. *Rules Relating to Board Instituted Investigations*, EP 731 (STB served May 16, 2016). No formal investigations were conducted in FY 2019.

[4] In particular, no formal or informal vote or other official agency action may be taken at the meeting; each individual present at the meeting must be a member or an employee of the Board; and the General Counsel of the Board must be present at the meeting. In addition, after the meeting's conclusion, the Board must make available to the public a list of the meeting's participants and a summary of the matters discussed at the meeting, except for any matters the Board properly determines may be withheld from the public under 5 U.S.C. § 552b(c). The disclosure must be made two days after the meeting, unless the discussion directly relates to an ongoing proceeding before the Board, in which case the Board shall make the disclosure on the date of the final Board decision.

Railroad Restructuring

Mergers and Consolidations

When two or more railroads seek to consolidate through a merger or common control arrangement, the Board's prior approval is required under 49 U.S.C. §§ 11323-25. By law, the STB's authorization generally exempts such transactions from all other laws (including antitrust laws) to the extent necessary for carriers to consummate an approved transaction.

Carriers may seek Board authorization either by filing an application under 49 U.S.C. §§ 11323-25 or by seeking an exemption under 49 U.S.C. § 10502 from the full application procedures. The procedures to be followed in such cases vary depending on the type of transaction involved. Where a merger or acquisition involves only Class II or III (i.e., smaller) railroads whose lines would not connect with each other, carriers need only follow a simple notification procedure to invoke a class exemption (an across-the-board exemption from the full application procedures, applicable to a broad class of transactions) at 49 C.F.R. § 1180.2(d)(2). When larger carriers are involved in merger activities, more rigorous procedures apply, and carriers may be required to file "safety integration plans" under rules that the Board has issued jointly with the Federal Railroad Administration (FRA).

Pooling

Rail carriers may seek approval to agree, or to combine, with other carriers to pool or divide traffic, services, or earnings.

Line Acquisitions

Board approval is required for a non-carrier or a Class II or Class III railroad to acquire or operate an existing line of railroad. The acquisition of an existing line by a Class I railroad is treated as a form of carrier consolidation under a separate procedure. Non-carriers or Class II or III railroads may seek exemptions under certain conditions, and there are expedited procedures for obtaining Board authorization under several class exemptions for certain types of transactions that generally require minimal scrutiny.

For non-connecting lines, Class II and Class III railroads may choose to use a class exemption, and Class III railroads may acquire and operate additional lines through a simple notification process. Such acquisitions resulting in a carrier having at least $5 million in annual net revenues require additional advance notice of the proposed transaction.

Non-carriers may acquire rail lines under a class exemption. Required notification, together with the Board's ability to revoke class exemptions in certain transactions, prevent exemption misuse. Exemptions simplify the regulatory process, while continuing to protect the public interest, and help preserve rail service in many areas of the country.

Trackage Rights

Trackage-rights arrangements allow a railroad to operate its trains over the track of another railroad, which may or may not continue to provide service over the line at issue. Such arrangements can improve the operating efficiency for the carrier acquiring the rights by providing alternative, shorter, and faster routes. Local trackage rights may introduce new competition, thus giving shippers service options. The Board's prior approval is required for trackage rights arrangements. The Board maintains a class exemption for the acquisition or renewal of trackage rights through a mutual carrier arrangement. A separate class exemption also exists for temporary trackage rights for overhead operations that are limited to one year in duration.

Leases by Class I Carriers

Leases and contracts for the operation of rail lines by Class I railroads require Board approval. Carriers may seek Board authorization by filing either an application or a petition for exemption, and the agency maintains a class exemption for the renewal of a previously authorized lease.

Line Constructions

New rail line construction requires Board authorization. Carriers may seek Board authorization by filing either an application or a petition for exemption. A simple notification procedure is available for the construction of connecting track on an existing rail right-of-way, on land owned by the connecting railroads, and for joint track relocation projects that do not disrupt service to shippers.

The agency can compel a railroad to permit a new line to cross its tracks if doing so would not interfere with the operation of the existing line and if the owner of the existing line is compensated. If railroads cannot agree to terms, the Board can prescribe appropriate compensation.

Line Abandonments

Railroads require Board approval to abandon a rail line, or to discontinue all rail service over a line that will still remain part of the interstate rail network. Abandonment or discontinuance authority may be sought by the operating rail carrier itself, or an "adverse" abandonment or discontinuance action may be brought by an entity opposing a line's continued operation.

The agency maintains a class exemption providing a streamlined notification procedure for the abandonment of lines over which there has been no traffic in two consecutive years that could not have been rerouted over other lines.

Preservation of Rail Lines

The Board administers three programs designed to preserve railroad service or rail rights-of-way, as discussed below.

1) **Offers of Financial Assistance**
   If the Board finds that a railroad's abandonment proposal should be authorized, and the railroad receives an offer by another party to acquire or subsidize continued rail operations on the line to preserve rail service—known as an Offer of Financial Assistance—the agency may require the line to be sold for that purpose or operated under subsidy for one year. Where parties cannot agree on a purchase price, the agency will set the price at fair market value, and the offeror will either agree to that price or withdraw its offer.

2) **Feeder-Line Development Program**
   When railroad service is inadequate for a majority of shippers transporting traffic over a particular line, or the line has been designated in a carrier's system diagram map as a candidate for abandonment, the Board can compel the carrier to sell the line to a party that will provide service.

3) **Trail Use/Railbanking**
   The Board administers the National Trails System Act's "railbanking" program allowing railroad rights-of-way approved for abandonment to be preserved for the future restoration of rail service and for interim use as recreational trails. When a railroad and a trail sponsor agree to negotiate for interim trail use, the agency issues a Certificate of Interim Trail Use or a Notice of Interim Trail Use. If a trail use agreement is reached, the right-of-way remains under the agency's jurisdiction.

Liens on Rail Equipment

Liens on rail equipment intended for use in interstate commerce must be filed with the Board to become valid. Subsequent assignments of rights or release of obligations under such instruments must also be filed with the agency. Such liens maintained by the Board are preserved for public inspection. The STB recorded 1,327 rail liens in FY 2019.

Railroad Rates and Related Matters

Cost of Capital

Each year, the Board determines the after-tax, composite cost of capital for the freight railroad industry (i.e., the STB's estimate of the average rate of return needed to persuade investors to provide such capital) and uses that cost-of-capital figure for a variety of regulatory purposes. It is employed in maximum reasonable railroad-rate cases, feeder-line applications, rail line abandonments, trackage-rights cases, rail-merger reviews, URCS, and, more generally, in annually evaluating the adequacy of individual railroad's revenues and in the annual Railroad Revenue Adequacy determination.

Common Carriage or Contract Carriage

Under federal law, railroads have a common carrier obligation to provide transportation or service upon reasonable request. A railroad can provide that transportation or service either under rate and service terms agreed to in a transportation contract with a shipper or under common-carriage rate and service terms stated in a carrier's tariffs. Rate and service terms established by contract are not subject to Board regulation, except for limited protection against discrimination involving agricultural products.

Railroads are also required to file with the Board summaries of all contracts for the transportation of agricultural products within seven days of the contracts' effective dates. Summaries, which must contain specific information contained in 49 C.F.R. pt. 1313, are available on the STB's and the individual carrier's website.

Rate Disclosure Requirements: Common Carriage

A railroad's common-carriage rates and service terms must be disclosed upon request, and advance notice must be given for rate increases or changes in service terms. Rates and service terms for agricultural products and fertilizer must also be published. These regulatory requirements generally do not apply in instances where the Board has exempted from regulation the class of commodities or rail services involved. Class exemptions exist for certain agricultural products, intermodal traffic, boxcar traffic, and other miscellaneous commodities.

Rate Challenges: Market-Dominance Determination

The Board has jurisdiction over complaints challenging the reasonableness of a common-carriage rate only if a railroad has "market dominance" over the traffic involved. Market dominance refers to an absence of effective competition from other railroads or transportation modes for a specific movement to which a rate applies.

By law, the Board cannot find that a railroad has market dominance over a movement if the rate charged results in a revenue-to-variable cost percentage of less than 180 percent. The Board's URCS is used to provide a measurement of a railroad's systemwide average variable costs of performing various rail services.

Where the revenue-to-variable cost threshold is exceeded, the Board examines whether competition in the marketplace effectively restrains a railroad's pricing.

Rate Challenges: Rate-Reasonableness Determination

To assess whether a challenged rate is reasonable, the Board generally uses constrained market pricing (CMP) principles. These principles limit a railroad's rates to levels necessary for an efficient carrier to make a reasonable profit. CMP principles recognize that, to earn adequate revenues, railroads need pricing flexibility, including charging higher rates on "captive" traffic (traffic with no alternative means of transportation). The CMP guidelines also impose constraints on a railroad's ability to do so. One CMP constraint is the stand-alone cost (SAC) test. Under this constraint, a railroad may not charge a shipper more than it would cost to build and operate a hypothetical new, optimally efficient railroad (a stand-alone railroad) tailored to serve a selected traffic group that includes the complainant's traffic.

The Board has additional rate review methodologies, other than SAC. [5] Specifically, there is a simplified version of SAC, Simplified-SAC, which can be used in any rate case. There is also a modified version of the previously adopted Three-Benchmark methodology for smaller cases, under which a challenged rate is evaluated using three benchmark figures and a comparable group of traffic. A shipper challenging a rate may choose to present evidence using either a Simplified SAC or Three-Benchmark methodology but with limits on the relief available if the Three-Benchmark methodology is used. The maximum recovery for Three-Benchmark cases is $4 million, indexed for inflation.

Railroad Service

General Authority

The Board has broad authority to address the adequacy of the service provided by a railroad to its shippers and connecting carriers and the reasonableness of a railroad's rules and practices. Among its broad remedial powers, the Board may compel a railroad to permit alternative service by another railroad, perform switching operations for another railroad, or provide access to its terminal for another railroad. If the Board determines that there has

[5] *Simplified Standards for Rail Rate Cases*, EP 646 (Sub-No. 1) (STB served Sept. 5, 2007), *aff'd sub nom, CSX Transportation, Inc. v. STB*, 568 F.3d 236 (D.C. Cir. 2009), and vacated in part on reh'g, *CSX Transportation, Inc. v. STB*, 584 F.3d 1076 (D.C. Cir. 2009); *Rate Regulation Reforms*, EP 715 (STB served July 18, 2013, Dec. 3, 2014).

been a substantial, measurable deterioration or other demonstrated inadequacy in rail service, it can issue temporary service orders during rail service emergencies by directing a railroad to operate, for a maximum of 270 days, the lines of a carrier that has ceased operations. Finally, the Board has authority to address the reasonableness of a rail carrier's rules and practices.

Board / Stakeholder Discussions

Except for discussions of matters pending before the Board and rulemaking proposals under which the Board's Ex Parte Communications rules are applicable, the agency welcomes informal stakeholder meetings with the Board members and staff to discuss general service, transportation, and other issues of concern. During FY 2019, the Board continued to foster industry dialogue about railroad service through meetings of the Board's Advisory Committees, as discussed in the Annual Performance Report section.

Dialogue between Railroads and Their Customers

During FY 2019, the Board continued to encourage railroads to establish a regular dialogue with their customers as a productive way of preventing and addressing rail customer-service concerns. In addition to RCPA dispute resolution work, RCPA staff regularly monitored the rail industry's operating performance to identify service issues before they might become major problems.

Rail Labor Matters

Railroad employees adversely affected by certain Board-authorized rail restructurings are entitled to protection prescribed by law. Standard employee protective conditions address wage and salary protection and changes in working conditions. Such employee protection provides procedures for dispute resolution through negotiation and, if necessary, arbitration. Arbitration awards are appealable to the agency under limited criteria giving great deference to arbitrators' expertise.

Environmental Review

Under NEPA, the Board must consider the environmental impacts of its actions before making final decisions in certain cases filed before it. OEA assists the Board in its decision-making process by furthering the twin purposes of NEPA—informing the decision makers of the likely environmental impacts as a result of their actions and providing the public with the opportunity to participate in the environmental review process.

OEA ensures the Board's compliance with the regulations of the President's Council on Environmental Quality[6] and the Board's regulations implementing NEPA.[7] It determines whether certain cases filed with the Board are categorically excluded from environmental review or may require either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). In conducting environmental reviews for various rail line proposals on behalf of the Board, OEA strives to achieve an efficient, cost-effective, inclusive, and legally defensible process. The Board typically conducts environmental reviews for rail line construction proposals, abandonments, and mergers.

Financial Condition of Railroads

The Board monitors the financial condition of railroads as part of its oversight of the rail industry. The agency prescribes a uniform accounting system for railroads to use for regulatory purposes. The Board requires Class I railroads to submit quarterly and annual reports containing financial and operating statistics, including employment and traffic data.[8] Based upon information submitted by carriers, the Board compiles, among other things, monthly and quarterly employment reports, and annual wage statistics of Class I railroads, as well as quarterly rail fuel surcharges reports. This information is posted on the STB's website.

The Board publishes quarterly rail cost adjustment factor (RCAF) indices to reflect changes in costs incurred by the rail industry. These indices include an unadjusted RCAF (reflecting cost changes experienced by the railroad industry, without reference to changes in rail productivity) and a productivity-adjusted RCAF (reflecting national average productivity changes, as originally developed and applied by the ICC, based on a 5-year moving average).[9] Additionally, the Board publishes the RCAF-5 index that also reflects national average productivity changes but is calculated as if a 5-year moving average had been applied consistently from the productivity adjustment's inception in 1989.[10]

Amtrak and Passenger Rail

The Board has certain regulatory authority involving Amtrak, which has the right to operate over other railroads' track. The Board has authority to address disputes concerning shared use of tracks and other facilities (including disputes concerning Amtrak's statutory right of preference over other railroads' lines), and to set the terms and conditions of shared use if

[6] 40 C.F.R. §§ 1500-08.

[7] 49 C.F.R. § 1105.

[8] 49 U.S.C. §§ 11141-43, 11161-64; 49 C.F.R. §§ 1200-1201; 49 U.S.C. §§ 11145, 49 C.F.R. §§ 1241-1246, 1248.

[9] 49 U.S.C. §§ 10708, 1135.

[10] *Productivity Adjustment—Implementation,* 1 S.T.B. 739 (1996).

Amtrak and railroads or regional transportation authorities fail to reach voluntary agreements.

During an emergency, the Board may require a rail carrier to provide facilities, on terms prescribed by the Board, to enable Amtrak to conduct its operations. The Board also has authority to direct commuter rail operations in the event of a cessation of service by Amtrak. The Passenger Rail Investment and Improvement Act of 2018 (PRIIA)[11] expanded the Board's jurisdiction over passenger rail. PRIIA authorizes the STB to institute enforcement or investigatory action under certain circumstances. Following investigatory action, the agency is to identify reasonable measures and make recommendations to improve Amtrak performance and/or service quality, and it can award damages and prescribe other relief in appropriate instances.

Under certain circumstances, the Board may be called upon to set terms for access to Amtrak equipment, service, and facilities by non-Amtrak passenger railroads, and, upon request, the STB provides mediation services to assist dispute resolution regarding commuter-rail access to freight rail services and facilities. The Board also has jurisdiction over certain non-Amtrak passenger services, including over a passenger railroad operating in "a State and a place in the same or another State as part of the interstate rail network."[12] Excluded from this jurisdiction, however, is "mass transportation provided by a local government authority." [13]

Motor Carriage

Pooling Arrangements

Motor carriers seeking to pool or to divide their traffic, services, or earnings among themselves must apply for Board approval.

Household Goods Carriage

Household goods motor carriers are required to publish tariffs and make them available to shippers and the Board upon request. Such tariffs must include an accurate description of the services offered and the applicable rates, charges, and service terms for household goods moves. Regulations also require the Board to approve the terms by which household goods motor carriers may limit their liability for loss and damage of the goods.

[11] Pub. L. 110-432, 122 Stat. 4848 (2008).

[12] 49 U.S.C. § 10501(a)(2)(A).

[13] 49 U.S.C. § 10501(c)(2)(A).

Intercity Bus Industry

Intercity bus carriers must obtain Board approval for mergers and similar consolidations and for pooling arrangements between and among carriers. Such approval is commonly granted through a streamlined notice-of-exemption process that applies to transactions within a single corporate family. The agency can also require bus carriers to provide through routes with other carriers.

Water Carriage

The Board has jurisdiction over transportation by or with a water carrier in the noncontiguous domestic trade, that is, transportation between the U.S. mainland and Alaska, Hawaii, and the U.S. Territories of American Samoa, the Northern Mariana Islands, Guam, the Virgin Islands, and Puerto Rico.

Tariff Requirements

Carriers engaged in the noncontiguous domestic trade are required to file tariffs with the Board containing their rates and service terms for such transportation. Tariffs are not required for transportation provided under private contracts between carriers and shippers or for transportation provided by freight forwarders.

Complaints

If a complaint is filed with the Board, the agency must determine the reasonableness of water or joint motor-water rates in the noncontiguous domestic trade.

Pipeline Carriage

The Board regulates the interstate transportation by pipeline of commodities other than oil, gas, or water. Specifically, the Board regulates pipeline commodities such as coal slurry and anhydrous ammonia. Pipeline carrier rates and practices must be reasonable and nondiscriminatory.

Controls, Systems, and Legal Compliance

The STB fully recognizes that internal controls are fundamental to the systems and processes it uses to manage its operations and achieve its strategic goals. The Board strives to continually evaluate and improve its processes and procedures to ensure a strong system of internal controls.

Federal Managers' Financial Integrity Act

The FMFIA mandates that agencies establish controls to reasonably ensure that: (i) obligations and costs comply with applicable laws; (ii) assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and (iii) revenues and expenditures are properly recorded and accounted. This Act encompasses program, operational, and administrative areas as well as accounting and financial management. The FMFIA requires that the Chairman provide an assurance statement as to the adequacy of management controls and conformance of financial systems to Government-wide standards. The assurance must acknowledge that the STB managers are held accountable for efficient and effective performance of their duties in compliance with applicable laws and regulations and for maintaining the integrity of their activities through controls.

The Chairman's assurance statement is provided in this report. This statement was based on various sources, including management knowledge gained from the daily operation of the STB's programs and reviews, discussions with the Managing Director and other Office Directors, audits of the financial statements, annual performance plans, and the DOT Office of Inspector General (OIG) audit reports.

The STB received an unmodified (clean) audit opinion for FY 2019. In addition, the findings from FY 2018 were remediated and closed.

Debt Collection Improvement Act of 1996

The Debt Collection Improvement Act enhances the ability of the government to service and collect debts. The Act centralized the collection of non-tax delinquent debt owed to the government. Federal agencies are required to refer delinquent accounts in excess of 180 days to the Department of Treasury (Treasury) for collection. The Bureau of Fiscal Services conducts the collection of delinquent debts through the Cross-Servicing Program and the Treasury Offset Program, where the names and taxpayer identification numbers (TIN) are matched against the TINs of recipients of government payments. The balance owed to the government is deducted or offset from the payment to the entity to satisfy the debt. The goal of the STB is to minimize the delinquent debt owed to the government.

Prompt Payment Act of 1982

This Act requires agencies to make timely payments to vendors for supplies or services rendered on behalf of the agency. Agencies are penalized when payments are made after the due date. Agencies shall take cash discounts when they are economically justified. The STB reported 96% of invoices were paid on time in FY 2019, while late payments resulted in interest charges of $559.95 (on total payments of $4.08 million), less than .0001% of total dollars disbursed for FY 2019. The Board is working with DOT's Enterprise Services Center (ESC), the agency's shared service provider, to implement an approval workflow system to achieve 100% on-time payments and to prevent duplicate payments using ESC's Enterprise Data Quality software.

Performance Measure Summary

The STB relies upon ESC for its financial accounting system. The agency acquires travel management, accounting, and financial services from ESC, and procurement services from DOT through the DOT Working Capital Fund. The Board verifies and reconciles all financial statements and reports prior to publication and has remained in compliance with all reporting thresholds.

USA Spending Reconciliation

The Board, through ESC, implemented a plan to ensure data completeness and accuracy. Using control totals with financial statement data, samples of financial data were compared to actual award documents. The review ensured that the prime Federal award financial data reported on USAspending.gov were correct at the reported percentage of accuracy.

DATA Act Requirements

ESC implemented software that enabled the Board to comply with the requirement of the DATA Act to start capturing award information in financial systems effective January 1, 2017. The STB submitted timely files for three of the four quarters of Data Act Reporting for FY 2019. While the third quarter submission file was prepared on time, it was not timely certified due to a miscommunication between the STB and ESC regarding the filing date.

Inspector General Act of 1978 (as amended in 1988) and Inspector General Reform Act of 2008 Section 5(b) of the Inspector General Act of 1978

While the STB Reauthorization Act removed the requirement for DOT to provide administrative support to the Board, it provided the DOT OIG the authority to review the financial management, property management, and business operations of the Board, including internal accounting and administrative control systems, to determine the Board's compliance with applicable federal laws, rules, and regulations. In FY 2019, the DOT OIG engaged an independent public accounting firm to audit the Board's financial statements. As explained in the Financial Overview section of the report, the STB received an unmodified (clean) audit opinion for FY 2019.

Chairman's Statement of Assurance

The management of the Surface Transportation Board (STB or Board) is responsible for establishing and maintaining effective internal controls and financial management systems that meet the objectives of Sections 2 and 4 of the Federal Managers' Financial Integrity Act of 1982 (FMFIA). STB management is also responsible for implementing practices that identify, assess, respond, and report on risks. The Board provides an unmodified statement of assurance that its internal controls and financial management systems meet the objectives of the FMFIA with no material weaknesses for Fiscal Year (FY) 2019.

STB management conducted its assessment of the effectiveness of its risk management framework and system of internal controls for FY 2019 in accordance with OMB Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control. Based on the results of the assessment, the Board can provide reasonable assurance that it has effective internal controls over operations and financial reporting, and is in compliance with applicable laws and regulations.

The Federal Financial Management Improvement Act of 1996 (FFMIA) requires that agencies establish and maintain financial management systems that substantially comply with Federal financial management system requirements, applicable Federal accounting standards, and the U.S. Standard General Ledger (USSGL). The Board can provide reasonable assurance that it is compliant with the objectives of FFMIA. The STB uses a Federal shared services provider, the Enterprise Services Center (ESC) of the Department of Transportation (DOT), to process its financial data. The STB reviewed the DOT Office of Inspector General (OIG) Quality Control Review of the Independent Service Auditor's Report on DOT's ESC (SSAE 18 SOC 1 – Type 2 Report). The system provided by ESC is compliant with Federal financial management system requirements, Federal accounting standards, and the USSGL.

STB management assessed its purchase and travel card programs for compliance with the Government Charge Card Abuse Prevention Act of 2012 and can provide reasonable assurance that appropriate policies and controls are in place to mitigate the risk of fraud and inappropriate charge card practices. The STB also assessed the purchase and travel card program as directed by the guidance provided in OMB Circular A-123 Appendix B. Based on the results of the assessment, the Board can provide reasonable assurance that it is in compliance with OMB Circular A-123 Appendix B.

STB management also reviewed programs and activities susceptible to significant improper payments and assessed them in accordance with the Improper Payments Information Act of

2002, as amended by the Improper Payments Elimination and Recovery Act of 2010 and the Improper Payments Elimination and Recovery Improvement Act of 2012. Based on the review, no improper payments were processed.

Finally, the STB's Federal Information Security Management Act audit for FY 2019 was conducted by the DOT OIG. The audit results did not provide any new recommendations. In fact, DOT OIG concluded that the STB's cybersecurity maturity level increased from "Ad-hoc" to "Defined." While there were no new recommendations issued for FY 2019, the STB continues to implement security controls that will satisfy the remaining open recommendations from the FY 2017 and FY 2018 FISMA audits.

Ann Begeman
Chairman

Dated: November 12, 2019

Program Performance Information

Overview

The STB, through its strategic plan and performance budget, provided a performance plan to Congress pursuant to the GPRA Modernization Act. The Board's performance goals are organized to achieve its strategic goals. The Board's significant accomplishments in FY 2019 include issuing over 500 decisions addressing rail licensing, unreasonable practice complaints, rate reasonableness, declaratory orders, ex parte proceedings, and other matters. In addition, the Board was active in court related work, defending the Board's decisions in Courts of Appeals, and in activities related to FOIA and ethics.

Annual Performance Report

FY 2019 Activities and Accomplishments

Rate Reform Task Force

The Board established its Rate Reform Task Force (RRTF) in January 2018, with the objective of developing recommendations to reform and streamline the Board's rate review process for large cases, and determining how to best provide a rate review process for smaller cases. After holding informal meetings throughout the country with representatives of shippers and rail carriers, as well as academics, practitioners, and other interested parties, the RRTF issued a report on April 25, 2019 (RRTF Report), which was posted on the Board's website on April 28, 2019.[14] The RRTF recommended both administrative and legislative proposals to reduce the cost and complexity of rate disputes, particularly for smaller cases.

The Board recognizes that, for smaller disputes, the litigation costs required to bring a case under the Board's existing rate reasonableness methodologies can quickly exceed the value of the case. The Board has also heard from shippers and other interested parties that the agency's current options for challenging the reasonableness of rates do not meet their need for expeditious resolution at a reasonable cost.

For smaller cases, the RRTF recommended final offer decision-making, an administrative approach that would take advantage of procedural limitations to constrain the cost and complexity of a case. Versions of a final offer method for rate review have also been recommended by the United States Department of Agriculture and the Transportation Research Board. The RRTF also made several recommendations pertaining to the Board's existing Three-Benchmark methodology, including modifications to the Board's Waybill

[14] The RRTF Report can be accessed on the Board's website at https://www.stb.gov/stb/rail/Rate_Reform_Task_Force_Report.pdf.

Sample, which is used in cases under that methodology. In addition, the RRTF suggested legislation to permit mandatory arbitration.

For large cases, the RRTF suggested both significant simplification of the existing rate review methodology and an entirely new methodology for reviewing rate reasonableness. For cases under any of the Board's methodologies, it also proposed a simplified approach for determining whether a carrier has market dominance, a finding that is required by statute before the Board can consider the reasonableness of a rate. Additionally, the RRTF recommended a new approach for determining whether a carrier is long-term revenue-adequate, and it proposed new remedies for the Board to consider for rate cases involving revenue-adequate carriers.

After the RRTF Report was issued, the Board promptly held several collaborative meetings pursuant to Section 5 of the STB Reauthorization Act, which permits a majority of the Board to hold a non-public meeting to discuss official agency business, provided that certain conditions are met as described earlier.

After reviewing the RRTF Report, the Board proposed rules to establish a new rate review option for smaller cases, and to provide a streamlined market dominance process that could be used in any rate review proceeding. The Board has sought public comment on these proposals. The Board also announced that it will hold a public hearing on Thursday, December 12, 2019, on revenue adequacy issues raised in the RRTF Report.

Rail Demurrage and Accessorial Charges Oversight

During FY 2019, the Board worked proactively to address significant changes to Class I railroad practices and policies regarding demurrage and accessorial charges. For background, demurrage is a charge that both compensates rail carriers for the expense incurred when rail cars are detained beyond a specified period of time (i.e., free time) and serves as a penalty for undue car detention to encourage the efficient use of rail cars in the rail network. Accessorial charges are additional fees imposed by rail carriers for services such as diversion, inspection, storing, weighing, and other activities.

In November 2018, the Board sent letters to Union Pacific Railroad Company (UP) and Norfolk Southern Railway Company (NS), which had announced changes to their practices and policies in connection with new operating plans they were implementing. In particular, the Board requested that these carriers examine their changes from the perspective of reciprocity and commercial fairness. After receiving responses from these two carriers, the Board individually asked each of the Class I railroads to report their revenues from demurrage and accessorial charges for each quarter of 2018, and, on a going-forward basis, for each quarter of 2019. The responses from the railroads are posted on the Board's website.

To supplement the information that it had received from shippers, carriers, and other interested parties about changes to these charges, the Board held a two-day public oversight hearing on May 22 and 23, 2019. The Board received over 90 pre-hearing submissions from industry stakeholders; heard testimony from 12 panels comprised, collectively, of over 50 participants; and received 36 post-hearing comments. During the hearing, one Class I carrier announced that it would modify a recent tariff change as a result of the testimony. Following the hearing, that same carrier advised the Board that it was making additional modifications and another Class I carrier also announced that it would reverse or withdraw certain of its earlier tariff modifications that had been a focus at the hearing.

Based on the numerous written comments filed in the docket and the hearing testimony, all of which greatly contributed to the Board's understanding of these issues, the Board, in October 2019, issued a series of decisions on demurrage and accessorial rules and charges, continuing its efforts to improve dispute resolution processes, promote transparency, and make the agency more accessible: (1) a proposed policy statement to facilitate more effective problem solving between railroads, shippers, and receivers by providing information on principles the Board would consider in evaluating the reasonableness of demurrage and accessorial rules and charges; (2) a proposed rule to enhance the transparency and accuracy of demurrage invoices; and (3) a proposed rule to make unambiguous that the regulation of demurrage is not excluded for exempt miscellaneous commodities and boxcar transportation, and to treat the exemption for certain agricultural commodities similarly. The Board has sought public comment on these proposals.

Rail Service Oversight and Monitoring

During FY 2019, the Board continued its informal monitoring of rail service across the freight rail network. In particular, the Board focused its attention on UP and NS, in light of their respective announcements in the Fall of 2018 that they intended to implement significant operating changes across their systems. Both Class I railroads stated that they would initiate key tenets of the railroad operating philosophy referred to as "precision scheduled railroading" (PSR). In light of the widespread and severe service disruptions that followed adoption of PSR by CSX Transportation, Inc. (CSX), in 2017, the Board believed that it was appropriate for its RCPA office to engage in weekly phone calls with UP and NS to monitor their progress and to keep the Board informed about impacts of these operational changes on rail customers, other railroads, and the transportation network. The weekly calls allow Board staff to have productive and informative discussions with senior managers at these railroads to better understand operational and commercial changes that the railroads are making in connection with implementation of PSR and to monitor service and operational developments.

Additionally, as part of informal oversight, during FY 2019, the Board members met individually with members of both UP's and NS's senior executive and leadership teams to better understand the changes to their respective operating plans. During these meetings, the Board members emphasized the need for a transparent and responsible approach to implementing operating changes, and, in particular, the need to communicate proactively with their rail customers and other affected parties. The Board also exchanged correspondence with the two carriers about their plans to implement PSR. Although the Board's intent is not to substitute its judgment for that of the carriers, the agency views these steps as necessary to protect against rail service disruptions.

In addition, RCPA continued its monthly calls with the other Class I railroads to informally monitor rail service across the network and maintain awareness of positive and negative developments in the industry. These calls are informed by the rail service performance data that the Class I railroads and the Chicago terminal report to the Board on a weekly basis. RCPA reviews the data to identify performance trends and outliers and to make year-over-year and month-over-month comparisons in performance. RCPA also monitors and tracks carrier embargoes, which are temporary cessations of service imposed by railroads, typically due to unanticipated weather events.

Enhanced Communications with Stakeholders

During FY 2019, the Board and interested stakeholders continued to benefit from agency rules, updated in 2018, to permit ex parte communications in informal rulemaking proceedings, subject to disclosure requirements. For example, in June 2019, the Board completed a series of ex parte meetings with interested stakeholders to discuss the revocation of certain class exemptions in *Review of Commodity, Boxcar, and TOFC/COFC Exemptions*, Docket No. EP 704 (Sub-No. 1). Representatives from the paper and forest products, steel and scrap metal, cement, rail, and other industries participated in these meetings, which were held separately with each member. A summary of each meeting is posted on the Board's website. These communications enhance the Board's ability to make informed decisions while ensuring that the Board's record-building process in rulemaking proceedings remains transparent and fair.

Rate Cases

In *Consumers Energy Company v. CSX Transportation, Inc.*, Docket No. NOR 42142, the Board granted a petition jointly submitted by complainant Consumers Energy Company and defendant CSX, to vacate the rate prescription, dismiss the complaint with prejudice, and discontinue the proceeding.

Unreasonable Practice Cases

In *Ameropan Oil Corp. v. Canadian National Railway Co.*, Docket No. NOR 42161, the Board granted a motion filed by Illinois Central Railroad Company and Canadian National Railway Company (collectively, CN) to dismiss a complaint filed by Ameropan Oil Corporation (Ameropan), alleging, among other things, that CN had reduced rail service to Ameropan's facilities from five days per week to two days per week. The Board concluded that, for purposes of 49 U.S.C. § 10709, where transportation is provided pursuant to a contract, the Board lacks regulatory authority over the terms and conditions related to that transportation, whether or not explicitly addressed in the contract.

Rulemakings

In *Limiting Extensions of Trail Use Negotiating Periods*, Docket No. EP 749 (Sub-No. 1), and *Rails-to-Trails Conservancy—Petition for Rulemaking*, Docket No. EP 753, in June 2019, the Board issued a supplemental notice of proposed rulemaking proposing to establish a new one-year period for an initial interim trail use negotiating period, instead of the existing 180-day initial negotiating period; to permit up to three one-year extensions of the initial period if the trail sponsor and the railroad agree; and to permit additional one-year extensions if the trail sponsor and the railroad agree and good cause is shown.

In *Railroad Revenue Adequacy—2017 Determination*, Docket No. EP 552 (Sub-No. 22) et al., the Board adopted its proposal to make a one-time adjustments to its 2017 annual cost of capital determination, revenue adequacy determination, and URCS calculations to remove the accounting impacts of the Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017), on rail carriers' deferred tax liability to ensure that the rail carriers' financial state for 2017 is more accurately reflected in the Board's determinations and calculations.

In *Review of Commodity, Boxcar, and TOFC/COFC Exemptions*, Docket No. EP 704 (Sub-No. 1), the Board waived the general prohibition on ex parte communications in effect when it first initiated the proceeding to permit informal discussions with stakeholders for a period of 90 days, ending June 17, 2019.

In *Payment, Filing, and Service Procedures*, Docket No. EP 747, the Board adopted modifications to its rules pertaining to certain payment, filing, and service procedures recommended by the Board's Regulatory Reform Task Force. The adopted rule also updated and clarified fees for copying, printing, and related services and removed outdated language from the Board's regulations.

In *Petition for Rulemaking to Amend 49 C.F.R. Part 1250*, Docket No. EP 724 (Sub-No. 5), the Board opened a rulemaking proceeding in response to a petition to amend its railroad performance data reporting rules and requested additional information regarding several issues raised in the petition and reply. After considering the additional information, the Board granted in part the petition and proposed to modify its reporting regulations to include chemical and plastics traffic as a distinct reporting category for the "cars-held" metric.

In *Water Carrier Tariff Filing Procedures*, Docket No. EP 743, the Board proposed updating its water carrier tariff filing regulations to reflect current business practices based on a recommendation by the Board's Regulatory Reform Task Force. The Board proposed to allow water carriers operating in the noncontiguous domestic trade to electronically publish, file, and keep tariffs available for public inspection. After considering public comments, the Board adopted the proposed rule, without substantive change, as a final rule.

In *Review of the General Purpose Costing System*, Docket No. EP 431 (Sub-No. 4), the Board discontinued the proceeding after determining that potential refinements of URCS would benefit from additional study and analysis.

In *Rail Fuel Surcharges (Safe Harbor)*, Docket No. EP 661 (Sub-No. 2), the Board discontinued a proceeding in which it had sought comment on whether the "safe harbor" provision of its current fuel surcharge rules should be modified or removed. The proceeding was discontinued because the Board was unable to reach a majority decision on what additional Board action should be taken in response to the comments received.

In *Revisions to the Board's Methodology for Determining the Railroad Industry's Cost of Capital*, Docket No. EP 664 (Sub-No. 4), the Board proposed to incorporate an additional model to complement its use of the Morningstar/Ibbotson Multi-Stage Discounted Cash Flow Model and the Capital Asset Pricing Model in determining the cost-of-equity component of the cost of capital.

In *Final Offer Rate Review*, Docket No. EP 755 et al., the Board proposed a new procedure for challenging the reasonableness of railroad rates in smaller cases, under which the Board would decide a case by selecting either the complainant's or the defendant's final offer, subject to an expedited procedural schedule that adheres to firm deadlines and results in a Board decision within 135 days from the filing of a complaint.

In *Market Dominance Streamlined Approach*, Docket No. EP 756, the Board proposed a streamlined approach for pleading market dominance in rate reasonableness proceedings.

Declaratory Orders

In *Santa Cruz County Regional Transportation Commission—Petition For Declaratory Order*, Docket No. FD 36213, the Board found that Santa Cruz Regional Transportation Commission (Santa Cruz) would not become a common carrier if it entered into a proposed agreement with a new operator to provide freight rail service over a line whose physical assets are owned by Santa Cruz.

In *Oakland Global Rail Enterprise—Petition for Declaratory Order*, Docket No. FD 36168, the Board concluded that Oakland Global Rail Enterprise, LLC (OGRE), would not require construction authority to rehabilitate a portion of track at the former Oakland Army Base in Oakland, Cal. However, the Board directed OGRE and other parties to seek authority for the previous acquisitions of the track at issue or to explain why such authority was not required.

In *Utah Central Railway Company, LLC—Petition for Declaratory Order—Kenco Logistic Services, LLC, Kenco Group, And Specialized Rail Service, Inc.*, Docket No. FD 36131, the Board found, on the record presented, that there was no basis for concluding the rates in the applicable demurrage tariffs, the method of calculating demurrage, or the demurrage rules and practices of Utah Central Railway Company, LLC, are unlawful.

Licensing

In *BNSF Railway Company—Lease Exemption—Union Pacific Railroad Company*, Docket No. FD 36222, the Board permitted BNSF Railway Company (BNSF) to lease from UP an approximately 13.62-mile rail line in Pueblo County, Colo.

In *North Central Mississippi Regional Railroad Authority—Continuance in Control Exemption*, Docket No. FD 36234 et al., the Board allowed North Central Mississippi Regional Railroad Authority (NCMRRA), a noncarrier, to continue in control of Grenada Railway, LLC, a Class III carrier currently owned and controlled by NCMRRA, when NCMRRA becomes a Class III rail carrier in a related transaction involving its acquisition of a rail line.

In *Eastside Community Rail, LLC—Acquisition and Operation Exemption—GNP RLY Inc.*, FD 35692 et al., the Board denied Snohomish County's petitions to revoke the acquisition exemption of Eastside Community Rail, LLC, and the lease exemption of Ballard Terminal Railroad Company, L.L.C. The Board found that the petitions were based on issues of property, contract, and bankruptcy law that should be resolved by an appropriate court.

In *City of Fishers, City of Noblesville, & Hamilton County, Ind.—Petition for Partial Revocation of Exemption*, Docket No. FD 36137 et al., the Board issued three notices of interim trail use or abandonment (NITUs) and clarified the path by which service could be restored over the rail line at issue. In a subsequent decision, the Board denied as premature a request from US Rail Holdings, LLC (US Rail), for the Board to vacate the three NITUs and permit rail service to be reactivated over portions of the rail line. The Board also denied US Rail's motion for preliminary injunction to prohibit the removal of track and other rail assets along the line.

In *Kean Burenga and Chesapeake and Delaware, LLC—Continuance in Control Exemption—Dover and Delaware River Railroad*, *LLC*, Docket No. FD 36259 et al., the Board allowed Kean Burenga and Chesapeake and Delaware, LLC, both noncarriers, to continue in control of Dover and Delaware River Railroad, LLC (DDRR), when DDRR becomes a Class III rail carrier in a related transaction involving its lease and operation of trackage rights in New Jersey. The Board also set an effective date for the related transaction, which the Board had previously held in abeyance.

In *Variant Equity I, LP, and Project Kenwood Acquisition, LLC—Acquisition of Control—Coach USA Administration, Inc., and Coach USA, Inc.*, Docket No. MCF 21084, the Board tentatively approved and authorized, subject to opposing comments, Variant Equity I, LP, and Project Kenwood Acquisition, LLC, both noncarriers, to acquire from SCUSI Limited 100% of the stock in Coach USA Administration, Inc., a noncarrier that owns 100% of Coach USA, Inc., another noncarrier, that controls 29 motor passenger carriers that hold federally issued interstate operating authority. No opposing comments were filed. Consequently, the acquisition became effective on April 9, 2019.

In *National Express LLC—Acquisition of Control—Free Enterprise System/Royal, LLC*, Docket No. MCF 21085, the Board tentatively approved and authorized, subject to opposing comments, the jointly filed application of National Express LLC (National Express) and Sodrel Holding Company, Inc. (Sodrel Holding), both noncarriers, for National Express to acquire control of Free Enterprise System/Royal, LLC from Sodrel Holding. No opposing comments were filed. Consequently, the acquisition became effective on May 14, 2019.

In *CSX Transportation, Inc.—Lease—Western and Atlantic Railroad*, Docket No. FD 36220, the Board allowed CSX to continue to lease approximately 137.33 miles of rail line of the Western and Atlantic Railroad from the State of Georgia, subject to standard employee protective conditions.

In *Spokane, Spangle & Palouse Railway, L.L.C.—Lease and Operation Exemption—Washington State Department of Transportation*, Docket No. FD 36325, the Board permitted Spokane, Spangle & Palouse Railway, L.L.C., to commence operations on an expedited basis over approximately 102.6 miles of rail line in the State of Washington.

In *Jackson County, Mo.—Acquisition and Operation Exemption—Union Pacific Railroad Company*, Docket No. FD 35982, the Board revoked the 2016 exemption for Jackson County, Mo., to acquire and operate a rail line, finding that the County's actions were not consistent with the acquisition exemption it invoked to acquire the Line.

In *Palmetto Railways—Construction and Operation Exemption—in Berkley County, S.C*, Docket No. FD 36095, the Board authorized Palmetto Railways to construct and operate approximately 28.01 miles of new rail line in Berkeley County, S.C., subject to certain environmental mitigation conditions.

In *National Express Transit Corp.—Acquisition of Control—Fox Bus Lines Inc.*, Docket No. MCF 21086, the Board tentatively approved and authorized National Express Transit Corporation, an intrastate passenger motor carrier, to acquire control of Fox Bus Lines, Inc. (Fox), an interstate passenger motor carrier, from Fox's shareholders.

In *Arkansas-Oklahoma Railroad Co.—Acquisition and Operation Exemption—State of Oklahoma*, Docket No. FD 36323, the Board granted Arkansas-Oklahoma Railroad Company the authority to acquire and operate approximately 69.60 miles of rail line that it acquired in 2016 but did not make the authority retroactive.

Abandonments / Discontinuances

In *Boston and Maine Corporation & Springfield Terminal Railway Company—Application for Adverse Discontinuance of Operating Authority—Milford-Bennington Railroad Company, Inc.*, Docket No. AB 1256, the Board denied an application filed by Boston and Maine Corporation and the Springfield Terminal Railway Company for third-party, or "adverse," discontinuance of the operating authority of Milford-Bennington Railroad Company, Inc., over approximately 5.36 miles of rail line between Wilton and Milford, N.H. The Board denied the application because the applicants failed to demonstrate that an adverse discontinuance would meet the required public convenience and necessity standard.

In *Savage, Bingham & Garfield Railroad Company—Discontinuance of Trackage Rights Exemption—in Whiting, Ind.*, Docket No. AB 1271X, the Board allowed Savage, Bingham & Garfield Railroad Company to discontinue its trackage rights over a 0.6-mile rail line owned by

Elgin, Joliet and Eastern Railway Company in Whiting, Ind., subject to standard employee protective conditions.

In *Union Pacific Railroad Company—Abandonment Exemption—in Douglas County, Neb.*, Docket No. AB 33 (Sub-No. 336X), the Board allowed UP to end its common carrier obligation to provide freight rail service over approximately 0.28 miles of rail line in Douglas County, Neb., subject to environmental conditions and standard employee protections.

In *Canton Railroad Company—Abandonment Exemption—in Baltimore City, Md.*, Docket No. AB 193 (Sub-No. 3X), the Board allowed Canton Railroad Company to end its common carrier obligation to provide freight rail service over approximately 0.23 miles of rail line in Baltimore City, Md., subject to environmental conditions and standard employee protective conditions.

In *Providence and Worcester Railroad Company—Discontinuance of Service Exemption—in Middlesex County, Conn.*, Docket No. AB 254 (Sub-No. 11X), the Board permitted Providence and Worcester Railroad Company to discontinue rail service over an approximately 0.74-mile rail line in Portland, Conn., subject to standard employee protective conditions.

In *Savage Davenport Railroad Co.—Discontinuance of Service Exemption—in Scott County, Iowa*, Docket No. AB 1277X, the Board allowed Savage Davenport Railroad Company to discontinue service over an approximately 2.8-mile rail line owned by the City of Davenport, in Scott County, Iowa, subject to standard employee protective conditions. The Board subsequently modified the effective date of the exemption and directed the City to provide the Board a status update regarding its efforts to secure a replacement operator for the line.

In *New York & Greenwood Lake Railway—Abandonment Exemption—in Bergen and Passaic Counties, N.J.*, Docket No. AB 1273X et al., the Board allowed New York & Greenwood Lake Railway to end its common carrier obligation to provide freight rail service over approximately 1.1 miles of rail line in Bergen and Passaic Counties, N.J., subject to environmental, historic preservation, and standard employee protective conditions.

Petitions for Reconsideration or Reopening

A party may file a discretionary appeal to the Board to reconsider or reopen a decision by: (1) presenting new evidence or substantially changed circumstances that have a material impact on the Board's action, or (2) demonstrating that material error occurred. In FY 2019, the Board issued decisions denying petitions for reconsideration or reopening in a number of dockets, including:

Jimmy Lee Waneck and Starr Swearingen Waneck, et al.—Petition for Declaratory Order, Docket No. FD 36167.

Canadian National Railway Company and Grand Trunk Corporation—Control—EJ&E West Company, Docket No. FD 35087 (Sub-No. 8).

Eastside Community Rail, LLC—Acquisition and Operation Exemption—GNP RLY Inc., Docket No. FD 35692, et al.

Oakland Global Rail Enterprise—Petition for Declaratory Order, Docket No. FD 36168.
Union Pacific Railroad Company—Abandonment—in Carver and Scott Counties, Minn., Docket No. AB 33 (Sub-No. 255).

Uniform Railroad Costing System Update

The Board continues to work towards modernizing URCS. In light of the comments from stakeholders, and recognizing the need for additional study, the Board discontinued its proceeding in *Review of the General Purpose Costing System*, Docket No. EP 431 (Sub-No. 4). The Board is in the process of assessing how URCS might best be updated.

Environmental Review

The Board considers environmental impacts in its decision-making process under NEPA and related laws. By preparing the requisite environmental reviews and inviting the public to participate in the Board's environmental review process, the Board ensures its compliance with NEPA. The Board documents its NEPA findings by preparing EISs and EAs, which assess the potential environmental impacts that could result from a Board decision. During FY 2019, OEA worked on 14 EISs and 36 EAs in rail projects, comprising rail line constructions and rail line abandonments. During FY 2019, 143 cases before the Board fell within a categorical exclusion from NEPA review. These cases included acquisitions, leases, operating exemptions, declaratory orders, rulemakings, transactions involving corporate changes, and certain discontinuances.

Environmental Impact Statements

The EISs addressed projects such as the construction of an 80-mile rail line to transport commodities from the Uinta Basin in Utah. The Board also served as a cooperating agency in three Federal environmental construction reviews. The Board is also monitoring environmental mitigation in two completed rail construction cases, one in Alaska and one in Texas.

Environmental Assessments

The EAs addressed six rail line constructions and 30 rail line abandonments. In addition, the Board has conducted oversight and monitoring for two joint-easement transactions in Illinois and in Indiana and Kentucky. Finally, the Board has continued working towards completion of the National Historic Preservation Act requirements for a complex rail line abandonment in Jersey City, N.J.

Alternative Dispute Resolution

The Board has established arbitration and mediation rules to encourage parties informally to help resolve disputes and avoid costly litigation, and the Board actively encourages parties to use alternative dispute resolution. Mediation efforts have facilitated the settlement of cases and satisfactorily addressed other conflicts; however, no parties have yet agreed to participate in Board-sponsored arbitration. Successful mediation settlements result in significant savings of litigation expenses to the parties, allow both sides to reach mutually satisfactory agreements, and make available the Board's limited staff resources to work on other matters. The Board engaged the expertise of the Federal Mediation and Conciliation Service in FY 2019 to conduct Board-sponsored mediations with agency staff. This partnership has greatly enhanced the Board's mediation services offered to our stakeholders. In FY 2019, the Board held seven mediations, one of which reached successful resolution, and three of which are ongoing.

Public Outreach and Informal Dispute Resolution

Through the Board's RCPA program, the Board continues to provide shippers, state and local governments, and members of the public with an accessible and effective resource for resolving disputes with rail carriers on an informal basis. RCPA works to resolve conflicts that might otherwise be submitted to the Board for adjudication, thereby conserving stakeholder and agency resources.

In FY 2019, RCPA handled 1,624 inquiries from stakeholders, of which 215 pertained to shipper-railroad disputes. RCPA worked with parties to successfully resolve matters related to timely fulfillment of car orders, availability of rail resources, track maintenance, interchange operations, inter-carrier disputes, switching services, car storage, rates and charges, track lease agreements, and responsibility for spur track.

RCPA also informally assisted customers of household goods (HHG) moving companies to resolve service and rate disputes. The Federal Motor Carrier Safety Administration (FMCSA) has primary regulatory and enforcement jurisdiction in this area. RCPA maintained its informal engagement with FMCSA to discuss HHG trends and with the Federal Maritime

Commission to discuss issues of common interest.

STB RCPA Inquiries FY 2019	
Commodity Group	**FY 2019**
Agricultural Products	78
Automobile	8
Chemicals	29
Coal	18
Construction Materials	2
Empty Freight Cars	13
Forest Products	10
Hazardous Waste/Radioactive Waste	6
High/Wide Loads	2
Household Goods	56
Industrial Products	39
Intermodal	12
Metals and Minerals	28
Municipal Waste	5
Not Specified by Shipper	24
Passenger	43
TIH	3
Other	32
N/A[a]	1,216
Total	1,624
[a] Includes inquiries regarding procedural assistance, informal legal or regulatory guidance, agency information, abandonment records, other records, tariff rule or rate questions, or other commercial or rail service disputes where the underlying commodity is not disclosed.	

In addition to its dispute resolution function, RCPA also serves as a primary liaison between the public and the Board. RCPA fields inquiries from Board practitioners as well as from members of the public to provide those parties with a better understanding of the laws and regulations administered by the Board, as well as proceedings before the Board.

Court Actions and Other Legal Matters

In FY 2019, OGC handled a variety of cases on behalf of the Board. In a case involving a wood pellet transloading facility, the First Circuit upheld a Board determination that federal preemption would bar a municipality's regulation of various railroad activities, including bagging, palletizing, and shrink-wrapping. *Del Grosso v. STB*, 898 F.3d 139 (1st Cir. 2018).

In a case involving an NS/Delaware & Hudson (D&H) acquisition transaction and a separate case involving D&H's discontinuance of nearby unused trackage rights, the Third Circuit denied petitions for panel rehearing and rehearing en banc in both appeals. *Strohmeyer v. STB*, No. 16-4362 (3d Cir. Dec. 21, 2018); *Strohmeyer v. STB*, No. 16-4435 (3d. Cir. July 3, 2018). Subsequent petitions for certiorari were denied by the U.S. Supreme Court. *Strohmeyer v. STB*, No. 18-805 (U.S. Mar. 18, 2019); *Strohmeyer v. STB;* No. 18-1481 (U.S. Oct. 7, 2019).

In a rate reasonableness case, *Consumers Energy Co. v. CSX Transportation, Inc.*, Docket No. NOR 42142, the Board's decision granting relief to the shipper was appealed to the D.C. Circuit by both the shipper and the railroad. Before briefing, the case was settled by the parties. *Consumers Energy Co. v. STB*, No. 18-1259 (D.C. Cir. Jan. 25, 2019).

In a case involving the constitutionality of the provision of the PRIIA, regarding on-time performance standards to be issued by FRA and Amtrak, the U.S. Supreme Court denied requests that the Court reverse an earlier D.C. Circuit decision ultimately finding the operative portion of the law to be constitutional. OGC worked on the matter with lead counsel from the Department of Justice. *Ass'n of Am. R.Rs. v. DOT*, No. 18-976 (U.S. June 3, 2019).

In a case having implications for several agencies whose decisions are reviewed under the Hobbs Act, the U.S. Supreme Court held that an agency's "interpretive rule"—one that simply advises the public of the agency's construction of the statutes and rules it administers—can be challenged at any time when applied to a party that was not in a position to challenge it when it was issued by the agency. OGC worked on the matter with lead counsel from the Department of Justice. *PDR Network v. Carlton & Harris Chiropractic*, No. 17-1705 (U.S. June 20, 2019).

In a case involving state taxes that allegedly discriminated against rail carriers in violation of 49 U.S.C. § 11501(b)(4), the United States filed an amicus curiae brief, incorporating recommendations from the Board, opposing petitions for a writ of certiorari. The Supreme Court denied the petitions. *Ala. Dep't of Rev. v. CSX Transp. Inc.*, No. 18-447 (U.S. June 24, 2019); *CSX Transp. Inc. v. Ala. Dep't of Rev.*, No. 18-612 (U.S. June 24, 2019).

In a case involving rail fuel surcharges, the Board's motion to dismiss a petition for a writ of mandamus asking the court to direct Board action following up on an advanced notice of proposed rulemaking was granted after the Board issued a decision discontinuing the matter. *In re W. Coal Traffic League*, No. 19-1080 (D.C. Cir. filed Sept. 12, 2019).

During FY 2019, the Board also continued to defend in court its decisions regarding BNSF terminal trackage rights in *Kansas City Southern v. STB*, No. 16-1308 (D.C. Cir.) (currently in mediation); and its decisions denying petitions to revoke exemptions permitting operations by *Ballard Terminal Railroad & Eastside Community Rail in Snohomish County, Wash. v. STB*, Nos. 19-1030 & 19-116 (D.C. Cir.).

The OGC continued to handle a wide variety of other legal matters, including matters involving FOIA, the Privacy Act, the Paperwork Reduction Act, the Equal Employment Opportunity Act, NEPA, the National Historic Preservation Act, the National Trails System Act, the Federal Advisory Committee Act, Federal Information Security Management Act (FISMA), the Federal Information Technology Acquisition Reform Act, and the FMFIA. In addition, OGC provided legal counsel on ethics issues and government contracting, and participated in the Administrative Conference of the United States.

Advisory Committees

During FY 2019, the Board hosted meetings for three transportation advisory councils, of which the Board members are ex-officio members.

Established under the ICC Termination Act of 1995, the Railroad-Shipper Transportation Advisory Council (RSTAC) advises the Board, the Secretary of Transportation, and Congress on railroad-transportation policy issues of particular importance to small shippers and small railroads, such as rail-car supply, rates, and competitive matters. Its 15 appointed members consist of senior officials representing large and small shippers, large and small railroads, and one at-large representative. The Secretary of Transportation and the Board members are ex-officio members. RSTAC holds meetings quarterly.

The Rail Energy Transportation Advisory Committee (RETAC) was created in 2007 to provide advice and guidance to the agency on emerging issues concerning the rail transportation of energy resources such as coal, crude oil, ethanol, and other biofuels. The 25 voting members of RETAC represent a balance of stakeholders, including large and small railroads, coal producers, electric utilities, the biofuels industry, the petroleum production industry, and the private railcar industry. RETAC holds meetings twice per year.

The National Grain Car Council (NGCC) assists the Board in addressing issues concerning grain transportation by fostering communication among railroads, shippers, rail-car manufacturers, and the government. The NGCC, which meets once a year, is composed of 14 representatives from Class I railroads, seven from Class II and Class III railroads, 14 from grain shippers and receivers, and five from private rail car owners and manufacturers.

Amtrak and Passenger Rail

During FY 2019, STB staff monitored Amtrak performance through publicly available information and responded to informal inquiries about Amtrak and PRIIA, as needed. Agency staff also met regularly with Amtrak staff to discuss Amtrak's publicly available, monthly, on-time performance operating statistics. Amtrak had previously brought two on-time performance cases under PRIIA before the Board. But the Board dismissed those cases, without prejudice, after the U.S. Court of Appeals for the D.C. Circuit initially found section 207 of PRIIA—the provision under which the FRA/Amtrak regulations governing on-time performance had been adopted—to be unconstitutional. The Board had attempted to fill in the gap and adopt its own on-time performance rules under section 213 of PRIIA, but the U.S. Court of Appeals for the Eighth Circuit rejected that approach. Ultimately, however, in a subsequent decision, the D.C. Circuit held the operative provision of PRIIA section 207 to be constitutional (although it did not reinstate the FRA/Amtrak on-time performance regulations). On June 3, 2019, the U.S. Supreme Court denied a petition filed by the Association of American Railroads for a writ of certiorari, meaning that the latest D.C. Circuit opinion finding the operative portion of section 207 to be constitutional stands. FRA and Amtrak must now promulgate new on-time performance regulations for the Board's investigative authority under PRIIA section 213 to become effective.

The Board issued decisions on three Amtrak matters:
In *Application of the National Railroad Passenger Corporation Under 49 U.S.C. § 24308(a)—Canadian National Railway Company*, Docket No. FD 35743, the Board issued interim findings and guidance to Amtrak and Illinois Central Railroad Company and Grand Trunk Western Railroad Company (subsidiaries of CN) and initiated Board-sponsored mediation in an effort to establish reasonable terms and compensation for Amtrak's use of the carriers' facilities (including rail lines) and services.

In *Petition By National Railroad Passenger Corporation for Proceedings Under 49 U.S.C. § 24903(c)(2)*, Docket No. FD 36332, the Board required Amtrak to continue to provide the Northeast Illinois Regional Commuter Railroad Corporation and the Commuter Rail Division of the Regional Transportation Authority access to Chicago Union Station on an interim basis.

In *Petition By The Southeastern Pennsylvania Transportation Authority for Relief Under 49 U.S.C. § 24903*, Docket No. FD 36281, the Board instituted a proceeding to determine compensation for use by the Southeastern Pennsylvania Transportation Authority (SEPTA) of certain Amtrak passenger rail stations and parking facilities, required Amtrak to continue to provide SEPTA access to the stations and facilities on an interim basis, and granted a joint motion to hold the proceeding in abeyance.

Workload Summary

Workload Category	FY 2019 as of 9/30/2019	FY 2020 Estimate	FY 2021 Estimate
Alternative Dispute Resolution			
Arbitrations	0	0	0
Informal Dispute Resolution	204	180	180
Mediations	7	5	5
Audits	8	7	7
Decisions			
Complaints			
Rate	7	17	17
Non-Rate	25	33	33
Declaratory Orders	40	58	58
Ex Parte Proceeding Decisions			
Rulemakings	25	19	16
Other	28	24	24
Licensing			
Applications/Petitions	85	63	63
Notices of Exemption	224	202	202
Other (incl. Grant Stamps)	68	75	75
Non-Rail Decisions	3	10	10
Other	10	22	22
Defensibility Assessments	108	105	110
Depreciation Studies	12	10	10
Economic Statistical Reports	5	5	5
Environmental			
Categorical Exclusions	143	145	138
Environmental Assessments	36	26	32
Environmental Impact Statements	14	10	8
Ethics Reviews	140	120	125
Fee Waiver Determinations	17	12	12
Advisory Committee Meetings (incl. Federal Advisory Committee Act Committees)	8	8	8
Filings	1,975	2,000	2,000
FOIA Requests	46	45	50
Investigations (pursuant to 49 U.S.C. § 11701)	0	1	1
Judicial Review	10	9	10
Outreach & Communication			
Conferences	22	20	20
Environmental Meetings	30	32	28
Ex Parte Meetings	12	10	10
Stakeholder Meetings	204	200	200

Public Forum			
Hearings	1	1	1
Listening Sessions	0	0	0
Oral Arguments	2	0	0
Other	0	0	0
Rail Service Data Reports	384	384	384
Recordations	1,462	1,600	1,600
Section 5 Collaborative Discussions	27	20	20
Technical Conferences	1	2	3
Waybill Requests	101	95	95

FY 2019 Administrative Accomplishments

Information Technology

The FY 2019 FISMA audit conducted by the DOT-OIG found that the Board's overall information security maturity level has improved since last year's assessment. This improvement is reflective of the STB's strong commitment to implementing a cost-effective, risk-based security program that is aligned with the National Institute of Standards and Technology security standards and guidelines. The FISMA audit recognized the Board's significant efforts to define its security program, while also providing the Board a roadmap for continued Information Technology (IT) security program improvements.

In addition to the increase in security maturation level, there are no new FISMA recommendations issued for FY 2019, and 10 prior audit recommendations were closed. The Board continues working to achieve a fully effective information security program and is committed to fully addressing those remaining recommendations and advancing to the next security maturation level.

The Board continued maturing its Risk Management Policy within the STB, which includes quarterly Risk Management Committee meetings and regular review of its Risk Register.

The Board is completing work on its transition to a new case management system, which is a key to managing the agency case docket and other significant work. This new system will be more efficient and will produce more accurate and relevant reports for the agency. The new case management system will be launched in conjunction with an updated website.

Internally, IT office has engaged in a year-long transformation project that has resulted in an office reorganization, as well as the production of a service catalog, and an approach to better prioritize IT projects over both the short and long term. As part of this transformation, the IT office has implemented a service management application to better track help desk tickets and change management requests.

Human Resources

The STB's most vital resource is its staff. Effective management of the Board's workforce is crucial to its ability to serve the public interest. Overall, the Board seeks to create and maintain a performance-based organization. The STB seeks to meet its evolving human capital needs by ensuring that its performance management system emphasizes accountability and staff development. The Board is committed to working with its managers, employees, and other stakeholders to ensure progress is made toward meeting its human capital goals.

Human Resources completed a major transition of its personnel, payroll, and training platforms from being part of the DOT to being independent STB systems. The STB now directly connects to its personnel and payroll shared service provider, the Department of the Interior's (DOI) Interior Business Center, and relies upon FedTalent from the Office of Personnel Management (OPM) for its staff training needs. This transition required significant efforts to both plan and execute to ensure that the transition did not have any impact on staff pay and training needs.

With respect to recruiting activities, Human Resources developed in-house recruitment activities and transitioned the recruitment process from OPM to internal HR specialists. Moving recruitment internally increased efficiency, saved approximately $50,000 in costs, and improved Human Resources' skillsets. The turnaround time for reviewing application packages has decreased by two weeks as a result of relying upon in-house recruitment. This was particularly beneficial to the agency given the active recruiting this year, hiring 12 new employees during FY 2019.

In response to the agency's Federal Employee Viewpoint Survey (FEVS) results, the agency created an action plan which included developing a training evaluation tool. Human Resources created this training evaluation tool in response to specific feedback from employee groups. Human Resources has received positive feedback on the tool, and it is now available to the entire agency.

Human Resources also played a key role in all stages of the partial government shutdown. Human Resources communicated with managers and assisted in developing practical approaches to carrying out the logistics of shutting down agency operations due to a lapse in funding, carrying out excepted functions during the shutdown, and dealing with pay challenges post-shutdown.

Facilities

During FY 2019, the Board completed its move as required under its new lease to a smaller, renovated footprint. The Board reduced its square footage by over 10,000 square feet. Accomplishing this space reduction and renovation while conducting Board business required multiple staff moves to and from swing space in the building. As part of this effort, the Board also digitized significant portions of its library, file room, and office records, preparing the agency to meet government-wide records digitization goals.

Financial Services

The Section of Financial Services, headed by the Chief Financial Officer, provides the financial and procurement support to the Board.

During FY 2019, Financial Services took the lead implementing Pay.gov so that Board stakeholders could more efficiently pay filing fees and other required fees electronically. Not only was this a benefit to Board stakeholders, but it also permitted the STB to more efficiently and effectively collect and record user fees and miscellaneous receipt collections in accordance with the Treasury's guidelines.

Financial Services developed and began implementation of the Board's Data Quality Plan to provide reasonable assurance that, for information published on USASpending.gov, data is submitted timely, contains all the required data elements, and is accurate.

Financial Services also ensured that the Board complied with the Accountability of Tax Dollars Act of 2002 requirements to issue financial statements and provided information to DOT OIG to meet the independent audit requirements of the financial statements in accordance with Generally Accepted Government Auditing Standards. By working with the Board's accounts payable and receivable provider, Financial Services ensured that the Board's accounting operations and fund management complied with Generally Accepted Accounting Principles (GAAP) for Federal entities and the Treasury and fiscal guidelines. Financial Services provided internal control oversight of Board financial operations in accordance with OMB Circular A-123, Management Accountability and Controls, to ensure that no waste, fraud, or abuse exists.

Financial Services also ensured that the procurement of services, supplies, and equipment were timely processed in accordance with Federal Acquisition Regulations and small acquisition procedures. In addition, Financial Services advised the Board's senior leadership on the execution and control of appropriated funds, including three contract awards related to privacy, records management, and the Board's URCS program.

Finally, Financial Services developed, justified, and presented the FY 2020 budget request estimates for approval by the Board and submission to Congress, and the submission of the FY 2021 budget request estimates to OMB and Congress, as well as prepared the required external financial statements for Congress, OMB, Treasury, and external stakeholders.

Evidence Act

Pursuant to the *Foundations for Evidence-Based Policymaking Act of 2018,* the Board appointed a Chief Data Officer. The Board also has established a Data Governance Body and is in the process of evaluating the Board's data to better meet the needs of stakeholders and the Board.

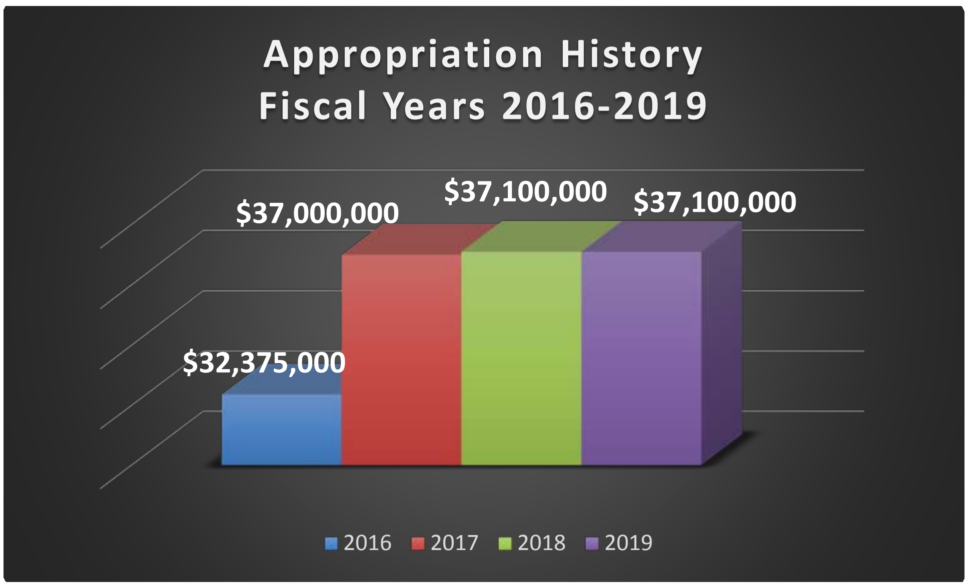
Financial Information

Financial Performance Overview

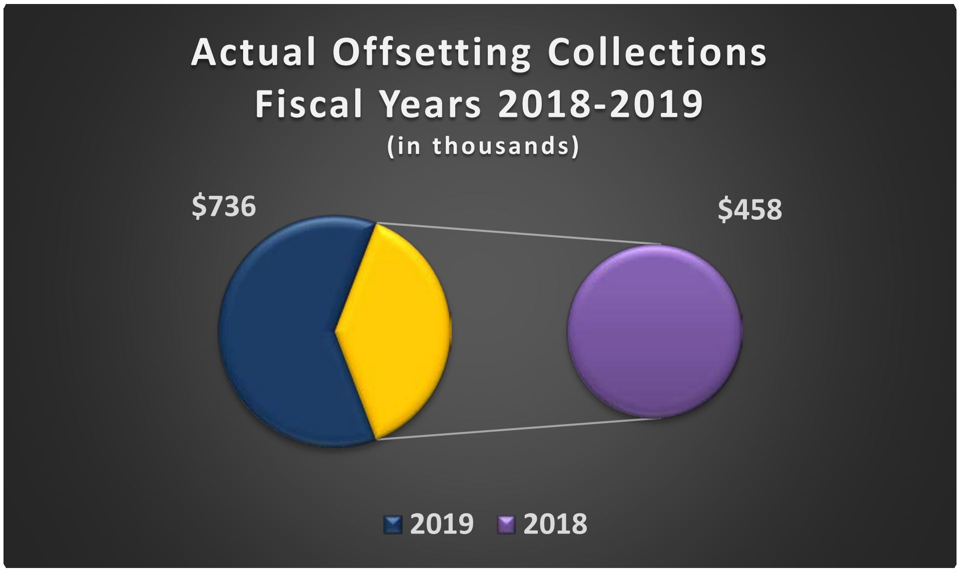
The STB's financial condition as of September 30, 2019, is sound. Internal controls are in place to ensure that funds are utilized efficiently and effectively, and that its budget authority is not exceeded.

Source of Funds

The STB has single-source funding, called Salaries and Expenses, funded by an annual appropriation available for commitments and obligations incurred during the year in which the authority was granted. Congress approved FY 2019 appropriations for the STB in the amount of $37,100,000 through Pub. L. 116-6, which is the same level funding as the FY 2018 final appropriation level.

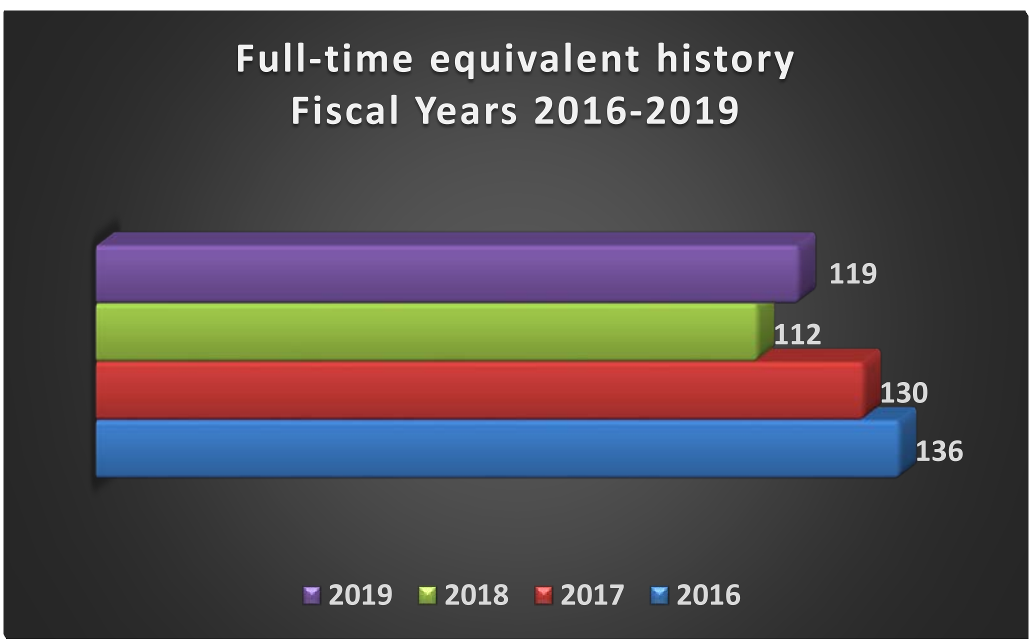


The STB offsets up to $1,250,000 in remittances for user fees and penalties. The user fees and penalties are credited to the STB's appropriations and deposited at the Treasury for the STB operations.



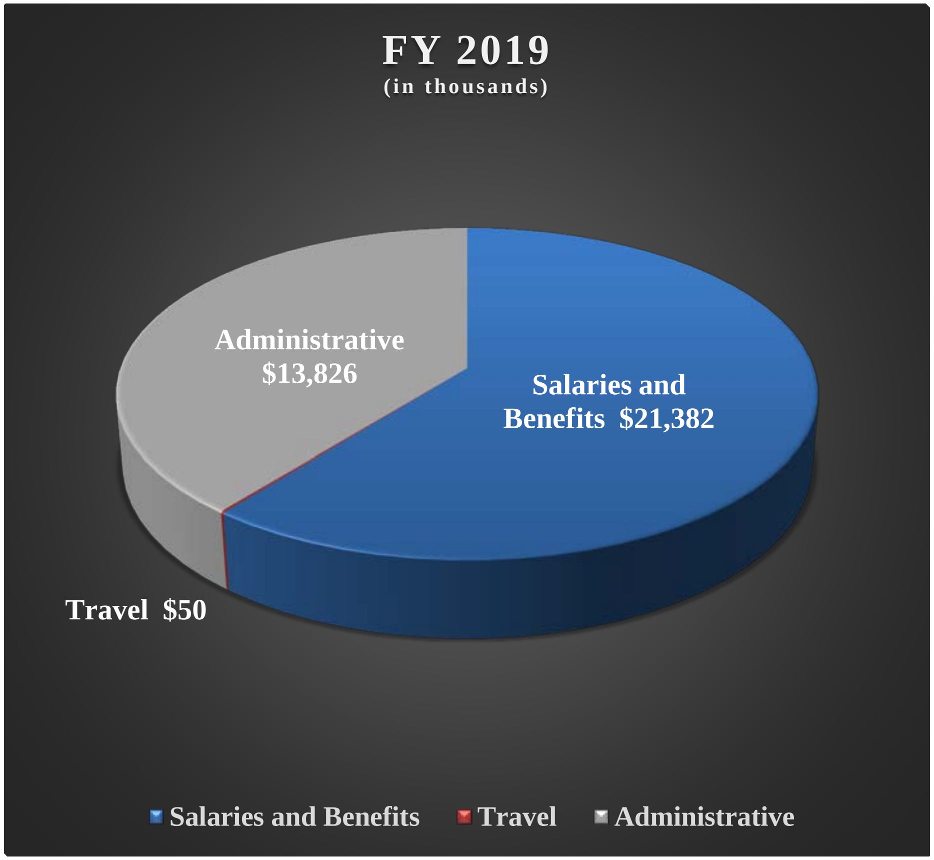
Full-Time Equivalent History

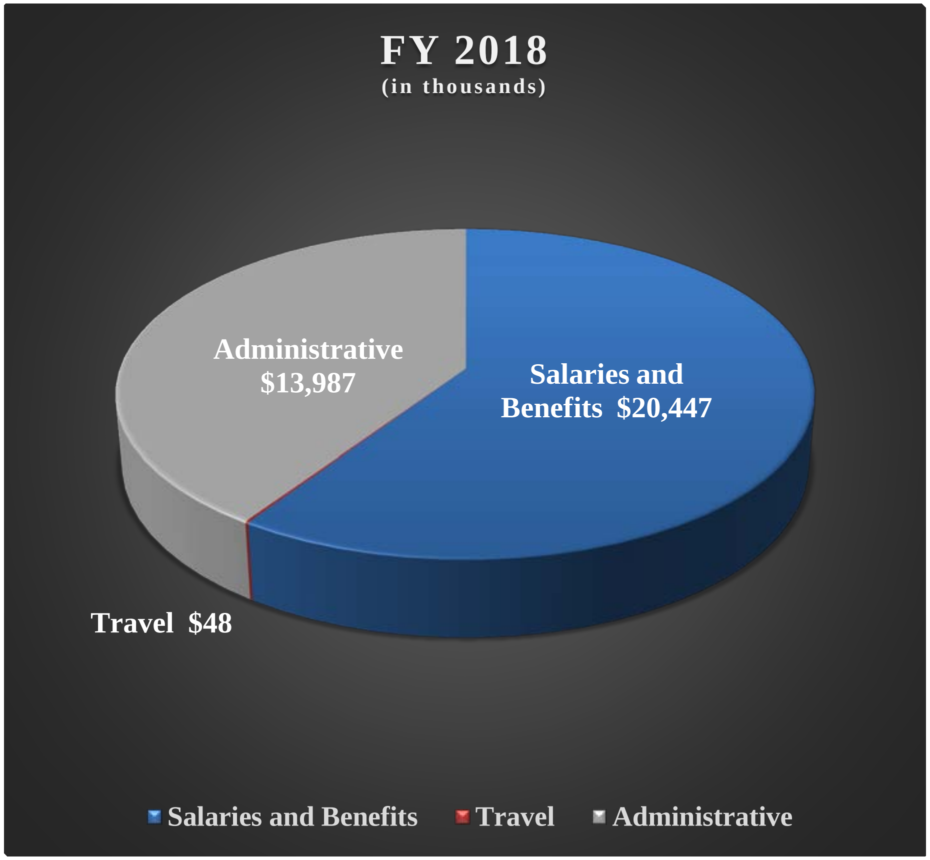
The STB's Full-Time Equivalent (FTE) level is largely driven by its annual appropriation amount. During FY 2019, three of five Board member positions were filled. There were also several retirements and separations in FY 2019, resulting in a lower than projected FTE level. The STB continues to develop an appropriate mix of staffing and contractor support to ensure effective accomplishment of its mission.



Uses of Funds by Expense Category

During FY 2019, obligations against the STB's appropriation totaled $35.3 million, representing 95% of the funding level. The funds were allocated as follows: 60.7% for salaries and benefits, 39.2% for administrative expenses (e.g., rent; government and commercial contracts; communications and subscriptions; equipment; and IT and non-IT services), and 0.1% for official travel expenses.





Overview of Financial Results

The STB's financial statements were audited by Leon Snead, P.C., under contract to DOT OIG. The STB received an unmodified opinion on its FY 2019 financial statements.

Principal Financial Statements

The principal financial statements presented include:

- Balance Sheet – Presents the combined amounts the agency had to use or distribute (assets) versus the amounts the agency owed (liabilities), and the difference between the two (net position);
- Statement of Net Cost – Presents the annual cost of agency operations. The gross cost less any offsetting revenue is used to determine the net cost;
- Statement of Changes in Net Position – Reports the accounting activities that caused the change in net position during the reporting period; and
- Statement of Budgetary Resources – Reports how budgetary resources were made available and the status of those resources at fiscal year-end.

Limitations of the Financial Statements

The principal financial statements have been prepared to report the financial position and results of operations of the STB, pursuant to the requirements of 31 U.S.C. § 3515(b). While the statements have been prepared from the books and records of the agency in accordance with GAAP for Federal entities and the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. The statements should be read with the recognition that they are for a component of the U.S. Government, a sovereign entity.

Therefore, liabilities not covered by budgetary resources cannot be liquidated without the enactment of an appropriation, and the payment of all liabilities other than for contracts can be abrogated by the sovereign entity. Other limitations are included in the footnotes to the principal financial statements. The accompanying notes are an integral part of these statements.

Summary of the Balance Sheets and Statement of Changes in Net Position

Assets: At the end of FY 2019, the STB's balance sheet showed total assets of $21.8 million, an increase of $5.4 million over FY 2018. This was due to increases in Fund Balance with Treasury of $4.2 million and in Plant, Property, and Equipment of $1.6 million.

Liabilities: At the end of FY 2019, the Board's total liabilities were $7.2 million, an increase of $3.3 million from FY 2018. The increase is due the recognition of deferred rent and leasehold improvements related to the STB's new lease.

Net Position: The Board's net position on the Balance Sheet and the Statement of Changes in Net Position at the end of FY 2019 was $14.5 million, an increase of $2.0 million more than FY 2018. This is the result of a $5.3 million increase to unexpended appropriations and an offsetting $554,776 decrease in cumulative results of operations.

Summary of the Statement of Net Cost

The STB's net cost of operations for FY 2019 was $35.3 million, an increase of $3.3 million over FY 2018. The increase in net cost of operations was primarily due to the recognition of deferred rent, leasehold improvements, and furniture purchases.

Statement of Budgetary Resources

The Statement of Budgetary Resources provides information on budgetary resources made available to the Board and the status of these resources at the end of the fiscal year. For FY 2019, total budgetary resources were $44.3 million. This represents an increase of $2.3 million from the FY 2018 total budgetary resources of $42.0 million. The STB was appropriated $36.3 million in FY 2019 and $36.6 million in FY 2018. The total user fees collected in FY 2019 was $736,289 and in FY 2018 was $458,330.

Additionally, direct obligations were $36.2 million and net outlays totaled $32.2 million in FY 2019. This represents an increase in direct obligations of $0.3 million and a decrease in net outlays of $0.4 over FY 2018.

U.S. DEPARTMENT OF TRANSPORTATION

OFFICE OF INSPECTOR GENERAL

Quality Control Review of the Independent Auditor's Report on the Surface Transportation Board's Audited Financial Statements for Fiscal Years 2019 and 2018

Report No. QC2020010

November 15, 2019

Quality Control Review of the Independent Auditor's Report on the Surface Transportation Board's Audited Financial Statements for Fiscal Years 2019 and 2018

Required by the Accountability of Tax Dollars Act of 2002

QC2020010 | November 15, 2019

What We Looked At

We contracted with the independent public accounting firm Leon Snead & Company, P.C., to audit the Surface Transportation Board's (STB) financial statements as of and for the fiscal years ended September 30, 2019, and September 30, 2018, and to report on internal control over financial reporting and compliance with laws and other matters. The contract requires the audit to be performed in accordance with U.S. generally accepted Government auditing standards, Office of Management and Budget audit guidance, and the Governmental Accountability Office's and Council of the Inspectors General on Integrity and Efficiency's *Financial Audit Manual*. In connection with the contract, we performed a quality control review of Leon Snead's report dated November 12, 2019, and related documentation, and inquired of its representatives.

What We Found

Our quality control review disclosed no instances in which Leon Snead did not comply, in all material respects, with U.S. generally accepted Government auditing standards.

Recommendations

STB concurred with Leon Snead's three recommendations. We agree with Leon Snead's recommendations and are not making any additional recommendations.

U.S. Department of Transportation

Office of Inspector General
Washington, DC

November 15, 2019

The Honorable Ann D. Begeman
Chairman, Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Dear Chairman Begeman:

I respectfully submit the results of our quality control review (QCR) of the independent auditor's report on the Surface Transportation Board's (STB) audited financial statements for fiscal years 2019 and 2018.

We contracted with the independent public accounting firm Leon Snead & Company, P.C., to audit STB's financial statements as of and for the fiscal years ended September 30, 2019, and September 30, 2018, and to report on internal control over financial reporting and compliance with laws and other matters. The contract requires the audit to be performed in accordance with U.S. generally accepted Government auditing standards, Office of Management and Budget audit guidance, and the Governmental Accountability Office's and Council of the Inspectors General on Integrity and Efficiency's *Financial Audit Manual.*[1]

Leon Snead's Report

In its audit of the fiscal years 2019 and 2018 financial statements of STB, Leon Snead reported that

- STB's financial statements[2] were fairly presented, in all material respects, in accordance with U.S. generally accepted accounting principles;

[1] *Financial Audit Manual*, volumes 1, 2, and 3, GAO-18-601G, GAO-18-625G, and GAO-18-626G, June 2018.
[2] The financial statements are included in the Agency's Performance and Accountability Report (see attachment 3).

- it found one significant deficiency[3] in internal control over financial reporting that it did not consider a material weakness;[4] and
- There were no instances of reportable noncompliance with provisions of laws tested or other matters.

Leon Snead made three recommendations to address the significant deficiency in internal control over financial reporting (see attachment 1).

The Significant Deficiency

Improvements Made but Issue Still Impacts Year-End Financial Statements. During fiscal year 2019, STB strengthened its control processes and reduced the number of significant problems identified in the previous fiscal year's audit. However, several accounts were misstated on the initial fiscal years' 2019 and 2018 year-end financial statements as errors were not detected due to ineffective internal controls employed by the Agency and its accounting service provider.

Recommendations

Leon Snead made the following recommendations to help strengthen STB's processes and controls over the preparation of financial statements.

Leon Snead recommended that STB management:

1. Ensure that year-end schedules are updated to allow sufficient timeframes to accomplish STB established internal control processes in an effective manner.
2. Require the accounting service provider to provide to STB evidence of quality control reviews signed and approved by supervisory personnel prior to accepting receipt of these documents.
3. Reject financial statements and related supporting documentation when the accounting service provider submits incomplete or inaccurate data.

[3] A significant deficiency is a deficiency, or a combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

[4] A material weakness is a deficiency, or a combination of deficiencies, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis.

Quality Control Review

In connection with the contract, we performed a quality control review (QCR) of Leon Snead's report dated November 12, 2019, and related documentation, and inquired of its representatives. Our review, as differentiated from an audit of the financial statements in accordance with U.S. generally accepted Government auditing standards, was not intended to enable us to express, and we do not express, an opinion on STB's financial statements or conclusions about the effectiveness of internal control over financial reporting or compliance with laws and other matters. Leon Snead is responsible for its report and the conclusions expressed therein.

Our QCR disclosed no instances in which Leon Snead did not comply, in all material respects, with U.S. generally accepted Government auditing standards.

Agency Comments and OIG Response

Leon Snead provided STB with its draft report on November 10, 2019, and received STB's response dated November 12, 2019 (see attachment 2).

STB concurred with Leon Snead's three recommendations and indicated that it will be implementing corrective actions to address them. We agree with Leon Snead's recommendations and are not making any additional recommendations.

Actions Required

We consider Leon Snead's three recommendations resolved but open pending review during the fiscal year 2020 audit.

We appreciate the cooperation and assistance of STB's representatives and Leon Snead. If you have any questions about this report, please call me at (202) 366-1407, or George Banks, Program Director, at (202) 420-1116.

Sincerely,

Louis C. King
Assistant Inspector General for Financial and
Information Technology Audits

cc: STB Chief Financial Officer

Attachment 1. Independent Auditor's Report

Surface Transportation Board

Audit of Financial Statements

As of and for the Years Ended September 30, 2019 and 2018

Submitted By

Leon Snead & Company, P.C.
Certified Public Accountants & Management Consultants

TABLE OF CONTENTS

Page

LEON SNEAD
& COMPANY, P.C.

Certified Public Accountants
& Management Consultants

416 Hungerford Drive, Suite 400
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Independent Auditor's Report

CHAIRMAN, SURFACE TRANSPORTATION BOARD
INSPECTOR GENERAL, DEPARTMENT OF TRANSPORTATION

We have audited the accompanying financial statements of the Surface Transportation Board (STB), which comprise the balance sheet as of September 30, 2019 and 2018, and the related statements of net cost, changes in net position, and budgetary resources for the years then ended. The objective of our audit was to express an opinion on the fair presentation of the financial statements. In connection with our audit, we also considered the STB's internal control over financial reporting, and tested the STB's compliance with certain provisions of applicable laws, regulations, and significant provisions of contracts.

SUMMARY

Our consideration of internal control would not necessarily disclose all deficiencies in internal control over financial reporting that might be material weaknesses under standards issued by the American Institute of Certified Public Accountants. Therefore, material weaknesses or significant deficiencies may exist that were not identified. During our audit, we did not identify a weakness in internal control over financial reporting that we consider to be a material weakness. However, we did report a significant deficiency in internal controls over financial reporting dealing with errors in the year-end financial statements.

Our tests of compliance with certain provisions of laws, regulations, and significant provisions of contracts disclosed no instance of noncompliance that is required to be reported under Government Auditing Standards and the Office of Management and Budget Bulletin 19-03, *Audit Requirements for Federal Financial Statements* (the OMB audit bulletin).

The following sections discuss in more detail our opinion on the STB's financial statements, our consideration of the STB's internal control over financial reporting, our tests of the STB's compliance with certain provisions of applicable laws and regulations, and management's and our responsibilities.

REPORT ON THE FINANCIAL STATEMENTS

We have audited the accompanying financial statements of the STB, which comprise the balance sheets as of September 30, 2019 and 2018, and the related statements of net cost, statements of changes in net position, and statements of budgetary resources, for the years then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America. Such responsibility includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to error or fraud.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; standards applicable to financial statement audits contained in *Government Auditing Standards (GAS)*, issued by the Comptroller General of the United States; and the OMB audit bulletin. Those standards and the OMB audit bulletin require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's professional judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments in a Federal agency, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing opinions on the effectiveness of the STB's internal control or its compliance with laws, regulations, and significant provisions of contracts. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion on Financial Statements

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of STB as of September 30, 2019 and 2018, and the related net cost, changes in net position, and budgetary resources for the years then ended, in accordance with accounting principles generally accepted in the United States of America.

OTHER MATTERS

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that Management's Discussion and Analysis (MDA) be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Federal Accounting Standards Advisory Board (FASAB), which considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information

Our audit was conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The performance measures and other accompanying information are presented for the purposes of additional analysis and are not required parts of the basic financial statements. Such information has not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

OTHER AUDITOR REPORTING REQUIREMENTS

Report on Internal Control

In planning and performing our audit of the financial statements of the STB, as of and for the years ended September 30, 2019 and 2018, in accordance with auditing standards generally accepted in the United States of America, we considered the STB's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the STB's internal control. Accordingly, we do not express an opinion on the effectiveness of the STB's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph, and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Therefore, material weaknesses or significant deficiencies may exist that were not identified. However, during our audit, we did not identify a deficiency in internal control over financial reporting that we consider to be a material weakness.

Because of inherent limitations in internal controls, including the possibility of management override of controls, misstatements, losses, or noncompliance may nevertheless occur and not be detected. A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Findings and Recommendations

Improvements Made but Issue Still Impacts Year-end Financial Statements

STB strengthened its control processes during FY 2019, and the number and significance of problems we identified during the FY 2018 audit were reduced. However, several accounts were misstated on the initial FY 2019 and 2018 year-end financial statements as errors were not detected due to ineffective internal controls employed by the agency and its accounting service provider. We attributed these problems to the need to strengthen the oversight of accounting actions of its accounting service provider by STB officials and the ineffective supervisory reviews and approvals by its shared service provider. If these issues had not been detected and corrected, the agency would have issued financial statements that contained misstatements. It should be noted that we did not find these types of errors in the interim comparative FY 2019 and 2018 financial statements that we audited.

A summary of the problems noted during our year-end testing are detailed in the following paragraphs:

- STB did not perform, as part of its year-end processing, required calculations and postings to properly reflect the ending balances for FECA actuarial liabilities and FECA liabilities. The two general ledger balances were overstated by $168,415.00 and understated by $11,646.00, respectively. While the amounts are not material, omissions of required year-end processing routines is a significant breakdown of internal controls.
- STB did not reflect correct audited prior year's balances in the FY 2018 comparative Statement of Budgetary Resources and one line in the FY 2019 financial statement. The errors totaled approximately $516,000 and impacted four SBR lines in FY 2018 (including totals), one line in FY 2019, and related footnotes.
- The STB's footnote dealing with the FY 2018 advance amount was overstated by about $158,000. In addition, the FY 2018 footnote dealing with liabilities was also in error.

OMB Circular A-136, Financial Reporting Requirements, dated June 2019, provides that "Reporting entities should ensure that information (in the financial statements) is presented in accordance with GAAP for Federal entities and the requirements of this Circular…. Prior period financial statements should only be restated for corrections of errors that would have caused any statements to be materially misstated." The GAO Standards for Internal Control in the Federal Government provide that internal control is a process, effected by an entity's oversight body, management, and other personnel, that provides reasonable assurance that the objectives of an entity will be achieved, such as the reliability of reporting for internal and external use.

Recommendations

1. Ensure that year-end schedules are updated to allow sufficient timeframes to accomplish STB established internal control processes in an effective manner.
2. Require the accounting service provider to provide to the STB evidence of quality control reviews signed and approved by supervisory personnel prior to accepting receipt of these documents.

3. Reject financial statements and related supporting documentation when the accounting service provider submits incomplete or inaccurate data.

REPORT ON COMPLIANCE

As part of obtaining reasonable assurance about whether the agency's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, and significant provisions of contracts, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations. We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to the STB. Providing an opinion on compliance with certain provisions of laws, regulations, and significant contract provisions was not an objective of our audit and, accordingly, we do not express such an opinion.

In connection with our audit, we noted no instance of noncompliance that is required to be reported according to *Government Auditing Standards* and the OMB audit bulletin guidelines. No other matters came to our attention that caused us to believe that the STB failed to comply with applicable laws, regulations, or significant provisions of laws, regulations, and contracts that have a material effect on the financial statements insofar as they relate to accounting matters. Our audit was not directed primarily toward obtaining knowledge of such noncompliance. Accordingly, had we performed additional procedures, other matters may have come to our attention regarding the STB's noncompliance with applicable laws, regulations, or significant provisions of laws, regulations, and contracts insofar as they relate to accounting matters.

Restricted Use Relating to Reports on Internal Control and Compliance

The purpose of the communication included in the sections identified as "Report on Internal Control" and "Report on Compliance" is solely to describe the scope of our testing of internal control over financial reporting and compliance, and to describe any material weaknesses, significant deficiencies, or instances of noncompliance we noted as a result of that testing. Our objective was not to provide an opinion on the design or effectiveness of the STB's internal control over financial reporting or its compliance with laws, regulations, or provisions of contracts. The two sections of the report referred to above are integral parts of an audit performed in accordance with *Government Auditing Standards* in considering the STB's internal control over financial reporting and compliance. Accordingly, those sections of the report are not suitable for any other purpose.

AGENCY'S RESPONSE

The STB in a response dated November 12, 2019, provided that, "The STB is committed to addressing the audit recommendations to ensure that its financial statements and notes are presented fairly, in all material respects, and in conformity with accounting principles generally accepted in the United States of America". The response also notes that "The STB and its accounting service provider, Enterprise Service Center (ESC), agree that establishing firm timelines would facilitate the completion of quality control reviews by identifying issues earlier and reducing the likelihood that financial statements and related supporting documentation contain incomplete or inaccurate data. The STB will work with ESC to implement a reporting schedule by January 31, 2020."

The CFO's response has been included in this report, in its entirety, as an attachment.

AUDITOR'S COMMENTS

The STB's response was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

Leon Snead & Company, PC

Leon Snead & Company, P.C.
Rockville, MD
November 12, 2019

Recommendation Number	Recommendation	Status
1	Discuss with ESC officials the need to substantially strengthen its system of review over financial information processed for the STB.	Closed
2	Require ESC to determine the cause(s) for the instances of incorrect and/or improper accounting and financial reporting of STB data, and to take appropriate corrective actions to address these continuing problems.	Closed
3	Ensure that the proper accounting procedures are in place and operating effectively for year-end financial statements when posting the costs incurred by contractors with advances.	Closed
4	Develop a STB policy that: • implements the BFS guidance relating to interagency agreements; • identifies the responsibilities for the STB and its service provider; and • establishes a standard set of processes that support the recording, reporting, reconciliation, and measurement of intergovernmental activity and any identified differences.	Closed
5	Ensure that actions are taken prior to the end of the fiscal year to address the differences identified in the FY 2018 report.	Closed

Attachment 2. Agency Response

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

November 12, 2019

Mr. Leon Snead, President
Leon Snead & Company, P.C.
416 Hungerford Drive, Suite 400
Rockville, MD 20850

Re: Fiscal Year 2019 Financial Statement Audit Report

Dear Mr. Snead:

The Surface Transportation Board (Board or STB) has reviewed the Audit Report's Findings and Recommendations, and the Board concurs.

The STB is committed to addressing the audit recommendations to ensure that its financial statements and notes are presented fairly, in all material respects, and in conformity with accounting principles generally accepted in the United States of America. The Board responds to the specific recommendations below.

Recommendations

1. Ensure that year-end schedules are updated to allow sufficient timeframes to accomplish STB established internal control processes in an effective manner.
2. Require the accounting service provider to provide to the STB evidence of quality control reviews signed and approved by supervisory personnel prior to accepting receipt of these documents.
3. Reject financial statements and related supporting documentation when the accounting service provider submits incomplete or inaccurate data.

Management Response:

The STB concurs with the Findings and Recommendations. The STB and its accounting service provider, Enterprise Service Center (ESC), agree that establishing firm timelines would facilitate the completion of quality control reviews by identifying issues earlier and reducing the likelihood that financial statements and related supporting documentation contain incomplete or inaccurate data. The STB will work with ESC to implement a reporting schedule by January 31, 2020.

In addition, the STB will request that ESC provide evidence of quality control reviews signed and approved by supervisory personnel, as recommended. The STB will not accept financial statements and supporting documentation without evidence of quality control reviews, and will reject any incomplete or inaccurate data received from ESC.

The STB notes that while ESC acknowledges that the discrepancies identified in the findings occurred, ESC disagrees that those discrepancies should be cited as findings because the issues were identified and corrected during the revision period.

Again, the STB is committed to resolving these issues and will continue to review and enhance its policies and procedures to ensure its reporting is in conformity with accounting principles generally accepted in the United States of America.

Sincerely,

Adil Gulamali

Adil Gulamali
Chief Financial Officer

Attachment 3. Agency Performance and Accountability Report

Principal Financial Statements

Surface Transportation Board

BALANCE SHEETS

As of September 30, 2019, and 2018 (in thousands)

		2019		2018
Assets:				
Intragovernmental:				
Fund Balance with Treasury (Note 2)	$	18,071	$	13,865
Other (Note 4)		1,700		2,204
Total Intragovernmental		19,771		16,070
Assets with the Public				
Accounts Receivable, Net (Note 3)		2		2
General Property, Plant, and Equipment, Net (Note 5)		1,980		328
Total Assets	**$**	**21,753**	**$**	**16,399**
Liabilities:				
Intragovernmental:				
Accounts Payable	$	1,362	$	522
Other		452		382
Total Intragovernmental		1,814		904
Liabilities with the Public:				
Accounts Payable		1,034		465
Federal Employee and Veteran Benefits (Note 6)		350		518
Other (Notes 7)		4,046		2,001
Total Liabilities	**$**	**7,244**	**$**	**3,888**
Net position:				
Unexpended Appropriations	$	16,462	$	14,320
Cumulative Results of Operations		(1,953)		(1,810)
Total Net Position		14,509		12,511
Total Liabilities and Net Position	**$**	**21,753**	**$**	**16,399**

The accompanying notes are an integral part of these financial statements.

Surface Transportation Board

Statements of Net Cost

As of September 30, 2019, and 2018 (in thousands)

	2019	2018
Program Costs:		
Program A:		
Gross Costs	$ 36,070	$ 32,416
Less: Earned Revenue	734	456
Net Program Costs	35,336	31,960
Net program expenses including Assumption changes	35,336	31,960
Net Cost of Operations (Note 12)	**$ 35,336**	**$ 31,960**

The accompanying notes are an integral part of these financial statements.

Surface Transportation Board

Statements of Changes in Net Position

As of September 30, 2019, and 2018 (in thousands)

	2019	2018
Unexpended Appropriations:		
Beginning Balances	$ 14,320	$ 8,994
Adjustments: (+/-)	-	-
Beginning Balances, As Adjusted	14,320	8,994
Appropriations received	36,364	36,642
Appropriations used	(34,222)	(31,315)
Total Budgetary Financing Sources	2,142	5,327
Total Unexpended Appropriations	16,462	14,320
Cumulative Results from Operations:		
Beginning Balances	(1,810)	(2,364)
Adjustments: (+/-)	-	-
Beginning balances, as adjusted	(1,810)	(2,364)
Budgetary Financing Sources:		
Appropriations Used	34,222	31,315
Other Financing Sources (Nonexchange):		
Imputed Financing	970	1,200
Total Financing Sources	35,192	32,514
Net Cost of Operations (+/-)	35,336	31,960
Net Change	(144)	555
Cumulative Results of Operations	(1,953)	(1,810)
Net Position	**$ 14,509**	**$ 12,511**

The accompanying notes are an integral part of these financial statements.

Surface Transportation Board

Statements of Budgetary Resources

As of September 30, 2019, and 2018 (in thousands)

		2019		2018
Budgetary Resources				
Unobligated balance from prior year budget authority	$	7,161	$	4,900
Appropriations		36,364		36,642
Spending authority from offsetting collections		736		458
Total budgetary resources	$	44,261	$	42,000
Status of Budgetary Resources				
New obligations and upward adjustments (total)	$	36,179	$	35,929
Unobligated balance, end of year:				
Apportioned unexpired accounts	$	1,842	$	2,101
Unexpired unobligated balance, end of year		1,842		2,101
Expired unobligated balance, end of year		6,240		3,969
Unobligated balance, end of year (total)		8,083		6,071
Total budgetary resources		44,261		42,000
Outlays, net:				
Outlays, net	$	32,158	$	31,723
Agency outlays, net	$	32,157	$	31,723

The accompanying notes are an integral part of these financial statements.

Surface Transportation Board

Notes to Financial Statements

As of September 30, 2019, and 2018 (in thousands)

Note 1. Significant Accounting Policies

A. Reporting Entity Including Changes Related to STB Reauthorization

The Surface Transportation Board was created on January 1, 1996, by Public Law 104–88, the ICC Termination Act of 1995 (ICCTA). The Surface Transportation Board Reauthorization Act of 2015 (Public Law 114–110) established the Board as a wholly independent agency and expanded the Board's membership from three to five Board members.

The STB reporting entity consists of the general fund and the user fee receipts fund. User fees and penalties not to exceed $1,250,000 are credited to the appropriation as offsetting collections. The STB does not own any non-entity assets.

Prior to the enactment of the STB Reauthorization Act in December 2015, the Board was administratively affiliated with the DOT and the Board's financial information, including the year-end financial statements, was included in the DOT's consolidated financial statements. As a result of the STB Reauthorization Act, the Board is now an independent agency, which necessitated a significant change in its financial reporting responsibilities. Before the STB Reauthorization Act, the STB was not required to prepare audited financial statements. As an independent agency, the STB is required to issue an audited set of financial statements. In FY 2019, the DOT OIG engaged an independent public accounting firm to audit the STB's financial statements. These audited financial statements are presented in this report.

B. Basis of Presentation

The STB's financial statements are presented to report the agency's financial position and operations. The statements are required by the Accountability of Tax Dollars Act of 2002, the Chief Financial Officers' Act of 1990, and the Government Management Reform Act of 1994. The financial statements have been prepared in accordance with the accounting principles generally accepted in the United States of America as well as standards issued by the Federal Accounting Standards Advisory Board (FASAB); OMB Circular A-136, Financial Reporting Requirements, as amended; and STB accounting policies, which are summarized in this note. Unless noted otherwise, all amounts are presented in dollars.

The following is a list of the financial statements presented by the agency:

- The Balance sheet presenting the STB's financial position;

• The Statement of Net Cost with the agency's operating results;
• The Statement of Changes in Net Position with the changes in the agency's equity accounts; and
• The Statement of Budgetary Resources with the sources, status and uses of STB resources.

C. Basis of Accounting

STB transactions are recorded in accordance with an accrual basis of accounting and a budgetary basis of accounting. STB revenues are recognized when earned under the accrual basis of accounting, and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. STB's use of budgetary accounting facilitates compliance with legal requirements on the use of federal funds.

D. Fund Balance with Treasury

STB's Fund Balance with Treasury is the aggregate amount of the agency's funds with Treasury in expenditure and receipt accounts. Appropriated funds recorded in expenditure accounts are available to pay for the agency's operational expenses.

E. Accounts Receivable

Accounts receivable consists of amounts owed to the STB by the general public and in limited situations from other Federal agencies. Amounts due from Federal agencies are considered fully collectible. An allowance for uncollectible accounts receivable from the public is established when, based upon a review of outstanding accounts and the failure of all collection efforts, management determines that collection is unlikely to occur considering the debtor's ability to pay.

F. Property, Equipment, and Software

The STB's portfolio of assets as of September 30, 2019, includes furniture, equipment, and leasehold improvements. The STB leases its office space via a new Occupancy Agreement (OA) with the General Services Administration (GSA), that became effective on February 23, 2019, and ends on February 22, 2034. The cost of the STB building renovations completed for the new OA have been treated as leasehold improvements. In accordance with the Board's policy regarding property, equipment, and software, capital assets are recorded at original acquisition cost and are depreciated or amortized using the straight-line method over their estimated useful lives.

The STB capitalizes assets when an individual acquisition costs $50,000 or more. Capitalized assets are depreciated once they are placed in service.

Description	Useful Life (years)
Leasehold Improvements	5
Office Furniture	5
Computer Equipment	3
Office Equipment	5
Software	7

The STB expenses maintenance and repair costs as incurred. Property, equipment, and commercial software acquisitions that do not meet the capitalization criteria are expensed upon receipt. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, equipment, and software.

G. Advances

The STB has agreements with other Federal agencies that require the STB to provide advances, i.e., funds upfront. While advances are generally prohibited by law, some exceptions include reimbursable agreements and payments to contractors. Payments made in advance of the receipt of goods and services are recorded as advances or prepaid charges at the time of prepayment and recognized as expenses when the related goods and services are received.

H. Liabilities

Liabilities represent the amount of funds likely to be paid by the STB as a result of transactions or events that have already occurred.

Liabilities covered by budgetary resources are liabilities funded by a current appropriation or other funding source. These consist of accounts payable and accrued payroll and benefits. Accounts payable represent amounts owed to another entity, other than employees, for goods received and for services rendered. Accrued payroll and benefits represent payroll costs earned by employees during the FY which are not paid until the next FY.

Liabilities not covered by budgetary resources are liabilities that are not funded by any current appropriation or other funding source. These liabilities consist of accrued annual leave, unfunded actuarial Federal Employees' Compensation Act (FECA), and the amounts due to Treasury for collection and accounts receivable of civil penalties.

I. Employee Leave
STB employees accrue annual and sick leave as it is earned. The STB ensures that those obligations are reported in the financial statements and the accrual associated with the earned leave is reduced as leave is taken. Accrued annual leave is reflected as a liability not covered by budgetary resources. Sick leave and other categories of non-vested leave are expensed when taken.

J. Retirement Plans
STB employees participate in the Civil Service Retirement System (CSRS), the Federal Employees Retirement System (FERS), the Federal Employees Retirement System-Revised Annuity Employees (FERS-RAE), or the Federal Employees Retirement System-Further Revised Annuity Employees (FERS-FRAE). Both CSRS and FERS employees may participate in the federal Thrift Savings Plan (TSP). FERS employees receive an automatic agency contribution equal to 1% of pay and the STB matches any employee contribution up to an additional 4% percent of pay. For FERS participants, the STB also contributes the employer's matching share of Social Security.

K. Estimates
Management is required to make certain estimates and assumptions with respect to the reported amounts in the financial statements. Actual results could differ from those estimates.

L. Contingencies
The STB recognizes contingent liabilities in its balance sheet and statement of net cost when the liabilities are both probable and can be reasonably estimated. In FY 2019, STB management was not aware of any unasserted claims and assessments that, if asserted, would have at least a reasonable probability of an unfavorable outcome.

Note 2. Fund Balance with Treasury

STB's Fund Balance with Treasury account balances as of September 30, 2019, and 2018 (in thousands) were as follows:

Fund Balance with Treasury	2019	2018
Status of Fund Balance with Treasury		
Unobligated Balance		
Unobligated balance available in the current period	$ 1,842	$ 2,618
Unavailable	6,239	3,969
Obligated balance not yet disbursed	9,989	7,278
Total	$ **18,071**	$ **13,865**

Note 3. Accounts Receivable

The STB's Accounts Receivable is primarily made up of balances due to the Board from STB customers who submit filings to the Board. The accounts receivable is also made up of balances due for other Board services provided to the public and other Federal agencies. Historical experience indicates that the majority of the receivables are collectible. There are no material uncollectible accounts as of September 30, 2019, and 2018.

STB's accounts receivable balances as of September 30, 2019, and 2018 (in thousands) were the following:

Accounts Receivable	2019	2018
Total Public	$ 2	$ 2
Total Receivables	$ **2**	$ **2**

Note 4. Other Assets

STB's Other Assets as of September 30, 2019, and 2018 (in thousands) were as follows:

Other Assets	2019	2018
Intragovernmental		
Advances and Prepayments	**$** 1,700	**$** 2,204
Total Intragovernmental Other Assets	**$ 1,700**	**$ 2,204**
Total Other Assets	**$ 1,700**	**$ 2,204**

Note 5. General Property, Plant, and Equipment

General Property, Plant, and Equipment (PP&E) is reported at acquisition cost. The capitalization threshold is established at $50,000 or more and a useful life of two or more years. For non-capitalized purchases, items are capitalized when the individual useful lives are at least two years and have an individual value of $1,000 or more. Acquisitions of PP&E that do not meet the capitalization criteria are recorded as operating expenses. General PP&E consists of items that are used by the STB to support its mission. Depreciation or amortization on these assets is calculated using the straight-line method with no salvage value. Depreciation or amortization begins the day the asset is placed in service. Maintenance, repairs, and minor renovations are expensed as incurred. Expenditures that materially increase values, change capacities, or extend useful lives are capitalized.

The estimated useful life of assets such as office furniture, office equipment, telecommunications equipment, and audio/visual equipment is five years and the estimated useful life of information technology equipment is three years. The STB does not have restrictions on the use or convertibility of general PP&E. In FY 2019, the STB recognized leasehold improvements and furniture purchases after its new agreement with GSA went into effect and overall construction was completed.

The general components of capitalized PP&E, net of accumulated depreciation, or amortization, consisted of the following as of September 30, 2019, and 2018 (in thousands), respectively:

Property, Plant, and Equipment as of September 30, 2019

Class of Property	Depreciation/ Amortization Method	Capitalization Threshold for Individual Purchases	Service Life (Years)	Acquisition Cost	Accumulated Depreciation/ Amortization	Net Book Value
Furniture and Fixtures	S/L	$ 50,000	5	$ 1,402	78	$ 1,324
Equipment	S/L	$ 50,000	3	$ 328	$ -	$ 328
Leasehold Improvements	S/L	$ 50,000	5	$ 371	43	$ 328
Total				**$ 328**	**$ 121**	**$ 1,980**

Note 5. General Property, Plant, and Equipment (continued)

Property, Plant, and Equipment as of September 30, 2018

Class of Property	Depreciation/ Amortization Method	Capitalization Threshold for Individual Purchases	Service Life (Years)	Acquisition Cost	Accumulated Depreciation/ Amortization	Net Book Value
Equipment	S/L	$ 50,000	3	$ 328	$ -	$ 328
Total				**$ 328**	**$ -**	**$ 328**

Note 6. Liabilities Not Covered by Budgetary Resources

STB's Liabilities as of September 30, 2019, and 2018 (in thousands) were the following:

Liabilities Not Covered by Budgetary Resources	2019	2018
Intragovernmental		
Unfunded FECA liability	$ 146	$ 146
Unfunded Employment Related Liability	120	81
Total Intragovernmental	$ 266	$ 228
Public (Non-Federal):		
Federal Employee and Veterans' Benefits Payable	$ 349	$ 518
Accrued Pay and Benefits	1,571	1,394
Other (Non-Federal) Liabilities	1,748	-
Total liabilities not covered by budgetary resources	$ 3,935	$ 2,139
Total liabilities covered by budgetary resources	$ 3,309	$ 1,749
Total Liabilities	**$ 7,244**	**$ 3,388**

Note 7. Other Liabilities

STB's Other liabilities as of September 30, 2019, and 2018 (in thousands) were the following:

Other Liabilities	Non-Current Liabilities	Current Liabilities	2019
Intragovernmental			
Covered by Budgetary Resources:			
Accrued Pay and Benefits	-	$186	$ 186
Total Intragovernmental Covered by Budgetary Resources	**-**	**$186**	**$ 186**
Not Covered by Budgetary Resources:			
FECA			
2019 Bill (Non-Current)	$69	-	$ 69
2018 Bill (Current)	-	$69	69
Quarter of FY 2019 (Non-Current)	11	-	$ 11
Total FECA Liabilities	80	66	$ 146
Unfunded Employment Related Liability	-	120	$ 120

Total Intragovernmental Not Covered by Budgetary Resources	80	186	266
Total Intragovernmental Other Liabilities	80	372 $	452
Public:			
Covered by Budgetary Resources:			
Accrued Pay and Benefits	-	727	727
Total Public Covered by Budgetary	-	**727** $	**727**
Not Covered by Budgetary Resources:			
Accrued Pay and Benefits	-	1,571	1,571
Total Public Not Covered by Budgetary	-	**$3,319** $	**3,319**
Total Public Other Liabilities	**-**	**$4,046 $**	**4,046**

Note 7. Other Liabilities (cont.)

Other Liabilities	Non-Current Liabilities	Current Liabilities	2018
Intragovernmental Covered by Budgetary Resources: Accrued Pay and Benefits	-	$155 $	155
Total Intragovernmental Covered by Budgetary Resources	**-**	**$155 $**	**155**
Not Covered by Budgetary Resources:			
Federal Employees Compensation Act (FECA) 2018 Bill (Non-Current)	$66	- $	66
2017 Bill (Current)	-	$66	66
Quarter of FY 2018 (Non-Current)	14	- $	14
Total FECA Liabilities	80	66 $	146
Uncleared Disbursements and Collections	-	81 $	81
Total Intragovernmental Not Covered by Budgetary Resources	80	147	227
Total Intragovernmental Other Liabilities	80	302 $	382
Public:			
Covered by Budgetary Resources:			
Accrued Pay and Benefits	-	607	607
Total Public Covered by Budgetary	-	**607** $	**607**
Not Covered by Budgetary Resources:			
Accrued Pay and Benefits	-	1,394	1,394
Total Public Not Covered by Budgetary	-	**$1,394** $	**1,394**
Total Public Other Liabilities	**-**	**$2,001 $**	**2,001**

Note 8. Leases

The STB has a cancellable operating lease for its building via a new OA with GSA that became effective on February 23, 2019, and ends on February 22, 2034. The OA includes incentives from the Lessor that will be treated as deferred rent and amortized over the life of the lease (not included in the chart below). In addition, the OA includes allowances granted by the Lessor that are amortized and included in the STB's future rent costs. The STB's actual cash outlay for rental payments for its building was approximately $3.6 and $3.8 million, respectively, for FY's 2019 and 2018.

Future payments are based on the OA and expected actual cash outlays are as follows (in thousands):

Fiscal Year		
2020	$	3,014
2020	$	3,014
2021	$	3,014
2022	$	3,014
2023	$	3,014
Thereafter (2024-2034)	$	28,630
Total Future Minimum Lease Payments	**$**	**43,698**

Note 9. Budgetary Resources

STB Budgetary Resources as of September 30, 2019, and 2018 (in thousands) are:

Budgetary Resources	Direct	Reimbursable	**2019**
Category A	$42	-	$ 42
Category B	36,137	-	$ 36,137
Total	**$36,179**	**-**	**$ 36,179**

Budgetary Resources	Direct	Reimbursable	**2018**
Category A	$1,388	-	$ 1,388
Category B	34,541	-	$ 34,541
Total	**$35,929**	**-**	**$ 35,929**

Note 10. Statement of Budgetary Resources vs. Budget of The United States Government

The reconciliation for the year ended September 30, 2018, is presented in the following table. The reconciliation for the fiscal year ended September 30, 2019, is not presented, because the submission of the Budget of the United States (Budget) for FY 2021, which presents the execution of the FY 2019 budget, occurs after publication of these financial statements. The STB's Budget Appendix can be found on the OMB Website (https://www.whitehouse.gov/omb/budget/.) and will be available in February 2020.

(Dollars in Millions)

Surface Transportation Board	Budgetary Resources	New Obligations& Upward Adjustments (Total)	Distributed Offsetting Receipts	Net Outlays
Combined Statement of Budgetary Resources	42	36	0	32
Difference #1-- Expired Funds	-5	-2		
Budget of the U.S. Government	**37**	**34**	**0**	**0**

Note 11. Undelivered Order at End of Period

STB's Undelivered Order at the end of September 30, 2019, and 2018 (in thousands) is:

Undelivered Orders	**2019**	**2018**
Intragovernmental Undelivered orders, Unpaid at the end of the period	$ 3,370	$ 2,198
Public Undelivered orders, Unpaid at the end of the period	$ 3,310	$ 3,848
Intragovernmental Undelivered orders, Paid at the end of the period	**$ 1,701**	**$ 2,204**

Note 12. BUDGET AND ACCURAL RECONCILIAITON

The STB's Budget and Accrual Reconciliation does not show the prior reporting period as this in the initial year of implementation. The Board notes that budgetary and financial accounting information differ. Budgetary accounting is used for planning and control purposes and relates to both the receipt and use of cash, as well as reporting the federal deficit. Financial accounting is intended to provide a picture of the government's financial operations and financial position, so it presents information on an accrual basis. The accrual basis includes information about costs arising from the consumption of assets and the incurrence of liabilities.

The reconciliation of net outlays, presented on a budgetary basis, and the net cost, presented on an accrual basis, provides an explanation of the relationship between budgetary and financial accounting information. The reconciliation serves not only to identify costs paid for in the past and those that will be paid in the future, but also to assure integrity between budgetary and financial accounting. The analysis below illustrates this reconciliation by listing the key differences between net cost and net outlays. In future years, the STB will provide an analysis of the differences between the reporting periods.

		Intra-governm	With the Public		Total 2019
Net Cost	$	14,361	20,975	$	35,336
Components of Net Cost That Are Not Part of Net Outlays:					
Property, plant, and equipment depreciation	$		(121)	$	(121)
Increase/(decrease) in assets:					
Accounts receivable	$	-	2	$	2
Advances, Prepayments and Other Assets	$	(504)	-	$	(504)
(Increase)/decrease in liabilities:					
Accounts payable	$	(840)	(569)	$	(1,408)
Federal Employees Benefits Payable	$	-	168	$	168
Other liabilities (Unfunded leave, unfunded FECA, actuarial FECA)	$	(70)	(2,046)	$	(2,116)
Other financing sources**:**					
Federal employee retirement benefit costs paid by OPM and imputed to the agency	$	(970)	-		(970)
Total Components of Net Operating Cost Not Part of the Budget Outlays	**$**	**(2,384)**	**(2,568)**	**$**	**(4,952)**
Components of the Budget Outlays That Are Not Part of Net Operating Cost:					
Acquisition of capital assets	$	-	1,773	$	1,773
Other	$	1	(1)	$	-
Total Components of Net Outlays That Are Not Part of Net Cost	**$**	**1**	**1,772**	**$**	**1,773**
Net Outlays	**$**	**11,978**	**20,180**	**$**	**32,157**

Required Other Information

Summary of Financial Statement Audit and Management Assurances

Table 1: Summary of Financial Statement Audit

Audit Opinion: Unmodified

Restatement: No

Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Ending Balance**
Material Errors in Year-end Financial Statements	0	0	0	0	0
Accounting Errors Made in Recording Advances in Interim Statements	0	0	0	0	0
Accounting Errors Impacted the Financial Statements	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0

Table 2: Summary of Management Assurances

Effectiveness of Internal Control over Financial Reporting (FMFIA § 2)

Statement of Assurance: Unmodified

Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
Material Errors in Year-end Financial Statements	0	0	0	0	0	0
Accounting Errors Made in Recording Advances in Interim Statements	0	0	0	0	0	0
Accounting Errors Impacted the Financial Statements	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0

Payment Integrity

The information presented in this report complies with guidance provided in the *Improper Payments Information Act of 2002* as amended by IPERA and the *Improper Payments Elimination and Recovery Improvement Act of 2012*; OMB Circular A-136, and Appendix C of OMB Circular A-123, M-15-02, *Requirements for Effective Estimation and Remediation of Improper Payment*s.

The guidance requires agencies to assess every Federal program and dollar for improper payment risk, measure the accuracy of payments annually, and initiate program improvements to ensure payment errors are reduced. On November 20, 2009, Executive Order 13520, *Reducing Improper Payments and Eliminating Waste in Federal Programs*, was issued for the purpose of intensifying efforts to eliminate payment error, waste, fraud, and abuse in the major programs administered by the Federal government, while continuing to ensure that the right people receive the right payment for the right reason at the right time. The supporting website, https://paymentaccuracy.gov/, contains the following information:

- Current and historical rates and amounts of improper payments for Federal agencies;
- Why improper payments occur; and
- What agencies are doing to reduce and recover improper payments.

Program Review

The STB has only one program for budget purposes. The FY 2019 appropriated funding for the program is $37.1 million. All of the agency's transactions are either employee payroll and benefits, intra-governmental, or non-Federal transactions.

The STB does not maintain its own financial management system but uses a shared service provider, ESC, to process all accounting transactions and the DOI processes payroll and benefits. ESC is subject to external audit in accordance with the Standards for Attestation Engagements (SSAE) 18, *Attestation Standards: Clarification and Recodification*. The STB examines the SSAE No. 18 audit results annually to determine if the shared service provider's internal controls are operating effectively. The Board also evaluates the internal controls required to supplement the shared service provider's controls as outlined in the SSAE 18.

Intra-governmental transactions, accounts payables, and payments to agency employees are reviewed as part of the agency's internal control program under OMB Circular A-123, Appendix A, *Internal Control over Financial Reporting* and Appendix C, *Requirements for Effective Estimation and Remediation of Improper Payments*.

Based on OMB Circular A-123, all programs and activities were reviewed to identify those that were susceptible to significant improper payments. For FY 2019, the STB Federal and non-Federal payment was $14 million, and payroll was $20.5 million for a combined total of $34.5 million. IPERA defines "significant" as either (1) improper payments that exceed both $10 million and 1.5% of program disbursements; or (2) improper payments in excess of $100 million. Significant improper payments in the STB's program needed to exceed both $ 0.5 million (1.5% improper payment rate) and $10 million of all non-Federal payments and payments to Federal employees. No material improper payments were identified by the STB in FY 2019 for significant improper payment reporting.

In addition, the following risk factors, which are likely to contribute to improper payments, were applied to the STB's appropriated funds. Any new programs or activity in the agency.

1. Complexity of the activity with respect to correct payments amounts.
2. Volume of payments made annually.
3. Recent major changes in activity funding, authority, practice, or procedures.
4. Level, experience, and quality of training for personnel responsible for certifying that payments are accurate.
5. Inherent risks of improper payments due to the nature of agency operations.
6. Significant deficiencies in the audit reports of the agency that included Inspector General audit findings or external financial audit findings.
7. Results from prior improper payment work.

In FY 2019, no improper payments were discovered during annual internal control testing. The STB will continue evaluating its programs based on these factors to prevent improper payments from occurring.

Improper Payments Strategy

IPERA requires agencies to conduct payment recapture audits with respect to each program and activity of the agency with expenditures of $1 million or more annually, if conducting such audits would be cost-effective. The STB addresses proper management of payments by:

- preventing payment errors through documented processes and internal controls; and
- detecting overpayment and underpayments through control testing

Due to the STB's limited staffing levels for its accounting functions and financial reporting functions, such support services are provided under contract with ESC. Coordinating with ESC has greatly enhanced the STB's capabilities for identification of improper payments using detailed internal controls at both the STB and ESC. The STB obtains contracting support from DOT, which follows established pre-enrollment, pre-award, and pre-payment processes for all acquisition awards. Pre-enrollment procedures include cross referencing applicants against the GSA System for Award Management (SAM) exclusion records. ESC reviews federal and commercial databases to verify past performance, federal government debt, integrity, and business ethics. For prepayment processes, ESC verifies an entity against both SAM and the Internal Revenue Service's Taxpayer Identification Number Match Program before establishing the entity as a vendor in its core financial accounting system.

Do Not Pay Initiative

In coordination with ESC on the Do Not Pay (DNP) initiative, the STB reviews the SAM database prior to each acquisition award to ensure the vendor is registered to do business with the Federal government. ESC has engaged DNP Analytics Services to match the STB's vendor records with the Death Master File (DMF). The review identified high-risk vendor records possibly associated with deceased individuals and enabled the Board to classify vendor records into risk-based categories for further evaluation. ESC continues to deactivate the highest risk vendor records, thereby decreasing the likelihood of improper payments to deceased individuals. ESC performs post-payment reviews to adjudicate conclusive matches identified by the DNP Business Center. The monthly adjudication process involves verifying payee information against internal sources, reviewing databases within the DNP Business Center, and confirming whether the STB applied appropriate business rules when the payments were made.

The table below shows the number of improper payments reviewed.

	Number of payments reviewed for improper payments	Dollars of payments reviewed for improper payments	Number of payments stopped	Dollars of payments stopped	Number of improper payments reviewed and not stopped	Dollars of improper payments reviewed and not stopped
Reviews with the DMF only	All agency payments submitted to shared service provider	$ 4.08M	0	0	0	0
Reviews with all other databases[15]	All agency payments submitted to shared service provider	$ 4.08M	0	0	0	0

Recapture of Improper Payments Reporting

IPERA replaced the recovery auditing program contained in the National Defense Authorization Act of 2002. IPERA requires agencies to conduct recovery audits with respect

[15] Databases are 1) Systems for Awards Management-Exclusion Records – Private; 2) List of Excluded Individuals/Entities (LEIE); and 3) System for Award Management (SAM) Entity Registration Records, Private.

to each program and activity of the agency that expends $1 million or more annually, if conducting such audits would be cost-effective.

Once the STB has identified an improper payment with a non-Federal vendor, it is STB's policy to aggressively correct the improper payment. Upon research and analysis of supporting documentation, the vendor is contacted for resolution (underpayment to the agency). If the contract is ongoing, the Board will offset the amount to be recovered on the next billing. For all other contracts, the vendor is contacted and a receivable is established for collection. If the vendor does not provide payment, the debt is entered into the Treasury Offset Program. If an improper payment is identified as an overpayment to the STB, the vendor is promptly paid.

The table below shows the result of improper payments (in millions of dollars) identified during FY 2019.

Reason for Improper Payment	Overpayment	Underpayment	Total Amount Overpayment Recaptured	Total Amount Underpayment Paid
Failure to verify vendor invoice amount	$ 0.0	$ 0.0	$ 0.0	$ 0.0
Administrative processing	0.0	0.0	0.0	0.0
Total	**$ 0.0**	**$ 0.0**	**$ 0.0**	**$ 0.0**

The following table shows cumulative overpayments (in millions of dollars) through FY 2019.

Reason for Improper Payment	Overpayment	Underpayment	Total Amount Overpayment Recaptured	Total Amount Underpayment Paid
Failure to verify vendor invoice amount	$ 0.0	$ 0.0	$ 0.0	$ 0.0
Administrative processing	0.0	0.0	0.0	0.0
Total	**$ 0.0**	**$ 0.0**	**$ 0.0**	**$ 0.0**

Fraud Reduction

OMB Circular A-123 and the GAO Green Book call for agencies to adhere to leading practices for managing fraud risk. Standards now require agencies to take a closer look at fraud risks (GAO principle 8 shown below) and to identify fraud risk factors and programs with increased susceptibility for fraud.

Control environment	Risk assessment	Control activities	Communication & Information	Monitoring activities
1. Demonstrates commitment to integrity and ethical values 2. Exercises oversight responsibilities 3. Establishes structure, authority, and responsibility 4. Demonstrates commitment to competence 5. Enforces accountability	6. Define objectives and risk tolerances 7. Identifies, analyzes, and responds risk 8. Assesses fraud risk 9. Identifies and analyzes and responds to change	10. Designs control activities 11. Selects and develops general controls for the system 12. Deploys and implements control activities	13. Uses relevant, quality information 14. Communicates internally 15. Communicates externally	16. Performs ongoing monitoring activities 17. Evaluates issues and remediates deficiencies

For FY 2019, the STB continued its work with government purchase and travel cardholders to ensure they were current on their training. Other areas reviewed include payroll, large contracts, and all government charge cards. Travel cards are not deemed a fraud risk as the travel card account is the cardholder's, not the Board's, financial responsibility. Travel cards are reviewed quarterly for misuse.

Reduce the Footprint

The STB does not have any real property. The STB leases space through GSA, and therefore does not provide square footage data to the Federal Real Property Profile. In June 2017, GSA executed a new lease for the STB space for a total of 63,825 square feet in Patriots Plaza, representing a reduction of 10,464 square feet in office space. The new lease took effect in February 2019.

Reduce the Footprint Policy Baseline Comparison	FY 2015 (Baseline)	FY 2019	Change (FY 2015 Baseline – FY 2019)
Square Footage	74,289	63,825	(10,464)

Reporting of O & M Cost – Owned and Direct Lease Buildings	FY 2015 Reported Cost	FY 2019 Reported Cost	Change in Baseline 2015-2019
Operation and Maintenance (O&M) Costs	N/A*	N/A*	N/A*

*The STB does not directly lease or own any space but has occupancy agreements with GSA.

Biennial Review of User Fees

Agencies are required by the Chief Financial Officers Act of 1990 to conduct biennial reviews of fees and other charges that they impose, and to revise, as necessary, to recover program and administrative costs incurred. The STB is required to update its user fees at least annually. The STB published notice of its final rule on August 6, 2019, and the new user fee rates took effect on September 6, 2019.

Civil Monetary Penalty Adjustment for Inflation

To fulfill the reporting requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, the Board in *Civil Monetary Penalties—2019 Adjustment*, Docket No. EP 716 (Sub-No. 4), issued a final rule to adjust its existing civil monetary penalties for inflation for 2019. The inflation adjustment required by the statute results in the adjustments to the civil monetary penalties within the jurisdiction of the Board shown in the following table. The publication of the decision in the Federal Register may be viewed at: https://www.federalregister.gov/documents/2018/12/31/2018-28410/civil-monetary-penalties-2019-adjustment

Statutory Authority	U.S. Code Citation	Penalty (Name or Description)	Year Enacted	Latest Year of Adjustment (Via Statute or Regulation)	Current Penalty Level ($ Amount or Range)
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 11901(a)	Unless otherwise specified, maximum penalty for each knowing violation under this part, and for each day.	1995	2019	$7,987
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 11901(b)	For each violation under § 11124(a)(2) or (b).	1995	2019	$799
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 11901(b)	For each day violation continues.	1995	2019	$41
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 11901(c)	Maximum penalty for each knowing violation under §§ 10901-10906.	1995	2019	$7,987
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 11901(d)	For each violation under §§ 11123 or 11124(a)(1).	1995	2019	$159-799

Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 11901(d)	For each day violation continues.	1995	2019	$80
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 11901(e)(1)	For each violation under §§ 11141-11145.	1995	2019	$799
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 11901(e)(2)	For each violation under § 11144(b)(1).	1995	2019	$159
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 11901(e) (3-4)	For each violation of reporting requirements, for each day.	1995	2019	$159
Motor and Water Carrier Civil Penalties					
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14901(a)	Minimum penalty for each violation and for each day.	1995	2019	$1,093
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14901(a)	For each violation under §§ 13901 or 13902(c).	1995	2019	$10,932
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14901(a)	For each violation related to transportation of passengers.	1995	2019	$27,331
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14901(b)	For each violation of the hazardous waste rules under § 3001 of the Solid Waste Disposal Act.	1995	2019	$21,865-$43,730

Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14901(d)(1)	Minimum penalty for each violation of household good regulations, and for each day.	1995	2019	$1,597
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14901(d)(2)	Minimum penalty for each instance of transportation of household goods if broker provides estimate without carrier agreement.	1995	2019	$15,976
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14901(d)(3)	Minimum penalty for each instance of transportation of household goods without being registered.	1995	2019	$39,936
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14901(e)	Minimum penalty for each violation of a transportation rule.	1995	2019	$3,195
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14901(e)	Minimum penalty for each additional violation.	1995	2019	$7,987
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14903(a)	Maximum penalty for undercharge or overcharge of tariff rate, for each violation.	1995	2019	$159,750
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14904(a)	For first violation, rebates at less than the rate in effect.	1995	2019	$319
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14904(a)	For all subsequent violations.	1995	2019	$400

Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14904(b)(1)	Maximum penalty for first violation for undercharges by freight forwarders.	1995	2019	$799
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14904(b)(1)	Maximum penalty for subsequent violations.	1995	2019	$3,195
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14904(b)(2)	Maximum penalty for other first violations under § 13702.	1995	2019	$799
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14904(b)(2)	Maximum penalty for subsequent violations.	1995	2019	$3,195
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14905(a)	Maximum penalty for each knowing violation of § 14103(a), and knowingly authorizing, consenting to, or permitting a violation of § 14103(a) & (b).	1995	2019	$15,976
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14906	Minimum penalty for first attempt to evade regulation.	1995	2019	$2,187
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14906	Minimum amount for each subsequent attempt to evade regulation.	1995	2019	$5,466
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14907	Maximum penalty for recordkeeping/reporting violations.	1995	2019	$7,987

Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14908(a)(2)	Maximum penalty for violation of § 14908(a)(1).	1995	2019	$3,195
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14910	When another civil penalty is not specified under this part, for each violation, for each day.	1995	2019	$799
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14915(a)(1) & (2)	Minimum penalty for holding a household goods shipment hostage, for each day.	2005	2019	$12,695
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14916(c)(1)	Maximum penalty for each violation under § 14916(a) by knowingly authorizing, consenting to, or permitting unlawful brokerage activities.	2012	2019	$10,932
Pipeline Carrier Civil Penalties					
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 16101(a)	Maximum penalty for violation of this part, for each day.	1995	2019	$7,987
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 16101(b)(1) & (4)	For each recordkeeping violation under § 15722, each day.	1995	2019	$799
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 16101(b)(2) & (4)	For each inspection violation liable under § 15722, each day.	1995	2019	$159
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 16101(b)(3) & (4)	For each reporting violation under § 15723, each day.	1995	2019	$159
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 16103(a)	Maximum penalty for improper disclosure of information.	1995	2019	$1,597

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