Surface Transportation Board

Performance and Accountability Report

Fiscal Year 2020

MESSAGE FROM THE CHAIRMAN

November 9, 2020

The Fiscal Year (FY) 2020 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 2020, the Board continued to achieve its strategic goals and support its mission as detailed in this Report.

The STB became a fully independent agency nearly five years ago upon enactment of the Surface Transportation Board Reauthorization Act of 2015, Pub. L. No. 114-110. The Board has successfully transitioned to meet its new administrative demands while remaining focused on fulfilling its core mission—the efficient, timely, and sound resolution of surface transportation issues and disputes subject to its jurisdiction. The Board has effectively responded to the coronavirus disease 2019 pandemic by accomplishing the work of the agency while keeping Board staff safe through a maximum telework posture. The STB's cybersecurity program has continued to mature, and the Board's financial statements and processes are sound.

In sum, the Board made notable progress toward achieving its mission and improving its administrative processes during FY 2020. We will continuously strive to use resources wisely and ensure that the agency is responsive to its stakeholders and the public.

Sincerely,

Ann Begeman
Chairman

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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) 2020. 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 FY 2022, based on the STB's FY 2018 – FY 2022 Strategic Plan, and reports the STB's FY 2020 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 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 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 network 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 on 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 noncontiguous 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, 2020, 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 offices of the Board members, 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, Information Technology (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. The OE office 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 Railroad 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 and prepares any necessary environmental documentation. OEA also conducts public outreach to inform the public about proposals before the Board and invites stakeholders' comments on related environmental matters. It also provides technical advice and environmental recommendations to the Board on pending matters, as appropriate.

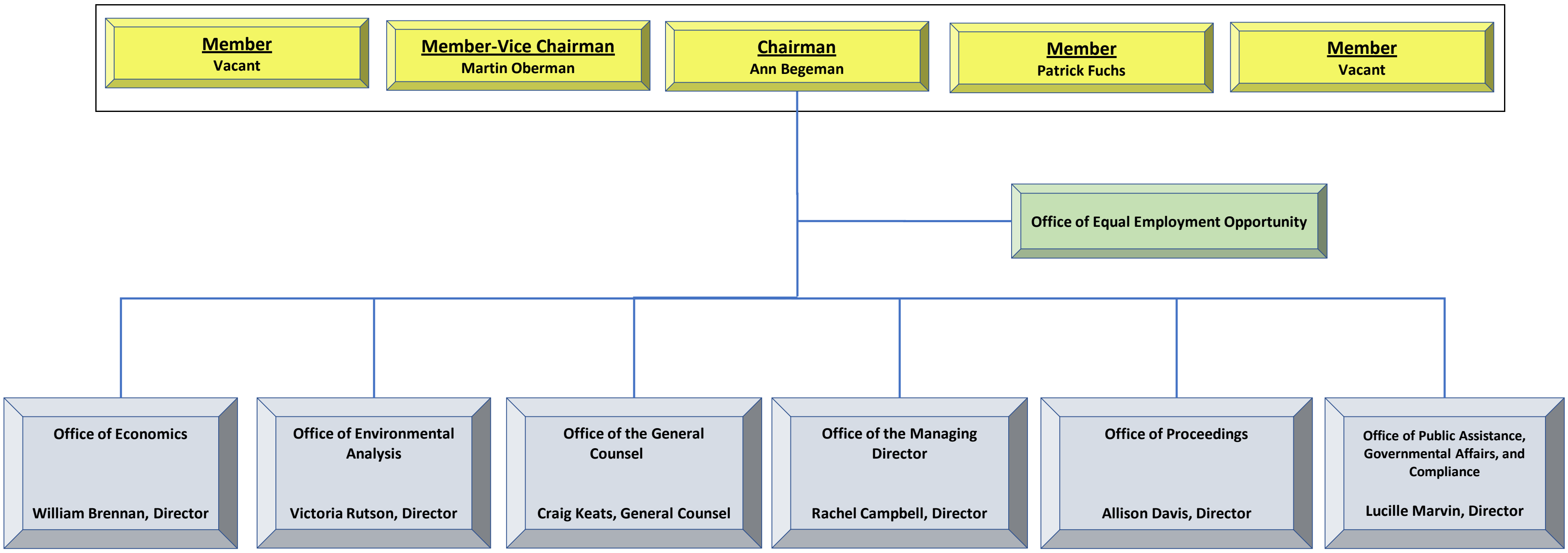
The Office of the General Counsel (OGC) is legal counsel to the Board. In that role, OGC evaluates and advises on the defensibility of the agency's decisions and defends those decisions when challenged in court. OGC also advises the Board on various mission-related matters, including the Freedom of Information Act (FOIA), the Privacy Act, the Paperwork Reduction Act, the Equal Employment Opportunity Act, NEPA, 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. It heads the Board's Privacy and Risk Management programs, as well as housing the Board's Chief Data Officer who is responsible for guiding the agency's compliance with the Evidence Act.

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 interested stakeholders and 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 Office Organization Chart
(as of September 2020)



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.

The STB updates its Strategic Plan every four years, 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. The STB's Strategic Plan was most recently updated 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, resource limitations, 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 impacts of ongoing homeland security activities or national emergencies 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.	**2020 Actual**	**2021 Target**	**2022 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.	**Exceeded**	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.	**2020 Actual**	**2021 Target**	**2022 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.	**2020 Actual**	**2021 Target**	**2022 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.	**Did Not Meet**	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.	**2020 Actual**	**2021 Target**	**2022 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.	**2020 Actual**	**2021 Target**	**2022 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.	**2020 Actual**	**2021 Target**	**2022 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.	**2020 Actual**	**2021 Target**	**2022 Target**
Performance Measure 1: Recordations are entered into the Board's public database within one business day, at least 90% of the time.	**Exceeded**	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.	**2020 Actual**	**2021 Target**	**2022 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.	**2020 Actual**	**2021 Target**	**2022 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.	**2020 Actual**	**2021 Target**	**2022 Target**
Performance Measure 1: Conduct yearly ethics training.	**Met**	Meet	Meet
Performance Measure 2: Provide initial response to employee's ethics inquiries within 48 hours, at least 80% of the time.	**Exceeded**	Meet	Meet

Agency Oversight and Mission Challenges

Regulatory Responsibility and Oversight

The Board is charged with advancing the national transportation policy goals 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 noncontiguous domestic trade (i.e., trade involving Alaska, Hawaii, Puerto Rico, and other U.S. territories or possessions). The STB also has certain regulatory authority over the National Railroad Passenger Corporation (Amtrak); its operations on other railroads' tracks; 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 of 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.

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. And, the Board 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 regarding the reasonableness of the carriers' rates and practices or related to 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 to 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 2020, 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[1].

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 formal Board proceeding. *Rules Relating to Board Instituted Investigations*, EP 731 (STB served May 16, 2016). No formal investigations were conducted in FY 2020.

[1] 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 Class I (i.e., 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 must obtain Board approval to abandon a rail line, or to discontinue all rail service over a line that will 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) **Offer of Financial Assistance**

   If the Board finds that a railroad's abandonment proposal should be authorized, and the railroad receives an offer—known as an Offer of Financial Assistance—by another party to acquire or subsidize continued rail operations on the line to preserve rail service, the Board 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 Board is authorized to set the price at fair market value, and the offeror may 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 may issue a Certificate of Interim Trail Use (issued in an abandonment application proceeding) or a Notice of Interim Trail Use (issued in an abandonment exemption proceeding) allowing the parties to negotiate a trail use agreement. 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 1,353 rail liens in FY 2020.

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 used 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 railroads' 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 under 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 both the STB's and the individual carrier's websites.

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 has historically used 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.

A rate could also be challenged under a simplified version of SAC, known as Simplified-SAC, which can be used in any rate case.[2] There is also a 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.[3]

[2] No case has ever been litigated to completion under this methodology.

[3] Five Three-Benchmark cases have been filed with the Board. The Board issued a decision on the merits in four of those cases. One case settled after the evidentiary record was complete but before the Board ruled on the merits.

Because smaller shippers have informed the Board that no methodology is viable for them, the Board has proposed a final offer rate review option in *Final Offer Rate Review*, Docket No. EP 755, described in more detail later in this report. The Board has recognized 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.

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 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 to which the Board's ex parte communication prohibitions apply, the agency welcomes informal stakeholder meetings with the Board members and staff to discuss general service, transportation, and other issues of concern. During FY 2020, 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.

Communications Between Railroads and Their Customers

During FY 2020, the Board continued to encourage railroads to establish regular communications with their customers as a productive way of preventing and addressing rail 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 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 and the Board's regulations implementing NEPA. 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 on behalf of the Board for various rail line proposals, 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 System of Accounts for railroads to use for regulatory purposes. The Board requires Class I railroads to submit reports containing financial and operating statistics, including employment and traffic data. 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 five-year moving average). Additionally, the Board publishes the RCAF-5 index that also reflects national average productivity changes but is calculated as if a five-year moving average had been applied consistently from the productivity adjustment's inception in 1989.

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 between Amtrak and railroads or regional transportation authorities concerning shared use of tracks and other facilities (including disputes concerning Amtrak's statutory right of preference over freight transportation), and to set the terms and conditions of shared use if there is failure 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 2008* (PRIIA) and the *Fixing America's Surface Transportation Act of 2015* (FAST Act) expanded the Board's jurisdiction over passenger rail. PRIIA authorizes the STB to institute investigatory action under certain circumstances and, if appropriate, to award damages or other relief and to identify reasonable measures to improve performance on passenger rail routes. However, lengthy litigation over the constitutionality of the PRIIA provision directing the Federal Railroad Administration and Amtrak to establish on-time performance metrics and standards prevented the Board from utilizing this authority. Now that the constitutional issues have been resolved, the FRA and Amtrak have been working to promulgate new on-time performance metrics and standards that, once finalized, would enable the Board to exercise its investigative authority under PRIIA. The FAST Act gave the Board additional responsibility over passenger rail service disputes.

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." Excluded from this jurisdiction, however, is "mass transportation provided by a local government authority."

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.

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 intercity 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, agency financial statements, annual performance plans, and the DOT Office of Inspector General (OIG) audit reports.

The STB received an unmodified audit opinion for FY 2020. In addition, the findings from FY 2019 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 95% of invoices were paid on time in FY 2020, while late payments resulted in interest charges of $112.00 (on total payments of $5.74 million), less than 0.0001% of total dollars disbursed for FY 2020. In FY 2020, the Board worked with DOT's Enterprise Services Center (ESC), the agency's shared service provider, to implement an approval workflow system to improve on-time payments and to prevent duplicate payments using ESC's Enterprise Data Quality software. As a result, the STB has reduced interest charges by 80%.

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.

USAspending 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.

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 DATA Act Reporting for FY 2020.

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 authority to the DOT OIG 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 2020, the DOT OIG engaged an independent public accounting firm to audit the Board's financial statements. As further explained in the Financial Overview section of the report and mentioned above, the STB received an unmodified audit opinion for FY 2020.

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 requirements of FMFIA with no material weaknesses for Fiscal Year (FY) 2020.

STB management conducted its assessment of the effectiveness of its risk management framework and system of internal controls for FY 2020 in accordance with Office of Management and Budget (OMB) Circular A-123, *Management’s Responsibility for Enterprise Risk Management and Internal Control*. Based on the assessment results, the Board can provide reasonable assurance that it has effective internal controls over operations and financial reporting and complies 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 complies with the objectives of FFMIA. The STB reviewed the Statements on Standards for Attestation Engagements (SSAE 18), Reporting on Controls at the Service Organization reports for the Department of Transportation (DOT) Enterprise Service Center and the Department of Interior-Interior Business Center, which are the Board’s Federal shared-service providers for financial management and payroll systems. The shared-service provider’s systems are 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’s purchase and travel card programs were also assessed, as directed by the guidance provided in OMB Circular A-123 Appendix B. Based on the assessment results, the Board can provide reasonable assurance that it complies 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 (FISMA) audit for FY 2020 was conducted by the DOT Office of Inspector General. The Board's FISMA security level remained "Defined," with one additional FISMA function moving from "Ad Hoc" to "Defined," and incremental progress to the next security level continued. The FY 2017 FISMA audit recommendations have been addressed and closed, two FY 2018 audit recommendations remain open (work addressing the two recommendations should be completed by the end of 2020), and no audit recommendations were issued in FY 2019. Six new recommendations were issued in the recent FY 2020 audit, which the Board plans to timely address.

Ann Begeman
Chairman

Dated: November 9, 2020

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 2020 include issuing 428 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 2020 Activities and Accomplishments

Rate Review Reform

During FY 2020, the Board made significant progress in reforming its rate review processes based in large part on the recommendations contained in the Board's Rate Reform Task Force report (RRTF Report) issued on April 25, 2019, which is posted on the Board's website. The Task Force, after holding informal meetings throughout the country with representatives of shippers, rail carriers, academics, practitioners, and other interested parties, suggested that the Board consider various ways to reduce the cost and complexity of rate disputes, particularly for smaller cases.

After the RRTF Report was issued, the Board promptly held several collaborative meetings pursuant to Section 5 of the STB Reauthorization Act, which as noted above permits a majority of the Board to hold non-public meetings to discuss official agency business. In FYs 2019 and 2020, the Board initiated several proceedings in which it proposed rules to establish a new rate review option for smaller cases (called "Final Offer Rate Review," or "FORR"), amend its "Waybill Sample" data collection procedures, and provide a streamlined market dominance process that could be used in any rate review proceeding. The Board also held a two-day public hearing on "revenue adequacy" issues raised in the RRTF Report.

During FY 2020, the Board held several additional Section 5 meetings on revenue adequacy, FORR, streamlined market dominance, and waybill procedures, and has finalized two of the three proposed rules. Other notable Board actions include:

- Finding that it would benefit from additional stakeholder input in the FORR rulemaking proceeding, in May 2020, the Board waived its general prohibition on ex parte communications to permit post-comment period discussions with outside parties, including railroad and shipper interests, about the FORR proposal and possible supplements or alternatives to it, including the potential use of voluntary arbitration to resolve smaller rate disputes. *Final Offer Rate Review*, Docket No. EP 755.

- In July 2020, the Board voted to adopt a final rule to streamline the market dominance procedures. *Market Dominance Streamlined Approach*, Docket No. EP 756. The final rule provides an option for simplifying the market dominance inquiry, which otherwise can be costly and time-consuming, especially in smaller cases. The decision is part of the Board's continuing effort to make its rate review procedures more accessible, efficient, and transparent.

- In August 2020, the Board voted to adopt a final rule improving its Waybill Sample data collection by creating a more robust dataset for decision-making and analyses, without adding undue burden on railroads. *Waybill Sample Reporting*, Docket No. EP 385 (Sub-No. 8). The final rule—also part of the Board's effort to make its procedures more accessible, efficient, and transparent—would increase the sampling rates of certain non-intermodal carload shipments and specify separate sampling strata and rates for intermodal shipments.

Rail Demurrage and Accessorial Charges Oversight

During FY 2020, the Board continued to work proactively to address concerns relating to Class I railroad practices and policies regarding demurrage and accessorial charges. Demurrage is a charge that serves principally as an incentive to prevent undue car detention and encourage the efficient use of rail cars in the rail network, while also compensating rail carriers for the expense incurred when rail cars are unduly detained beyond a specified period of time. Accessorial charges are not specifically defined by statute or regulation but are generally understood to include charges other than linehaul and demurrage charges.

The Board began these initiatives in FY 2019 after learning that some Class I carriers had announced changes to their practices and policies in connection with new operating plans they were implementing. The Board initially asked each of the Class I railroads to report their revenues from demurrage and accessorial charges for each quarter of 2018 and 2019. Later, the Board extended this request through 2020. The Board's letters to the Class I railroads and their responses 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 demurrage and accessorial charges, the Board held a two-day public oversight hearing in May 2019. Based on the written comments and testimony received at the hearing, the Board served decisions in October 2019 initiating three related proceedings, continuing its efforts to improve dispute resolution processes, promote transparency, and make the agency more accessible. After reviewing comments on the October 2019 proposals, the Board issued four additional decisions in those proceedings during FY 2020, finalizing several proposals and inviting additional comment on aspects of one proposal. Specifically:

- In *Policy Statement on Demurrage and Accessorial Rules and Charges*, Docket No. EP 757, the Board adopted a policy statement in April 2020 to facilitate more effective problem solving among railroads, shippers, and receivers by providing information on principles the Board would consider in evaluating the reasonableness of demurrage and accessorial rules and charges.

- In *Demurrage Billing Requirements*, Docket No. EP 759, the Board issued two decisions in a rulemaking proceeding intended to address several issues with demurrage billing practices raised by many stakeholders. In April 2020, the Board finalized regulations requiring Class I carriers to directly bill the shipper for demurrage when the shipper and warehouseman agree to that arrangement and so notify the rail carrier. In a separate decision, also served in April 2020, the Board, in response to comments received on the initial proposal, invited comment on certain modifications and additions to the previously proposed minimum requirements for demurrage invoices issued by Class I carriers. The Board is currently considering comments on the minimum requirements proposal.

- In *Exclusion of Demurrage Regulation from Certain Class Exemptions,* Docket No. EP 760, the Board amended its regulations in February 2020 to clarify that the class exemptions for the rail transportation of certain miscellaneous commodities and rail transportation by boxcar do not apply to the regulation of demurrage, and to revoke, in part, the class exemption for the rail transportation of certain agricultural commodities to permit the regulation of demurrage, as was already the case with similar class exemptions covering non-intermodal transportation.

Rail Service Oversight and Monitoring

During FY 2020, the Board continued its informal monitoring of rail service across the freight rail network. In particular, the Board focused its attention on the disruptive impact on rail service and operations caused by the coronavirus 2019 pandemic (COVID-19). During the early phase of the pandemic, as many state and local jurisdictions implemented lockdowns, the Board engaged in daily and weekly communications with key railroad and shipper stakeholders to actively monitor the reliability of the freight rail network with a special focus on critical supply chains. These communications included weekly (and later bi-weekly) conference calls convened by the Board and its Railroad-Shipper Transportation Advisory (RSTAC). The Board also participated in calls hosted by the Federal Railroad Administration (FRA), held with representatives from each Class I railroad, the short line and regional railroads, and Amtrak.

In April, the Board issued a statement in support of rail service to provide informal guidance to state and local governments in implementing public health and safety measures in response to COVID-19 that might negatively impact freight rail operations, such as travel and lodging restrictions that might impair railroad crew and maintenance operations. The Board also monitored the imposition of railroad embargoes, which are temporary cessations of service imposed by railroads, related to COVID-19.

In addition, the Board, through its RCPA program, continued its monthly calls with each Class I railroad 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 Transportation Coordination Office 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, typically due to unanticipated weather events.

The Board maintained its frequent contact with stakeholders in an effort to monitor the adequacy of rail service in meeting demand growth as shippers ramped up production following many industries' production curtailments. Toward this end, in May 2020, the Board requested that Class I railroads provide detailed information to the Board about their respective plans to meet increased rail service demand, including the availability of employee and equipment resources and enhancement of communication with shipper and other stakeholders. In August, the Board and the FRA reemphasized in a joint letter to all Class I railroads the importance of safe and reliable rail service as the Nation works to restore jobs and promote economic recovery, and the agency received responses from the Class I railroads.

Enhanced Communications with Stakeholders

In November 2019, the Board launched a redesigned website and updated electronic filing system. The enhanced look, organization, and functionality of the website has provided an easier and more intuitive user experience. The Board made several improvements to its electronic filing system to make it more convenient and accessible to its stakeholders. Additional features will be added to the website, including optimization of the website for mobile viewing, further integration with the STB's case management system, and additional Section 508 compliance-related enhancements.

In July 2020, the Board completed a series of ex parte meetings with interested stakeholders to discuss its proposal in *Final Offer Rate Review*, Docket No. EP 755, and to explore issues involving the potential use of voluntary arbitration to resolve smaller rate disputes. A summary of each meeting is posted on the Board's website. These ex parte 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.

Rulemakings

In *Association of American Railroads—Petition for Rulemaking*, Docket No. EP 752, the Board sought information in November 2019 on whether and how particular cost-benefit analysis approaches might be more formally integrated into its rulemaking process.

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, the Board voted to adopt a final rule in November 2019 amending its regulations related to the National Trails System Act to: (1) provide that the initial term for a trail use negotiating period will be one year (instead of 180 days); (2) permit up to three one-year extensions of the initial period if the trail sponsor and the railroad agree; and (3) permit additional one-year extensions if the trail sponsor and the railroad agree and extraordinary circumstances are shown.

In *Rail Fuel Surcharges (Safe Harbor)*, Docket No. EP 661 (Sub-No. 2), the Board in December 2019 denied a petition for reconsideration of an earlier Board decision that discontinued the docket.

In *Montana Rail Link, Inc.—Petition for Rulemaking—Classification of Carriers*, Docket No. EP 763, the Board opened a rulemaking proceeding in May 2020 in response to a petition to amend the current revenue threshold for classifying Class I rail carriers. In September 2020, the Board proposed to modify the thresholds for classifying rail carriers.

In *Petition for Rulemaking to Amend 49 C.F.R. Part 1250*, Docket No. EP 724 (Sub-No. 5), the Board adopted a final rule in May 2020, amending its railroad performance data reporting regulations to include chemical and plastics traffic as a distinct reporting category for the "cars-held" metric.

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 withdrew in June 2020 its earlier proposal to incorporate an additional model into the methodology for calculating the cost-of-equity component of the railroad industry's cost of capital.

In *Market Dominance Streamlined Approach*, Docket No. EP 756, the Board voted in July 2020 to adopt a streamlined approach for pleading market dominance in rate reasonableness proceedings.

In *Review of Commodity, Boxcar, and TOFC/COFC Exemptions*, Docket No. EP 704 (Sub-No. 1), the Board in September 2020 sought public comment on a new approach developed by OE for possible use in considering class exemption and revocation issues.

Unreasonable Practice and Other Complaint Cases

In *Benton v. CSX Transportation, Inc.*, Docket No. NOR 42166, the Board dismissed a complaint that was based on an alleged violation of an element of the national rail transportation policy for failure to state a claim, and denied complainant's request to hold the proceeding in abeyance.

Declaratory Orders

In *Landowners—Motion for Declaratory Order & Injunctive Relief*, Docket No. AB 1065 (Sub-No. 1), the Board denied a request seeking a declaratory order filed by a group of landowners who own property adjacent to 17.2 miles of interconnecting rail lines in Posey and Vanderburgh Counties, Ind., and found that the lines remain under the Board's jurisdiction.

In *Great Walton Railroad Company—Petition for Declaratory Order*, Docket No. AB 1242 (Sub-No. 1), the Board determined that the track at issue is ancillary track and deferred ruling on whether it has been removed from the interstate rail system pending the outcome of related state court proceedings.

In *Landowners—Motion for Declaratory Order & Injunctive Relief*, Docket No. FD 35982 (Sub-No. 1), the Board denied a request for a declaratory order voiding several agreements concerning a rail line in Jackson County, Mo., as well as a request for injunctive relief.

In *Naval Nuclear Propulsion Program, United States Army Military Surface Deployment & Distribution Command, & Fluor Marine Propulsion, LLC—Petition for Declaratory Order*, Docket No. FD 36298, the Board granted a petition for declaratory order and made findings concerning the regulatory status of, and a railroad's obligations concerning, a rail segment near Ballston Spa, N.Y.

In *Soo Line Railroad Company—Petition for Declaratory Order & Preliminary Injunction—Interchange with Canadian National*, Docket No. FD 36299, the Board granted Soo Line Railroad Company's petition for declaratory order and found that Wisconsin Central Ltd.'s designated interchange point of Kirk Yard is unreasonable. The Board also denied a request for a preliminary injunction as moot.

In *Holland Park Owner, LLC—Petition for Declaratory Order*, Docket No. FD 36308, the Board denied in part a petition for declaratory order and directed Consolidated Rail Corporation to provide supplemental information regarding the nature of certain previously removed track. The proceeding was subsequently dismissed following settlement of the dispute.

In *Cattaraugus Local Development Corp.—Petition for Declaratory Order*, Docket No. FD 36389 et al., the Board declined to issue a declaratory order and instead opened an abandonment exemption proceeding.

In *Commuter Rail Division of the Regional Transportation Authority d/b/a Metra—Petition for Declaratory Order*, Docket No. FD 36420, the Board denied a request for declaratory order on issues already pending before a district court, declined to institute a proceeding, and denied a related petition for preliminary injunction.

Licensing

In *BNSF Railway Company—Terminal Trackage Rights—Kansas City Southern Railway Company & Union Pacific Railroad Company*, Docket No. FD 32760 (Sub-No. 46), the Board established conditions for direct service by BNSF Railway Company to a facility in West Lake Charles, La., pursuant to Board-authorized terminal trackage rights granted in 2016, and set forth a procedure for establishing compensation for such trackage rights.

In *Port of Moses Lake—Construction Exemption—Moses Lake, Wash.*, Docket No. FD 34936, the Board authorized the Port of Moses Lake to modify the route of a rail construction project in the City of Moses Lake, Wash., which the Board had authorized in 2009, subject to environmental mitigation measures.

In *Jackson County, Mo.—Acquisition & Operation Exemption—Union Pacific Railroad Company*, Docket No. FD 35982, the Board ordered Jackson County, Mo., to cease all construction of a hiking and biking trail in the right-of-way of a rail line. This order occurred following the Board's revocation of the County's acquisition and operation exemption, having found that the County's actions were no longer consistent with the acquisition exemption it invoked to acquire the line.

In *Texas Central Railroad & Infrastructure, Inc. & Texas Central Railroad, LLC—Petition for Exemption—Passenger Rail Line Between Dallas & Houston, Tex.*, Docket No. FD 36025, the Board granted a petition filed by Texas Central Railroad and Infrastructure, Inc., and Texas Central Railroad, LLC (collectively, Texas Central) to reopen a prior Board decision finding that a proposed rail line between Dallas and Houston, Tex., was not subject to the Board's jurisdiction. The Board concluded that, due to substantially changed circumstances, the proposed rail line would be constructed and operated as part of the interstate rail network and therefore subject to Board jurisdiction. The Board also denied Texas Central's petition for exemption and found that, should Texas Central wish to request Board authority for its project, an application process under 49 U.S.C. § 10901 would be required.

In *Texas Railway Exchange LLC—Construction & Operation Exemption—Galveston County, Tex.*, Docket No. FD 36186, et al., the Board granted a petition for exemption filed by Texas Railway Exchange LLC to construct and operate a new one-half mile rail line in Galveston County, Tex., subject to environmental mitigation conditions. The decision also granted the unopposed petition for issuance of a crossing order to allow the new rail line to cross tracks owned by Union Pacific Railroad Company.

In *Oakland Global Rail Enterprise, LLC—Acquisition Exemption—Rail Line in Alameda County, Cal.*, Docket No. FD 36301, et al., the Board denied a petition filed by the City of Oakland, Cal., to reject or revoke two notices of exemption filed by Oakland Global Rail Enterprises, LLC, and Oakland Bulk and Oversize Terminal, LLC, regarding a rail line at the former Oakland Army Base in Oakland, Cal. The Board also set an effective date for those two exemptions and for an exemption sought by the City of Oakland regarding the same rail line.

In *Brookfield Asset Management, Inc. & DJP XX, LLC—Control Exemption—Genesee & Wyoming Inc., et al.*, Docket No. FD 36326, the Board permitted an exemption to become effective for the control of Genesee and Wyoming, Inc., a noncarrier holding company of 106 rail carriers, by Brookfield Asset Management, Inc., and DJP XX, LLC. The Board subsequently denied a petition for reconsideration of that decision and also denied an alternative request to revoke the corresponding notice of exemption.

In *Wisconsin Central Ltd.—Operation Exemption—Hallett Docket No. 5 in Duluth, Minn.*, Docket No. FD 36346, the Board authorized Wisconsin Central Ltd. to operate a rail/water dock facility, known as Hallet Dock No. 5, located in Duluth, Minn.

In *Bessemer & Lake Erie Railroad Company—Acquisition & Operation—Certain Rail Lines of CSX Transportation, Inc. in Onondaga, Oswego, Jefferson, Saint Lawrence, & Franklin Counties, N.Y.*, Docket No. FD 36347, the Board authorized Bessemer and Lake Erie Railroad Company to acquire from CSX Transportation, Inc., and operate 236.3 miles of rail line in New York, subject to conditions.

In *Soo Line Corporation—Control—Central Maine & Quebec Railway US Inc.*, Docket No. FD 36368, the Board authorized Soo Line Corporation to acquire control of Central Maine & Quebec Railway US Inc., subject to employee protective conditions.

In *BNSF Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company*, Docket No. FD 36377 (Sub-No. 1), the Board authorized the expiration of certain Board-approved rights by BNSF Railway Company to operate over the lines of Union Pacific Railroad Company, even though such rights typically continue indefinitely.

In *Trans Rail Holding Company—Acquisition of Control Exemption—Vermont Railway, Inc., the Clarendon & Pittsford Railroad Company, Washington County Railroad Company, the New York & Ogdensburg Railway Company, Inc., & Green Mountain Railroad Corporation*, Docket No. FD 36390, the Board dismissed a petition for retroactive exemption because the transaction described in the petition was not subject to the Board's prior approval.

In *AAAHI Regional Acquisition LLC—Acquisition of Control—First Class Tours, Inc., & Sierra Stage Coaches, Inc.*, Docket No. MCF 21087, the Board tentatively approved and authorized, subject to the filing of opposing comments, AAAHI Regional Acquisition LLC's acquisition of control of two interstate passenger motor carriers.

In *Transportation Demand Management Holdings, LLC—Acquisition of Control—Badger Bus Transportation Group, Inc.*, Docket No. MCF 21088, the Board tentatively approved and authorized, subject to the filing of opposing comments, Transportation Demand Management Holdings, LLC's acquisition of control of Badger Bus Transportation Group, Inc., a noncarrier that controls, among other entities, an interstate and intrastate motor carrier.

In *Winthrop Sargent, John Cogliano, & Paul Fuerst—Acquisition of Control—Plymouth & Brockton Street Railway Company, Brush Hill Transportation Co., & McGinn Bus Co., Inc.*, Docket No. MCF 21089, the Board tentatively approved and granted, subject to the filing of opposing comments, after-the-fact authorization for applicants to acquire control of three motor carriers.

In *National Express LLC—Acquisition of Control—Premier Transportation, LLC*, Docket No. MCF 21091, the Board tentatively approved and authorized, subject to the filing of opposing comments, National Express LLC's acquisition of control of Premier Transportation, LLC.

Abandonments/Discontinuances

In *Union Pacific Railroad Company & Jackson County, Mo.—Abandonment Exemption—in Jackson County, Mo.*, Docket No. AB 33 (Sub-No. 342X), the Board allowed the abandonment of a 17.7-mile rail line in Jackson County, Mo., subject to environmental, trail use, and standard employee protective conditions.

In *CSX Transportation, Inc.—Abandonment Exemption—in Alachua County, Fla.*, Docket No. AB 55 (Sub-No. 718X), the Board granted an extension of the interim trail use negotiating period, and clarified that, in applying its recent rule change limiting the number of extensions, the Board will consider trail use negotiating periods cumulatively.

In *CSX Transportation, Inc.—Abandonment Exemption—Pinellas County, Fla.*, Docket No. AB 55 (Sub-No. 794X), the Board denied an appeal of a decision of the Director of the Office of Proceedings issuing a notice of interim trail use or abandonment.

In *Norfolk Southern Railway Company—Abandonment Exemption—in the City of Fort Wayne, Ind.*, Docket No. AB 290 (Sub-No. 406X), the Board allowed Norfolk Southern Railway Company to abandon an approximately 2.29-mile rail line in the City of Fort Wayne, Ind., subject to standard employee protective conditions.

In *Norfolk Southern Railway Company—Abandonment Exemption—in Hudson & Essex Counties, N.J.*, Docket No. AB 290 (Sub-No. 408X), the Board allowed Norfolk Southern Railway Company to abandon approximately 8.6 miles of rail line in Hudson and Essex Counties, N.J., subject to trail use, historic preservation, environmental, and standard employee protective conditions.

In *Kansas & Oklahoma Railroad, Inc.—Abandonment Exemption—in Hodgeman, Comanche, Kiowa, and Pratt Counties, KS*, Docket No. AB 853 (Sub-No. 1X), the Board denied a petition to reopen an earlier Board decision permitting negotiations for interim trail use on a rail line located in Kansas.

In *Sierra Northern Railway—Abandonment Exemption—in Yolo County, Cal.*, Docket No.

AB 874 (Sub-No. 1X), the Board permitted Sierra Northern Railway to abandon approximately 0.70 miles of rail line in Yolo County, Cal., subject to standard employee protective conditions.

In *Mission Mountain Railroad, L.L.C.—Discontinuance of Service Exemption—in Flathead County, Mont.*, Docket No. AB 1009 (Sub-No. 2X), the Board allowed Mission Mountain Railroad, L.L.C., to discontinue service over approximately 13.33 miles of rail line in Flathead County, Mont., subject to standard employee protective conditions.

In *Blacklands Railroad—Discontinuance of Service Exemption—in Hunt, Delta, Hopkins, Franklin & Titus Counties, Tex.*, Docket No. AB 1108 (Sub-No. 1X), the Board allowed the Blacklands Railroad to discontinue freight rail service over 65.59 miles of rail line owned by the Northeast Texas Rural Rail Transportation District and to discontinue trackage rights over 10.41 miles of rail line owned by Union Pacific Railroad Company.

In *Canonie Atlantic Co.—Abandonment Exemption—Hallwood to Cape Charles, Va.*, Docket No. AB 1266X, et al., the Board allowed Canonie Atlantic Co. to abandon, and Cassatt Management LLC d/b/a Bay Coast Railroad and Eastern Shore Railroad, Inc., to discontinue service over approximately 49.1 miles of rail line in Accomack and Northhampton Counties, Va., subject to conditions. In these dockets, the Board also denied an appeal of a decision by the Office of Proceedings denying a request to waive a filing fee.

In *Iowa Traction Railway Company—Discontinuance of Service Exemption—in Cerro Gordo County, Iowa*, Docket No. AB 1269 (Sub-No. 1X), the Board lifted the abeyance in the proceeding and allowed Iowa Traction Railway Company's notice of exemption to discontinue service to proceed. The Board also found that it cannot consider requests for interim trail use/rail banking for the line of railroad at issue because the line was previously abandoned and is no longer within the Board's jurisdiction.

In *Port of Benton, Wash.—Adverse Discontinuance of Rail Service—Tri-City Railroad Company, LLC*, Docket No. AB 1270, the Board granted the Port of Benton's application for "adverse" discontinuance of the operating authority of Tri-City Railroad Company, LLC, over a rail line in Richland, Wash.

In *Wisconsin Rapids Railroad, L.L.C.—Discontinuance of Service Exemption—in Wood County, Wis.*, Docket No. AB 1290X, et al., the Board allowed Wisconsin Rapids Railroad, L.L.C., to discontinue service over, and Wisconsin Central Ltd. to abandon, approximately 1.1 miles of rail line in Wood County, Wis., subject to standard employee protective conditions.

In *Alcoa Energy Services, Inc.—Abandonment Exemption—in Milam County, Tex.*, Docket No. AB 1291X, the Board allowed Alcoa Energy Services, Inc., to abandon approximately 6 miles of rail line in Milam County, Tex., subject to an environmental condition.

In *R.J. Corman Railroad Property, LLC—Abandonment Exemption—in Scott, Campbell, & Anderson Counties, Tenn.*, Docket No. AB 1296X, the Board denied an appeal of a decision of the Director of the Office of Proceedings rejecting the offer of financial assistance filed by Arkansas-Oklahoma Railroad Co.

Waybill Sample

In *Waybill Sample Reporting*, Docket No. EP 385 (Sub-No. 8), the Board proposed amendments in November 2019 to its Waybill Sample data collection regulations. In August 2020, the Board voted to amend these regulations by increasing the sampling rates of certain non-intermodal carload shipments, specifying separate sampling strata and rates for intermodal shipments, and eliminating the manual system for reporting waybill data. The final rule was issued on September 3, 2020.

In *Request for Waybill Access*, Docket No. WB 19-44 and *Request for Waybill Access*, Docket No. WB 20-23, the Board issued separate decisions denying appeals of rulings by the Director of the Office of Economics relating to access to the Confidential Carload Waybill Sample.

Uniform Railroad Costing System Update

URCS is the STB's general-purpose costing system that estimates unit costs and total variable costs of rail shipments. In FY 2020, the Board retained a contractor to evaluate the current URCS programming and applications and to provide guidance for the future state of its costing programs and applications. The Board is reviewing that report and planning for future action. In addition, the Board continues to explore alternatives to its existing costing methodology and has awarded a contract in support of this effort.

Environmental Review

As noted above, the Board considers environmental impacts in its decision-making process under NEPA and related laws and regulations. By preparing the requisite environmental reviews and inviting the public to participate in the Board's environmental review process, the Board, with the assistance of OEA, ensures its compliance with NEPA. The Board documents its NEPA findings by preparing EISs or EAs, which assess the potential environmental impacts that could result from Board decisions.

During FY 2020, OEA worked on 13 EISs and 29 EAs in rail projects, comprising rail line constructions and rail line abandonments. During FY 2020, 155 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 85-mile rail line to transport commodities from the Uinta Basin in Utah. The Board also served as a cooperating agency in four Federal environmental construction reviews in Maryland, Texas, Nevada, and California. The Board is monitoring environmental mitigation in two completed rail construction cases, one in Alaska and one in Texas.

Environmental Assessments

The EAs addressed five rail line constructions and 24 rail line abandonments. In addition, the Board has conducted oversight and monitoring for one joint-easement transaction 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 help parties informally 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 continued to engage the expertise of the Federal Mediation and Conciliation Service in FY 2020 to conduct Board-sponsored mediations with Board staff. This partnership has greatly enhanced the Board's mediation services offered to our stakeholders. In FY 2020, the Board held six mediations, two of which reached successful resolution, and two of which are ongoing.

Public Outreach and Informal Dispute Resolution

RCPA continues to provide shippers, carriers, state and local governments, and members of the public with an accessible and effective resource for resolving certain disputes 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 2020, RCPA handled 1,204 inquiries from stakeholders, of which 140 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 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 household goods moving trends and with the Federal Maritime Commission to discuss issues of common interest.

STB RCPA Inquiries FY 2020	
Commodity Group	**FY 2020**
Aggregates	1
Agricultural Products	53
Automobile	5
Chemicals	22
Coal	4
Construction Materials	3
Empty Freight Cars	1
Forest Products	2
Hazardous Waste/Radioactive Waste	3
High/Wide Loads	1
Household Goods	67
Industrial Products	36
Intermodal	8
Metals and Minerals	11
Municipal Waste	3
Not Specified by Shipper	15
Passenger	24
TIH	2
Other	11
N/A[a]	925
Unspecified	7
Total	1,204

[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 an underlying commodity is not at issue.

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 broader 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 2020, the OGC handled a variety of cases on behalf of the Board:

In a case involving a Norfolk Southern/Delaware & Hudson (D&H) acquisition transaction and a separate case involving D&H's discontinuance of nearby unused trackage rights, the Supreme Court denied the final petition for certiorari filed by Eric Strohmeyer, thereby leaving intact the Board's decisions allowing the matters to proceed. *Strohmeyer v. STB*, No. 18-1481 (U.S. Oct. 7, 2019).

In a case involving petitions to revoke acquisition and operation exemptions that were allegedly based on false and misleading information, the U.S. Court of Appeals for the District of Columbia Circuit set aside the Board's determination not to resolve certain issues arising under bankruptcy and state property law. The court found that the Board should have separately considered whether the information was misleading, without resolving the state law issues, and remanded for further proceedings before the Board. *Snohomish County, Wash. V. STB*, 954 F.3d 290 (D.C. Cir. 2020).

In a case involving rail fuel surcharges, the D.C. Circuit denied the Board's motion for summary affirmance of a decision terminating an advanced notice of proposed rulemaking proceeding after the Board members were unable to reach a consensus on whether and how to move forward. The court carried the Board's separate motion to dismiss forward to be considered by a "merits" panel. *W. Coal Traffic League v. STB*, No. 20-1058 (D.C. Cir. Filed July 8, 2020).

In multidistrict litigation involving allegations that certain carriers' rail fuel surcharges were coordinated in violation of Federal antitrust laws, the U.S. District Court for the District of Columbia invited the United States, including the Department of Justice (DOJ), the Federal Trade Commission (FTC), and the STB, to submit a statement regarding the interpretation and application of 49 U.S.C. § 10706(a)(3)(B)(ii). Lead counsel from the DOJ consulted with counsel from the Board, the FTC, and DOT in preparing the timely filed statement addressing the matter. *In Re Rail Fuel Surcharges Antitrust Litigation*, MDL Docket No. 1869, Misc. No. 07-0489 (D.D.C.).

In a case brought against the Board (and its individual members) involving a "quiet title" claim related to the conversion of a rail line to interim trail use under the National Trails System Act, the Board, along with the DOJ, filed a motion to dismiss on July 27, 2020. *Grames, et al. v. Sarasota County, Florida, et al.*, No. 8:20-cv-00739-CEH-CPT (M.D. Fla.).

The Board continued to assist the DOJ in the defense of numerous Fifth Amendment takings cases arising from the conversion or attempted conversion of rail lines to interim trail use under the National Trails System Act. *See*, *e.g.*, *Caquelin v. United States*, 959 F.3d 1360 (Fed. Cir. 2020); *Hardy v. United States*, No. 19-1793 (Fed. Cir.); *Butler v. United States*, No. 17-667L (Fed. Cl.); *Memmer v. United States*, No. 14-135L (Fed Cl.).

The Board continued to defend in court its decisions regarding BNSF Railway Company terminal trackage rights in *Kansas City Southern v. STB*, No. 16-1308 (D.C. Cir.), and in a second appeal filed in April 2020, *Kansas City Southern v. STB*, No. 20-1116 (D.C. Cir.). In the latter, the reviewing court granted the Board's motion to consolidate and hold both cases in abeyance pending the completion of the compensation-setting phase at the Board. Pursuant to the schedule proposed by the parties and adopted by the Board, the parties' evidentiary filings are due to the Board in 2021.

The OGC continued to work on 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, and the Evidence Act. It provided legal counsel on general personnel and ethics issues, motor carrier finance transactions, and government contracting, and participated in the Administrative Conference of the United States. The OGC also now houses the Board's Records Office, which manages the agency's compliance with the Federal Records Act and related authorities.

Advisory Committees

The Board has three transportation advisory councils, of which the Board members are ex-officio members.

Established under the ICC Termination Act of 1995, 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 railcar 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. Along with the Board members, the Secretary of Transportation is also an ex -officio member. RSTAC typically holds meetings quarterly; however, beginning in mid-March, as COVID-19 began to impact the U.S. economy and the transportation network, RSTAC members met virtually each week with the Board Members and the FRA Administrator to report on the status of rail service and operations. In July, those meetings began to be held bi-weekly.

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 typically holds meetings twice per year. During FY 2020, RETAC met on November 14, 2019, but its meeting scheduled for April 2020 was postponed due to COVID-19. RETAC met virtually on October 7, 2020.

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. Due to COVID-19, the NGCC meeting was held virtually on September 10, 2020.

Amtrak and Passenger Rail

During FY 2020, STB staff monitored National Railroad Passenger Corporation (Amtrak) performance through publicly available information and responded to informal inquiries about Amtrak. Agency staff also met regularly with Amtrak staff to discuss Amtrak's publicly available, monthly, on-time performance operating statistics. On March 31, 2020, FRA issued a notice of proposed rulemaking (NPRM) in Docket No. FRA-2019-0069, *Metrics and Minimum Standards for Intercity Passenger Rail Service*, proposing new regulations, pertaining to on-time performance and other issues, relevant to the Board's investigative authority over Amtrak pursuant to the Passenger Rail Investment and Improvement Act of 2008. The Board, through its Director of OPAGAC, participated in a public telephonic hearing before the FRA on April 30, 2020, and the Board submitted written comments on the NPRM on June 1, 2020.

The Board issued decisions on the following 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 extended Board-sponsored mediation through January 10, 2020, in an effort to establish reasonable terms and compensation for Amtrak's use of the Illinois Central Railroad Company and Grand Trunk Western Railroad Company's (subsidiaries of CN) facilities and services. As no settlement was reached, the formal adjudication remains pending, with the Board awaiting a proposed procedural schedule from the parties for briefing on the outstanding issues.

In *Petition By National Railroad Passenger Corporation for Proceedings Under 49 U.S.C. § 24903(c)(2)*, Docket No. FD 36332, the Board granted a request by Amtrak and the Northeast Illinois Regional Commuter Railroad Corporation and the Commuter Rail Division of the Regional Transportation Authority (collectively known as Metra) for Board-sponsored mediation on July 6, 2020. The mediation is ongoing.

Workload Summary

Workload Category	FY 2020 Actual	FY 2021 Estimate	FY 2022 Estimate
Alternative Dispute Resolution			
Arbitrations	0	0	0
Informal Dispute Resolution	140	180	180
Mediations	6	5	5
Audits	9	7	8
Decisions			
Complaints			
Rate	0	15	17
Non-Rate	31	33	33
Declaratory Orders	33	50	55
Ex Parte Proceeding Decisions			
Rulemakings	32	19	16
Other	25	24	24
Licensing			
Applications/Petitions	70	65	68
Notices of Exemption	156	185	200
Other (incl. Grant Stamps)	40	50	50
Non-Rail Decisions	4	7	7
Other	28	23	23
Defensibility Assessments	139	140	140
Depreciation Studies	10	10	10
Economic Statistical Reports	5	5	5
Environmental			
Categorical Exclusions	155	145	145
Environmental Assessments	29	32	32
Environmental Impact Statements	13	10	10

Ethics Reviews	145	149	145
Fee Waiver Determinations	9	12	12
Advisory Committee Meetings (incl. Federal Advisory Committee Act Committees)	21	8	8
Filings	1,552	1,900	2,000
FOIA Requests	29	35	40
Investigations (pursuant to 49 U.S.C. § 11701)	0	0	1
Judicial Review	6	10	10
Outreach & Communication			
Conferences	21	20	20
Environmental Meetings	32	35	35
Ex Parte Meetings	29	10	20
Stakeholder Meetings	261	200	200
Public Forum			
Hearings	1	1	1
Listening Sessions	0	0	1
Oral Arguments	0	0	1
Other	0	0	0
Rail Service Data Reports	384	384	384
Recordations	1,353	1,450	1,550
Section 5 Collaborative Discussions	34	36	36
Technical Conferences	2	2	2
Waybill Requests	102	95	95
Paperwork Reduction Act Requests and Submissions to OMB	29	20	22

FY 2020 Administrative Accomplishments

Information Technology

During FY 2020, the STB continued working to implement a cost-effective, risk-based cybersecurity program that is aligned with the National Institute of Standards and Technology security standards and guidelines. The Board's Federal Information Security Modernization Act (FISMA) security level continued to be "Defined," with one additional FISMA Function moving from "Ad Hoc" to "Defined," and the Board continued to make incremental progress to the next security level. The FY 2017 FISMA audit recommendations have been addressed and closed, two FY 2018 audit recommendations remain open (work addressing the two recommendations should be completed by the end of 2020), and no audit recommendations were issued in FY 2019. Six new recommendations were issued in the recent FY 2020 audit, which the Board plans to timely address.

In FY 2020, the Board continued to strengthen its cybersecurity posture by investing in new technologies, processes, and capabilities to meet FISMA requirements and OMB regulations, as well as the current needs of its IT modernization efforts. The STB continues to leverage resources of the Department of Homeland Security Continuous Diagnostics and Mitigation Program as it automates its continuous security monitoring of the STB's network. The Board also strengthened its Privacy Program by formalizing its privacy policies, procedures, and assessments.

The benefits of the Board's ongoing IT modernization efforts were evident as the agency successfully transitioned to mandatory teleworking in early response to COVID-19. Staff was able to work remotely using STB-issued laptops with no loss in productivity. Without the investments in the Board's IT architecture and infrastructure, such a seamless transition would not have been possible.

The Board also continues to mature its internal risk management process and procedure controls. At least once per quarter, the Board's Risk Management Committee meets to assess organizational risk and identify ways to mitigate that risk. At least once per year, the Board reviews and updates its Risk Profile to ensure enterprise risk is considered and addressed.

In November 2019, the Board launched a redesigned website and updated electronic filing system. The enhanced look, organization, and functionality of the website has provided an easier and more intuitive user experience. The Board made several improvements to its electronic filing system to make it more convenient and accessible to its stakeholders. Additional features will be added to the website, including optimization of the website for mobile viewing, further integration with the STB's case management system, and additional

Section 508 compliance-related enhancements.

Internally, the Board's IT has continued its efforts to better prioritize IT projects over both the short and long term by working with each office to determine needs and level of involvement to integrate into the STB's IT environment. Through surveys of Board staff, it has been shown that the continued transformation efforts are effective and benefiting the agency as it further modernizes its systems and processes.

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 continues leveraging the resources of 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.

With respect to recruiting activities, Human Resources continued its efforts to improve the turnaround time for reviewing application packages and working with hiring managers to developing their position descriptions. This was particularly beneficial to the agency given the active recruiting this year, filling 8 vacancies during FY 2020.

Human Resources played an important role during COVID-19. Human Resources facilitated virtual on- and off-boarding of staff as well as providing useful information regarding pay, leave, and other resources to Board staff as they adjusted to 100% telework.

Facilities

During FY 2020, the Board continued its renovation of the hearing room and addressed needs of staff in the Board's space. As result of COVID-19, the Board requested that all filings and other submissions be submitted electronically, and the facilities staff ensured that notice of all Board decisions were made by mail to those who did not consent to electronic filing. Facilities staff efficiently made changes to and continued the maintenance of the STB's space to ensure that necessary safety precautions were taken for staff that came onsite in a reduced capacity.

Financial Services

The Section of Financial Services completed its transition to ESC's Delphi eInvoicing System. This system improved efficiency and data transparency by reducing the time between invoice submission and payment and by providing users with accurate invoice status reporting capabilities.

As part of its response to recommendations contained in the auditor's unmodified FY 2019 financial statement audit opinion, Financial Services designed and implemented new internal controls (e.g., timelines and checklists). These new internal controls have been effective in ensuring timely and accurate submissions of its financial reporting requirements.

Financial Services collaborated with all STB offices to ensure large and small procurements were processed and met agency needs. The Board partnered with General Services Administration's Centers of Excellence (GSA-COE) through an interagency agreement to ensure the STB's compliance with the Evidence Act. The Board engaged in a contracting effort for assistance in exploring an alternative to URCS. In addition, Financial Services ensured that necessary IT contracts were awarded, and that the Board obtained supplies necessary for the safety of staff in response to COVID-19.

Financial Services developed, justified, and presented the FY 2021 budget request estimates for approval by the Board and submission to Congress, and the submission of the FY 2022 budget request estimates to OMB and Congress, as well as prepared the required external financial statements for Congress, OMB, Treasury, and external stakeholders.

Finally, Financial Services identified a cost-effective solution to address an aspect of the Board's need to mature its Enterprise Risk Management program. The Board will partner with another Federal agency to leverage a risk management resource already developed by that agency. This solution is expected to be implemented in FY 2021.

Evidence Act

Pursuant to the *Foundations for Evidence-Based Policymaking Act of 2018,* the Board formalized its Data Governance Body charter in FY 2020. The Data Governance Body is chaired by the Chief Data Officer and is charged with recommending and enforcing priorities for managing data as a strategic asset to meet the STB's mission. In addition, the Board, with the assistance of GSA-COE, will evaluate its data and analytics maturity and develop a data strategy that will enable it to meet its mission more efficiently and effectively.

Financial Information

Financial Performance Overview

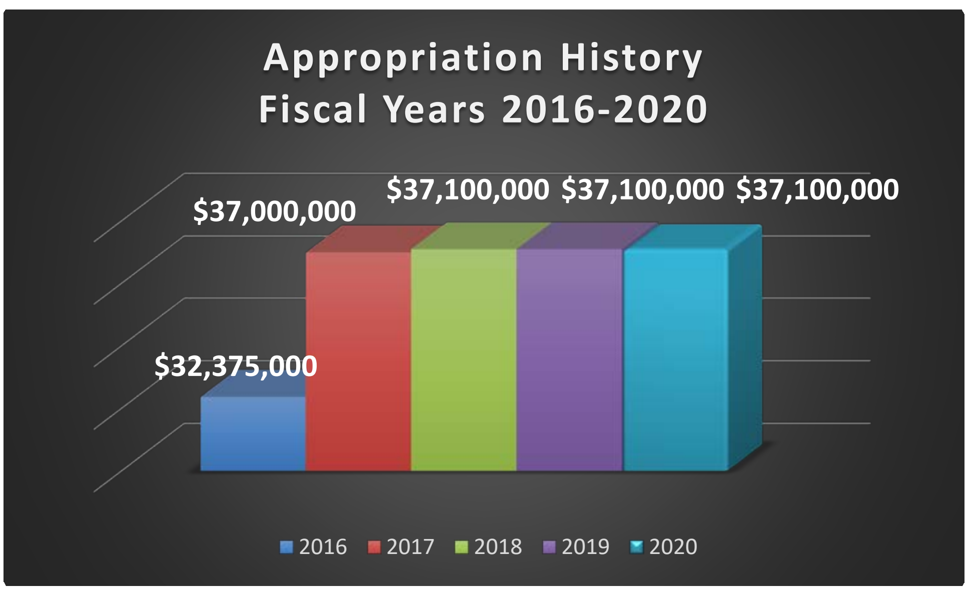
The STB's financial condition as of September 30, 2020, is sound. Internal controls are in place to ensure that funds are utilized efficiently and effectively, and that the Board's budget authority is not exceeded.

COVID-19

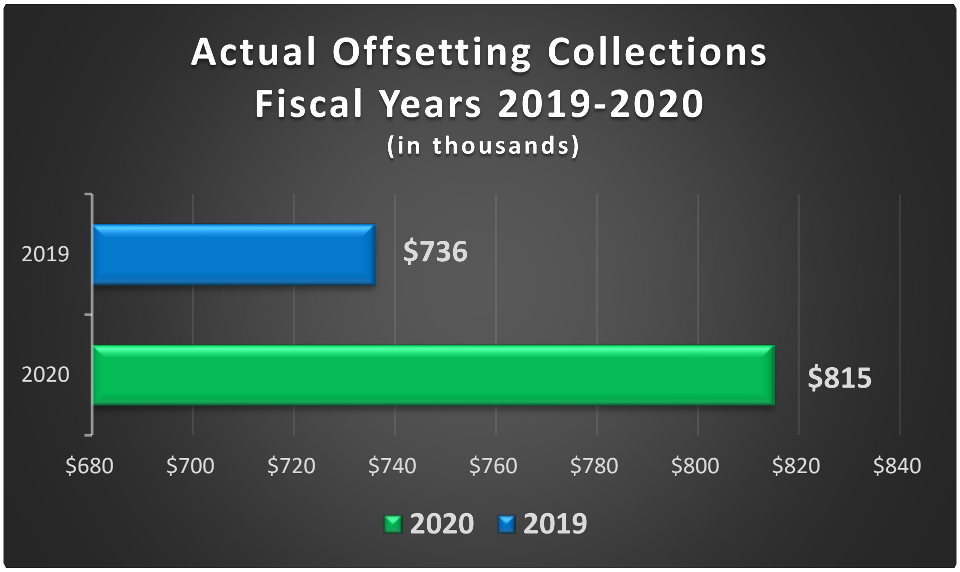
The financial impact of COVID-19 to the Board was not significant, and the Board did not receive any additional budgetary resources in support of its response. The STB instead used available resources to ensure staff safety when onsite and to enable staff to work remotely.

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 an FY 2020 appropriation for the STB in the amount of $37,100,000 through Pub. L. No. 116-94, which is the same level funding as the FY 2019 final appropriation level.

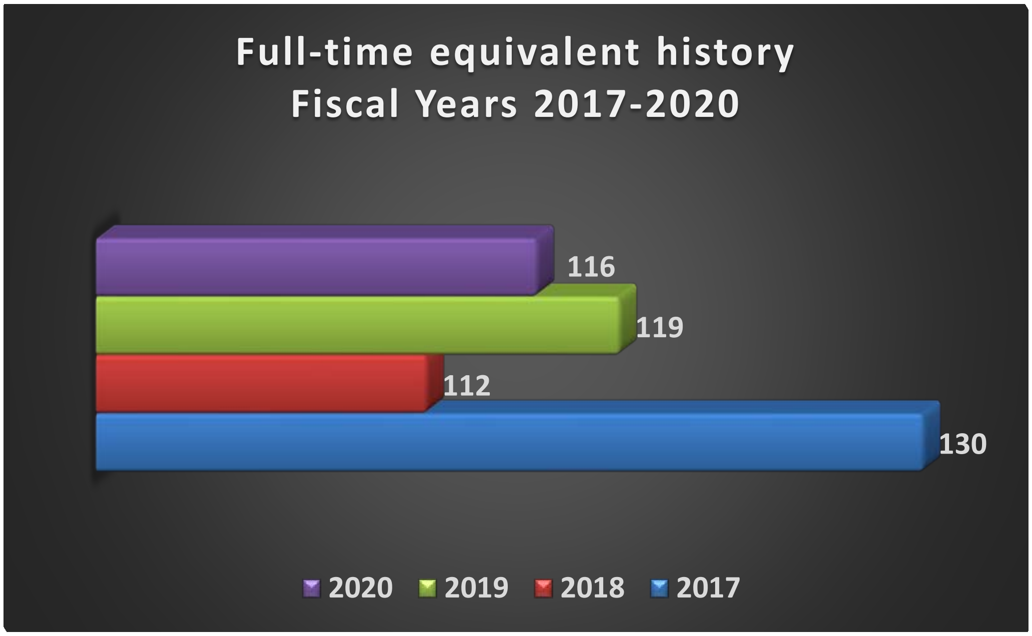


In accordance with the annual appropriations measures, the STB currently offsets up to $1,250,000 in remittances for user fees and penalties. The user fees and penalties are credited to the STB's appropriation and deposited at the Treasury for the STB operations.



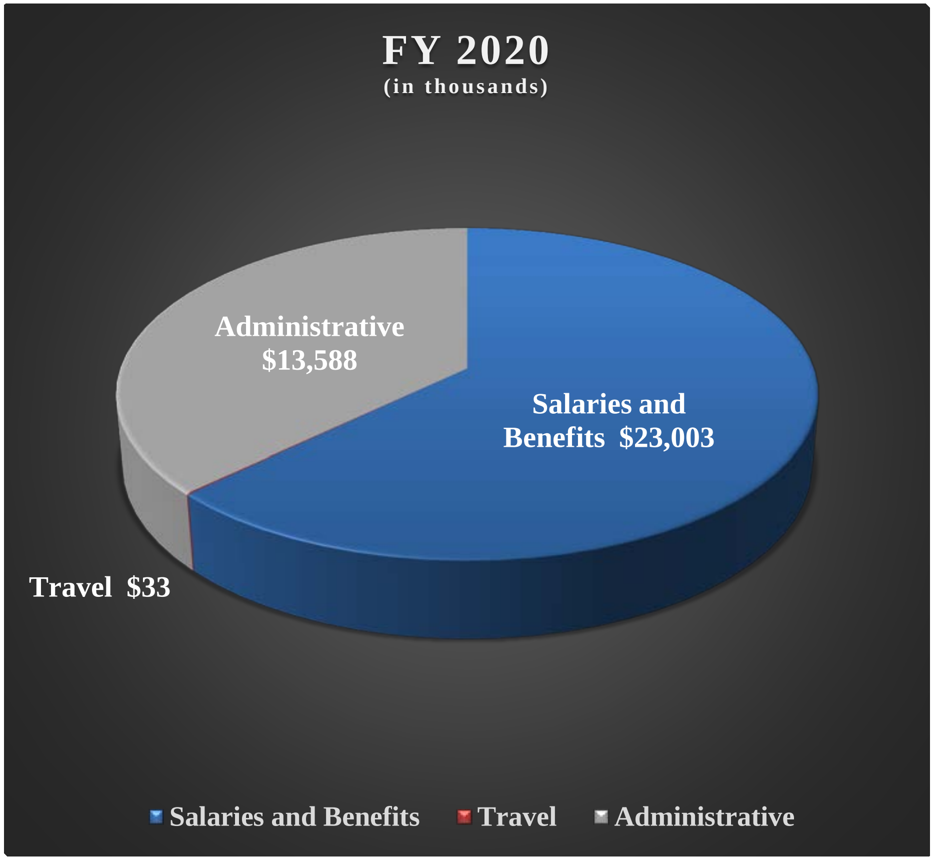
Full-Time Equivalent History

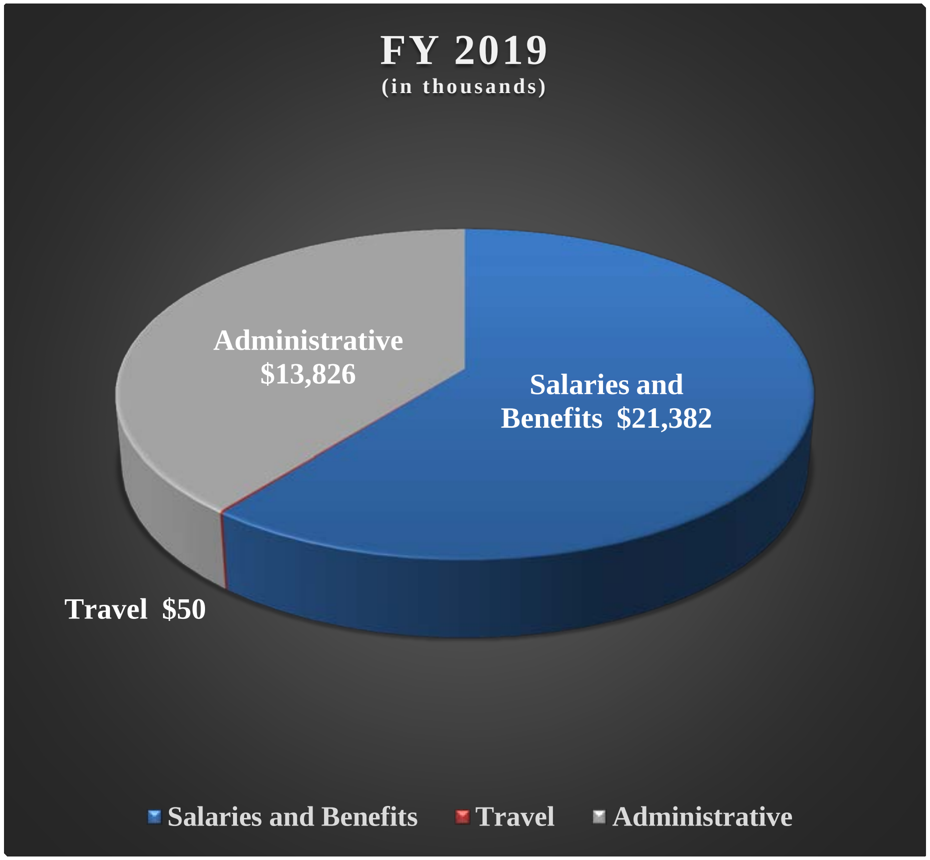
The STB's Full-Time Equivalent (FTE) level is largely driven by its annual appropriation amount. During FY 2020, three of five Board member positions were filled. There were also several retirements and separations in FY 2020, resulting in a lower than projected FTE level. The STB continues to develop an appropriate mix of staffing and contractor support to ensure effective accomplishment of its mission.



Uses of Funds by Expense Category

During FY 2020, obligations against the STB's appropriation totaled $36.6 million, representing 98.6% of the available funding level. The funds were allocated as follows: 62.0% for salaries and benefits, 36.6% 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 the DOT OIG. The STB received an unmodified opinion on its FY 2020 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 generally accepted accounting principles 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 2020, the STB's balance sheet showed total assets of $21.6 million, a decrease of $0.14 million from FY 2019. This was due to decreases in the Fund Balance with Treasury of $0.26 million and in Property, Plant, and Equipment of $0.41 million.

Liabilities: At the end of FY 2020, the Board's total liabilities were $7.0 million, a decrease of $0.23 million from FY 2019. The change is due to decreases in accounts payable.

Net Position: The Board's net position on the Balance Sheet and the Statement of Changes in Net Position at the end of FY 2020 was $14.6 million, a decrease of $0.1 million from FY 2019.

Summary of the Statement of Net Cost

The STB's net cost of operations for FY 2020 was $37.1 million, an increase of $1.9 million over FY 2019. The increase in net cost of operations was primarily due to the increased costs of salaries and benefits in FY 2020.

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 2020, total budgetary resources were $45.5 million. This represents an increase of $1.3 million over the FY 2019 total budgetary resources of $44.2 million. The total user fees collected in FY 2020 were $815,365 and in FY 2019 were $736,289.

Additionally, new obligations and adjustments were $36.7 million and net outlays totaled $36.6 million in FY 2020. This represents an increase in direct obligations of $0.5 million and an increase in net outlays of $4.4 over FY 2019.

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 2020 and 2019

Report No. QC2021006

November 13, 2020

Quality Control Review of the Independent Auditor's Report on the Surface Transportation Board's Audited Financial Statements for Fiscal Years 2020 and 2019

Required by the Accountability of Tax Dollars Act of 2002

QC2021006 | November 13, 2020

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, 2020, and September 30, 2019, provide an opinion on those financial statements, and report on internal control over financial reporting, and report on 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 Government Accountability Office's and Council of the Inspectors General on Integrity and Efficiency's *Financial Audit Manual*. We performed a quality control review of Leon Snead's report dated November 6, 2020, 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

Leon Snead made no recommendations.

U.S. Department of Transportation

Office of Inspector General
Washington, DC

November 13, 2020

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 2020 and 2019.

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, 2020, and September 30, 2019, provide an opinion on those financial statements, and report on internal control over financial reporting, and report on 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 Government 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 STB's financial statements for fiscal years 2020 and 2019, 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 and GAO-18-625G, updated April 2020; GAO-18-626G, June 2018.
[2] The financial statements are included in STB's Performance and Accountability Report (see attachment 3).

- it found no material weakness[3] in internal control over financial reporting based on the limited procedures performed; and
- there were no instances of reportable noncompliance with provisions of laws tested, or reportable other matters.

Leon Snead made no recommendations (see attachment 1).

Quality Control Review

We performed a QCR of Leon Snead's report dated November 6, 2020, 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, compliance with laws, or 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

Leon Snead provided STB with its draft report on November 3, 2020, and received STB's response dated November 6, 2020 (see attachment 2).

Actions Required

Because Leon Snead made no recommendations, a response to this report is not required.

[3] A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, 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 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.

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 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, 2020 and 2019

Submitted By

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

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LEON SNEAD
& COMPANY, P.C.

Certified Public Accountants
& Management Consultants

416 Hungerford Drive, Suite 400
Rockville, Maryland 20850
301-738-8190
Fax: 301-738-8210
leonsnead.companypc@erols.com

Independent Auditor's Report

CHAIRMAN, SURFACE TRANSPORTATION BOARD
ACTING INSPECTOR GENERAL, DEPARTMENT OF TRANSPORTATION

We have audited the accompanying financial statements of the Surface Transportation Board (STB), which comprise the balance sheets as of September 30, 2020 and 2019, 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. However, during our audit, we did not identify a weakness in internal control over financial reporting that we consider to be a material weakness.

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, 2020, and 2019, 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, 2020 and 2019, 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), who 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, 2020 and 2019, 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.

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.

<u>Restricted Use Relating to Reports on Internal Control and Compliance</u>

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 agency, in a response, dated November 6, 2020, agreed with the audit report, and noted that the Board's efforts to mature financial operations had been successful. The agency'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, P.C.
Rockville, MD
November 6, 2020

Actions Taken on Prior Year's Audit Recommendation

Recommendation Number	Recommendation	Status
1	Ensure that year-end schedules are updated to allow sufficient timeframes to accomplish STB established internal control processes in an effective manner.	Closed
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.	Closed
3	Reject financial statements and related supporting documentation when the accounting service provider submits incomplete or inaccurate data.	Closed

Attachment 2. Agency Response

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

November 6, 2020

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

Re: Fiscal Year 2020 Financial Statement Audit Report

Dear Mr. Snead:

Thank you for the opportunity to provide comments to the Fiscal Year 2020 Financial Statement audit report, "Surface Transportation Board Audit of Financial Statements As of and for the Years Ended September 30, 2020 and 2019".

The Surface Transportation Board (STB or Board) agrees with the conclusions made in the report and is pleased that its efforts to mature the Board's financial program, including increased collaboration between the Board and the Department of Transportation (DOT) Enterprise Service Center, have been successful. The STB would like to thank Leon Snead & Company, P.C., DOT Office of the Inspector General, and the Board's shared service providers for their hard work and dedication throughout the year.

Sincerely,

ADIL GULAMALI Digitally signed by ADIL GULAMALI
Date: 2020.11.06 11:58:23 -05'00'

Adil Gulamali
Chief Financial Officer

Principal Financial Statements

Surface Transportation Board

BALANCE SHEETS

As of September 30, 2020 and 2019 (in thousands)

		2020		2019
Assets:				
Intragovernmental:				
Fund Balance with Treasury (Note 2)	$	17,807	$	18,071
Other (Note 4)		2,231		1,700
Total Intragovernmental		20,038		19,771
Assets with the Public				
Accounts Receivable, Net (Note 3)		1		2
General Property, Plant, and Equipment, Net (Note 5)		1,573		1,980
Total Assets	**$**	**21,612**	**$**	**21,753**
Liabilities:				
Intragovernmental:				
Accounts Payable	$	843	$	1,362
Other		461		452
Total Intragovernmental		1,304		1,814
Liabilities with the Public:				
Accounts Payable		818		1,034
Federal Employee and Veteran Benefits (Note 6)		493		350
Other (Notes 7)		4,403		4,046
Total Liabilities	**$**	**7,018**	**$**	**7,244**
Net position:				
Unexpended Appropriations	$	17,275	$	16,462
Cumulative Results of Operations		(2,681)		(1,953)
Total Net Position		14,594		14,509
Total Liabilities and Net Position	**$**	**21,612**	**$**	**21,753**

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

Surface Transportation Board

Statements of Net Cost

As of September 30, 2020 and 2019 (in thousands)

	2020	2019
Program Costs:		
Program A:		
Gross Costs	$ 37,942	$ 36,070
Less: Earned Revenue	815	734
Net Program Costs	37,127	35,336
Net program expenses including Assumption changes	37,127	35,336
Net Cost of Operations (Note 12)	**$ 37,127**	**$ 35,336**

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

Surface Transportation Board

Statements of Changes in Net Position

As of September 30, 2020 and 2019 (in thousands)

	2020	2019
Unexpended Appropriations:		
Beginning Balances	$ 16,463	$ 14,320
Adjustments: (+/-)	-	-
Beginning Balances, As Adjusted	16,463	14,320
Appropriations received	36,286	36,364
Appropriations used	(35,473)	(34,222)
Total Budgetary Financing Sources	812	2,142
Total Unexpended Appropriations	17,275	16,462
Cumulative Results from Operations:		
Beginning Balances	(1,953)	(1,810)
Adjustments: (+/-)	-	-
Beginning balances, as adjusted	(1,953)	(1,810)
Budgetary Financing Sources:		
Appropriations Used	35,473	34,222
Other Financing Sources (Nonexchange):		
Imputed Financing	926	970
Total Financing Sources	36,399	35,192
Net Cost of Operations (+/-)	37,127	35,336
Net Change	(728)	(144)
Cumulative Results of Operations	(2,681)	(1,953)
Net Position	**$ 14,594**	**$ 14,509**

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

Surface Transportation Board

Statements of Budgetary Resources

As of September 30, 2020 and 2019 (in thousands)

	2020	2019
Budgetary Resources		
Unobligated balance from prior year budget authority	$ 8,425	$ 7,161
Appropriations	36,286	36,364
Spending authority from offsetting collections	815	736
Total budgetary resources	$ 45,526	$ 44,261
Status of Budgetary Resources		
New obligations and upward adjustments (total)	$ 36,686	$ 36,179
Unobligated balance, end of year:		
Apportioned unexpired accounts	$ 477	$ 1,842
Unexpired unobligated balance, end of year	477	1,842
Expired unobligated balance, end of year	8,363	6,240
Unobligated balance, end of year (total)	8,839	8,083
Total budgetary resources	45,526	44,261
Outlays, net:		
Outlays, net	$ 36,550	$ 32,158
Agency outlays, net	$ 36,550	$ 32,157

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

Note 1. Significant Accounting Policies

A. Reporting Entity

The Surface Transportation Board (STB, Board, or agency) exercises its statutory authority and resolves disputes in support of an efficient, competitive, and economically viable surface transportation network that meets the needs of its users. The STB is primarily charged with the economic oversight of the Nation's freight rail system. The bipartisan Board was established in 1996 as the successor to the Interstate Commerce Commission. The Board was administratively aligned with the Department of Transportation (DOT) until enactment of the Surface Transportation Board Reauthorization Act of 2015 (STB Reauthorization Act), Public Law No. 114-110, which established the Board as a fully independent agency on December 18, 2015.

The STB is authorized to have five Board Members, one of which serves as the Chairman. The STB staff is divided into six offices, in addition to an Equal Employment Opportunity office.

B. Basis of Presentation

The financial statements have been prepared from our accounting records in conformity with generally accepted accounting principles for Federal entities, and Office of Management and Budget (OMB) Circular No. A-136, Financial Reporting Requirements, as revised. Accounting principles generally accepted for Federal entities are the standards prescribed by the Federal Accounting Standards Advisory Board (FASAB). The American Institute of Certified Public Accountants recognizes FASAB as the official accounting standards setting body for the U.S. government. 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

The STB transactions are recorded in accordance with an accrual basis of accounting and a budgetary basis of accounting. The 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. The STB's use of budgetary accounting facilitates compliance with legal requirements on the use of Federal funds.

D. Fund Balance with Treasury

The 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, 2020, includes furniture, equipment, and leasehold improvements. The STB leases its office space via a new Occupancy Agreement (OA) with General Services Administration (GSA), which became effective on February 23, 2019, and ends on February 22, 2034. The work completed for the new OA resulted in the Board recognizing 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/AV 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 advances with other Federal agencies that require funds be provided 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 fiscal year which are not paid until the next fiscal year.

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 (except Board members) 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).

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 2020, 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, 2020 and 2019 (in thousands) were as follows:

Fund Balance with Treasury		2020		2019
Status of Fund Balance with Treasury				
Unobligated Balance				
Unobligated balance available in the current period	$	477	$	1,842
Unavailable		8,363		6,239
Obligated balance not yet disbursed		8,967		9,989
Total	$	**17,807**	$	**18,071**

Note 3. Accounts Receivable

The STB's Accounts Receivable is primarily made up of debts due to the Board from current and former STB staff for payroll or other related items. The STB updated its procedures and closed all its credit accounts. Historical experience indicates that the majority of the receivables are collectible. There are no material uncollectible accounts as of September 30, 2020 and 2019.

STB's accounts receivable balances as of September 30, 2020 and 2019 (in thousands) were the following:

Accounts Receivable		2020		2019
Total Public	$	1	$	2
Total Receivables	$	**1**	$	**2**

Note 4. Other Assets

STB's Other Assets as of September 30, 2020 and 2019 (in thousands) were as follows:

Other Assets		2020		2019
Intragovernmental				
Advances and Prepayments	**$**	2,231	**$**	1,700
Total Intragovernmental Other Assets	**$**	**2,231**	**$**	1,700
Total Other Assets	**$**	**2,231**	**$**	1,700

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, 2020 and 2019 (in thousands), respectively:

Property, Plant, and Equipment as of September 30, 2020

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	349	$ 1,053
Equipment	S/L	$ 50,000	3	$ 328	$ 109	$ 218
Leasehold Improvements	S/L	$ 50,000	5	$ 440	140	$ 301
Total				**$ 2,170**	**$ 598**	**$ 1,572**

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

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				**$ 2,101**	**$ 121**	**$ 1,980**

Note 6. Liabilities Not Covered by Budgetary Resources

STB's Liabilities as of September 30, 2020 and 2019 (in thousands) were the following:

Liabilities Not Covered by Budgetary Resources	2020	2019
Intragovernmental		
Unfunded FECA liability	$ 112	$ 146
Unfunded Employment Related Liability	109	120
Total Intragovernmental	$ 221	$ 266
Public (Non-Federal):		
Federal Employee and Veterans' Benefits Payable	$ 493	$ 349
Accrued Pay and Benefits	1,914	1,571
Other (Non-Federal) Liabilities	1,628	1,748
Total Public	$ 4,035	$ 3,668
Total liabilities not covered by budgetary resources	$ 4,256	$ 3,935
Total liabilities covered by budgetary resources	$ 2,762	$ 3,309
Total Liabilities	**$ 7,018**	**$ 7,244**

Note 7. Other Liabilities

STB's Other Liabilities as of September 30, 2020 and 2019 (in thousands) were the following:

Other Liabilities	Non-Current Liabilities	Current Liabilities	2020
Intragovernmental			
Covered by Budgetary Resources:			
Accrued Pay and Benefits	-	$240	$ 240
Total Intragovernmental Covered by Budgetary Resources	**-**	**$240**	**$ 240**
Not Covered by Budgetary Resources:			
FECA			
2019 Bill (Non-Current)	$39	-	$ 39

2018 Bill (Current)	-	$69	69
Quarter of FY 2019 (Non-Current)	4	- $	4
Total FECA Liabilities	43	69 $	112
Unfunded Employment Related Liability	-	109 $	109
Total Intragovernmental Not Covered by Budgetary Resources	43	178	221
Total Intragovernmental Other Liabilities	43	417 $	460
Public:			
Covered by Budgetary Resources:			
Accrued Pay and Benefits	-	861	861
Total Public Covered by Budgetary	-	**861** $	**861**
Not Covered by Budgetary Resources:			
Accrued Pay and Benefits	-	1,914	1,914
Total Public Not Covered by Budgetary	-	**$3,542** $	**3,542**
Total Public Other Liabilities	**-**	**$4,403 $**	**4,403**

Note 7. Other Liabilities (cont.)

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 8. Leases

The STB has a cancellable operating lease for its headquarters building via an operating agreement (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 $3.1 and $3.6 million, respectively, for FY's 2020 and 2019.

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

Fiscal Year		
2021	$	3,014
2022	$	3,014
2023	$	3,014
2024	$	3,014
2025	$	3,014
Thereafter (2026-2034)	$	25,616
Total Future Minimum Lease Payments	**$**	**40,686**

Note 9. Budgetary Resources

STB Budgetary Resources as of September 30, 2020 and 2019 (in thousands) are:

Budgetary Resources	Direct	Reimbursable	**2020**
Category A	$1	-	$ 1
Category B	36,685	-	**$** 36,685
Total	**$36,686**	**-**	**$ 36,686**

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

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

The reconciliation for the year ended September 30, 2019, is presented in the following table. The reconciliation for the fiscal year ended September 30, 2020, is not presented, because the submission of the Budget of the United States (Budget) for FY 2021, which presents the execution of the FY 2020 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 is expected to be available in February 2021.

(Dollars in Millions)

Surface Transportation Board	Budgetary Resources	New Obligations& Upward Adjustments (Total)	Distributed Offsetting Receipts	Net Outlays
Combined Statement of Budgetary Resources	45	37	-	32
Difference #1-- Expired Funds	-8	-1	-	-
Difference #2—Rounding	-	-1	-	1
Budget of the U.S. Government	**37**	**35**	**-**	**33**

Note 11. Undelivered Orders at End of Period

STB's Undelivered Orders at the end of September 30, 2020 and 2019 (in thousands) is:

Undelivered Orders	**2020**	**2019**
Intragovernmental Undelivered Orders, Unpaid at the end of the period	$ 3,024	$ 3,370
Public Undelivered Orders, Unpaid at the end of the period	$ 3,182	$ 3,310
Intragovernmental Undelivered Orders, Paid at the end of the period	**$ 2,231**	**$ 1,701**

Note 12. BUDGET AND ACCRUAL RECONCILIATION

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 STB's Budget and Accrual Reconciliation as of September 30, 2020, and 2019 (in thousands) is:

		Intra-governm	With the Public		Total 2020
Net Cost	$	12,418	24,709	$	37,127
Components of Net Cost That Are Not Part of Net Outlays:					
Property, plant, and equipment depreciation	$		(476)	$	(476)
Increase/(decrease) in assets:					
Accounts receivable	$	-	(2)	$	(2)
Advances, Prepayments and Other Assets	$	531	-	$	531
(Increase)/decrease in liabilities:					
Accounts payable	$	519	216	$	735
Federal Employees Benefits Payable	$	-	(144)	$	(144)
Other liabilities (Unfunded leave, unfunded FECA, actuarial FECA)	$	(9)	(356)	$	(364)
Other financing sources**:**					
Federal employee retirement benefit costs paid by OPM and imputed to the agency	$	(926)	-		(926)
Total Components of Net Operating Cost Not Part of the Budget Outlays	**$**	**115**	**(761)**	**$**	**(646)**
Components of the Budget Outlays That Are Not Part of Net Operating Cost:					
Acquisition of capital assets	$	1,402	(1,332)	$	70
Other	$	-	-	$	-
Total Components of Net Outlays That Are Not Part of Net Cost	**$**	**1,402**	**1,332**	**$**	**70**
Net Outlays	**$**	**13,935**	**22,615**	**$**	**36,550**

		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 2020 appropriated funding for the program is $37.1 million. All 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 2020, the STB Federal and non-Federal payment was $12.4 million, and payroll was $23.0 million for a combined total of $35.4 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 2020 for significant improper payment reporting.

In addition, the following risk factors, likely to contribute to improper payments, were applied to the STB's appropriated funds.

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

In FY 2020, no improper payments were discovered during annual internal control testing. The STB will continue evaluating its programs based on these risk 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[4]	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

[4] 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.

Authorization Act of 2002. IPERA requires agencies to conduct recovery audits with respect 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 (in the case of 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 2020.

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 2020.

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 U.S. Government Accountability Office (GAO) Standards for Internal Control in the Federal Government call for agencies to adhere to leading practices for managing fraud risk. Standards 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 2020, the STB completed its training of contracting officer representatives and government purchase cardholders to ensure they were all properly trained. 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.

Reduce the Footprint

The STB does not have any real property. The STB has an Operating Agreement with GSA for its leased space, 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's headquarters for a total of 63,825 square feet in Patriots Plaza, representing a reduction of 10,464 square feet in office space. The lease took effect in February 2019.

Reduce the Footprint Policy Baseline Comparison	FY 2015 (Baseline)	FY 2020	Change (FY 2015 Baseline – FY 2020)
Square Footage	74,289	63,825	(10,464)

Reporting of O & M Cost – Owned and Direct Lease Buildings	FY 2015 Reported Cost	FY 2020 Reported Cost	Change in Baseline 2015-2020
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 July 28, 2020, and the new user fee rates took effect on September 3, 2020.

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—2020 Adjustment*, Docket No. EP 716 (Sub-No. 5), issued a final rule to adjust its existing civil monetary penalties for inflation for 2020. 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/2020/01/08/2020-00089/civil-monetary-penalties-2020-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	2020	$8,128
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	2020	$813
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 11901(b)	For each day violation continues.	1995	2020	$42
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	2020	$8,128
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	2020	$162-813

Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 11901(d)	For each day violation continues.	1995	2020	$81
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	2020	$813
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	2020	$162
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	2020	$162
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	2020	$1,112
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	2020	$11,125
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	2020	$27,813
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	2020	$22,251-$44,501

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	2020	$1,625
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	2020	$16,258
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	2020	$40,640
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	2020	$3,251
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	2020	$8,128
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	2020	$162,568
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	2020	$325
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14904(a)	For all subsequent violations.	1995	2020	$407

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	2020	$813
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	2020	$3,251
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	2020	$813
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	2020	$3,251
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	2020	$16,258
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	2020	$2,226
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	2020	$5,562
Interstate Commerce Act, as amended by the ICC Termination Act of 1995	49 U.S.C. 14907	Maximum penalty for recordkeeping/reporting violations.	1995	2020	$8,128

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	2020	$3,251
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	2020	$813
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	2020	$12,919
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	2020	$11,125
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	2020	$8,128
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	2020	$813
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	2020	$162
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	2020	$162
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	2020	$1,625

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