Office of Inspector General

Audit Report

QUALITY CONTROL REVIEW OF AUDITED FINANCIAL STATEMENTS FOR FISCAL YEAR 2016

Surface Transportation Board

Report Number: QC-2017-010

Date Issued: November 10, 2016

U.S. Department of Transportation
Office of the Secretary of Transportation

Office of Inspector General
Washington, DC 20590

November 10, 2016

The Honorable Daniel R. Elliott, III
Chairman
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Dear Chairman Elliott:

I respectfully submit our report on the quality control review (QCR) of the Surface Transportation Board's (STB) financial statement audit for fiscal year 2016. Prior to fiscal year 2016, STB's financial data were consolidated with the Department of Transportation's (DOT) financial statements. STB became independent of DOT on December 18, 2015, when the President signed the Surface Transportation Board Reauthorization Act of 2015 (Public Law No. 114-110).

Leon Snead & Company, P.C. of Rockville, MD, completed the audit of STB's financial statements as of and for the year ended September 30, 2016 (see enclosure) under contract to the Office of Inspector General. The contract required Leon Snead to perform the audit in accordance with generally accepted Government auditing standards and Office of Management and Budget (OMB) Bulletin 15-02, "Audit Requirements for Federal Financial Statements."

Leon Snead concluded that the financial statements present fairly, in all material respects, STB's financial position as of September 30, 2016, and the related net cost, changes in net position, and budgetary resources, for the year ended, in conformity with U.S. generally accepted accounting principles.

Leon Snead's Fiscal Year 2016 Audit Report, dated November 7, 2016

Leon Snead reported one significant deficiency in internal control over financial reporting. The report did not include any instances of reportable noncompliance with tested laws and regulations.

Significant Deficiency

Internal Controls over Financial Reporting. Accounting errors related to the recording of liabilities and researching and correcting of abnormal balances materially impacted STB's June 30, 2016 interim financial statements. As a result, STB's Federal Employees' Compensation Act liabilities were understated by $799,000 and undelivered orders were understated by at least $297,000.

We performed a QCR of Leon Snead's report and related documentation. Our QCR, as differentiated from an audit performed in accordance with generally accepted Government auditing standards, was not intended for us to express, and we do not express, an opinion on STB's financial statements or conclusions about the effectiveness of internal controls or compliance with laws and regulations. Leon Snead is responsible for its report and the conclusions expressed in that report. However, our QCR disclosed no instances in which Leon Snead did not comply, in all material respects, with generally accepted Government auditing standards.

Leon Snead made two recommendations to strengthen STB's financial reporting controls. We agree with the recommendations and are not making any additional recommendations. STB concurred with the significant deficiency, agreed with the recommendations, and committed to implementing corrective actions.

We appreciate the cooperation and assistance of STB's representatives and Leon Snead & Company, P.C.. If you have any questions, please call me at (202) 366-1407, or George Banks, Program Director, at (410) 962-1729.

Sincerely,

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

Enclosure

Enclosure 107 pages

Surface Transportation Board

Audit of Financial Statements

As of and for the Year Ended
September 30, 2016

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

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Independent Auditor's Report

CHAIRMAN, SURFACE TRANSPORTATION BOARD
INSPECTOR GENERAL, DEPARTMENT OF TRANSPORTATION

We have audited the accompanying financial statements of Surface Transportation Board (STB), which comprise the balance sheet as of September 30, 2016, and the related statements of net cost, changes in net position, and budgetary resources for the year 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 certain provisions of contracts.

SUMMARY

As stated in our opinion on the financial statements, we found that the STB's financial statements as of and for the year ended September 30, 2016, are presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America.

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. Our testing of internal control identified no material weakness in internal controls over financial reporting. However, we did report a significant deficiency related to STB's internal controls over interim financial reporting that STB corrected in the year-end financial statements.

Our tests of compliance with certain provisions of laws, regulations, and significant provisions of contracts, disclosed no instance of noncompliance that is required to be reported under Government Auditing Standards and the Office of Management and Budget Bulletin 15-02, *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 STB, which comprise the balance sheet as of September 30, 2016, and the related statement of net cost, statement of changes in net position, and statement of budgetary resources, for the year 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, 2016, and the related net cost, changes in net position, and budgetary resources for the year 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 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 STB, as of and for the year ended, September 30, 2016, 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, given these limitations, during our audit, we did not identify any deficiencies in internal control that we consider to be a material weakness. As discussed below, we identified a deficiency in internal control that we consider to be a significant deficiency.

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

Findings and Recommendations

1. Internal Controls over Financial Reporting

During our testing of STB's internal controls over financial reporting, we identified two accounting errors that materially impacted the STB's June 30, 2016, interim financial statements. We attributed these problems to the need to strengthen internal controls over financial reporting relating to: (1) researching and correcting abnormal balances; and (2) ensuring that FY 2015 general ledger account balances were appropriately included in either DOT or STB FY 2016 financial report. As a result of the omission of the FECA liabilities and the inclusion of the abnormal general ledger account balance, the June 30, 2016 interim financial statements presented to OMB and for audit contained line items that were materially misstated. Details of the problems identified are detailed below.

- As part of our interim testing of STB financial statements, we reviewed STB's prior year financial information. Our review of STB's FY 2015 financial statements identified that GL account 2650, Actuarial FECA Liability, had a balance of $652,728.27; and GL account 2225, Unfunded FECA Liability, had a balance of $145,814.58.

  However, the STB's interim June 30, 2016, financial statements provided to OMB and for audit purposes contained no information on FECA liabilities. We inquired of STB officials why these future funded liabilities were not recorded in the STB's general ledger and presented in its financial statements. STB officials subsequently provided us with correspondence from DOT officials that confirmed that the FECA liabilities were the responsibility of STB.

  STB corrected this issue, and included these liabilities in the FY 2016 year-end financial statements.

- During our comparison of the general ledger trial balance to USSGL "normal" balance indicators, we identified a general ledger account that had a significant abnormal balance. For general ledger (GL) account 4801, Undelivered Orders - Obligations, Unpaid, the June 30, 2016 account balance was an abnormal debit balance of approximately $297,000.

We inquired of the STB officials (and its service provider) about the abnormal balance, how it occurred, and why it was not detected and corrected prior to submitting interim June 30, 2016 financial statements to the Office of Management and Budget (OMB), and for audit purposes. We were advised that the error occurred when an IPAC transaction was posted using the wrong posting model. As a result, an abnormal debit balance was created in GL account 4801. We were also advised by STB that this error has now been corrected. We did not receive any information concerning the reasons why this significant abnormal balance was not identified and corrected prior to submission of financial statements to OMB and for audit purposes.

STB officials advised that controls have been implemented to prevent this issue from recurring.

FASAB SFFAS No. 5, Paragraph No. 19, provides that "A liability for federal accounting purposes is a probable future outflow or other sacrifice of resources as a result of past transactions or events. General purpose federal financial reports should recognize probable and measurable future outflows or other sacrifices of resources arising from (1) past exchange transactions, (2) government-related events, (3) government-acknowledged events, or (4) nonexchange transactions that, according to current law and applicable policy, are unpaid amounts due as of the reporting date.

OMB Circular A-136, dated August 2015, provides that "Interim unaudited financial statements will be submitted to OMB after the third quarter by agencies via MAX…Agencies will submit unaudited interim financial statements and related footnotes to OMB 21 business days after the end of the third quarter of the fiscal year using the MAX Federal Community…."

Recommendations:

1. STB officials should ensure that unfunded FECA liabilities and FECA actuarial liabilities are calculated and included in year-end financial statements and related footnotes.

2. STB officials should ensure that significant abnormal general ledger balances are researched and corrected prior to preparation of financial reports.

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 STB failed to comply with applicable laws, regulations, or significant provisions of laws, regulations, and contracts that have a material effect on the financial statements insofar as they relate to accounting matters. Our audit was not directed primarily toward obtaining knowledge of such noncompliance. Accordingly, had we performed additional procedures, other matters may have come to our attention regarding the STB's noncompliance with applicable laws, regulations, or significant provisions of laws, regulations, and contracts insofar as they relate to accounting matters.

Restricted Use Relating to Reports on Internal Control and Compliance

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

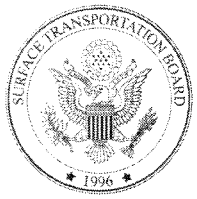
AGENCY'S RESPONSE

The Chief Financial Officer advised that he concurs with the audit report's findings, and that the audit found that the Surface Transportation Board's financial statements were fairly presented, in all material respects.

The STB's response to the audit report, which has been summarized above, is included in its entirety as Attachment 1. 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 7, 2016

Attachment 1



Surface Transportation Board
Washington, D.C. 20423-0001

Office of the
Managing Director
Section of Financial Services

November 8, 2016

Leon Snead
Partner
Leon Snead & Company
416 Hungerford Drive, Suite 400
Rockville, MD

Dear Mr. Snead,

We appreciate the opportunity to comment on the Independent Auditor's Report concerning the audit of our FY 2016 financial statements. We concur with the audit report's finding and recommendations and corrective actions have already been taken. Also, we concur that that the Surface Transportation Board's financial statements fairly present the agency's financial position as of September 30, 2016.

The unmodified (clean) audit opinion means the audit concluded that the STB's financial statements are in conformity with accounting principles generally accepted in the United States; that the STB maintained, in all material respects, effective internal controls over financial reporting; and that there was no instance of noncompliance that is required to be reported according to government auditing standards and the OMB audit bulletin guidelines.

STB is committed to sound financial management of the resources entrusted to us.

We would like to thank Leon Snead & Company for your efforts over the past fiscal year.

Sincerely,

Marcin Skomial
Chief Financial Officer

SURFACE TRANSPORTATION BOARD
BALANCE SHEET
AS OF SEPTEMBER 30, 2016

ASSETS	FY 2016
Intragovernmental Assets	
Fund Balance with Treasury (Note 2.)	$ 3,561,636.99
Other (Note 4.)	767,419.90
Total Intragovernmental	4,329,056.89
Assets with the Public	
Accounts receivable (Note 3.)	11,066.97
TOTAL ASSETS	$ 4,340,123.86
LIABILITIES	
Intragovernmental Liabilities	
Other	$ 411,342.73
Liabilities with the Public	
Accounts Payable	266,082.56
Federal Employee and Veterans Benefits (Note 5.)	634,294.00
Other (Note 6.)	2,184,460.79
Total Liabilities (Note 5.)	$ 3,496,180.08
NET POSITION	
Unexpended Appropriations	$ 3,222,969.26
Cumulative Results of Operations	-2,379,025.48
TOTAL NET POSITION	$ 843,943.78
TOTAL LIABILITIES AND NET POSITION	$ 4,340,123.86

The accompanying footnotes are an integral part of these financial statements

SURFACE TRANSPORTATION BOARD
STATEMENT OF NET COST
PERIOD ENDED SEPTEMBER 30, 2016

PROGRAM A	FY 2016
Gross Costs	$63,723,149.92
Less: Earned Revenue	-642,962.57
Net Program Costs	$63,080,187.35
Net Cost of Operations (Note 7.)	$63,080,187.35

The accompanying footnotes are an integral of these financial statements.

SURFACE TRANSPORTATION BOARD
STATEMENT OF CHANGES IN NET POSITION
FOR PERIOD ENDED SEPTEMBER 30, 2016

Cumulative Results from Operations	FY 2016
Budgetary Financing Sources	
Appropriations Used	$ 28,509,068.17
Other Financing Sources	
Imputed Financing	32,192,093.70
Total Financing Sources	$ 60,701,161.87
Net Cost of Operations	-63,080,187.35
Net Change	$(2,379,025.48)
Cumulative Results from Operations	$(2,379,025.48)
Unexpended Appropriations	
Budgetary Financing Sources	
Appropriations Received	31,732,037.43
Appropriations Used	-28,509,068.17
Total Budgetary Financing Sources	3,222,969.26
Total Unexpended Appropriations	3,222,969.26
Net Position	$ 843,943.78

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

SURFACE TRANSPORTATION BOARD
STATEMENT OF BUDGETARY RESOURCES
FOR PERIOD ENDING SEPTEMBER 30, 2016

Budgetary Resources	FY 2016
Appropriations	$31,732,037.43
Spending authority from offsetting collections	642,962.57
Total Budgetary Resources	$32,375,000.00
Status of Budgetary Resources	
New Obligations and Upward Adjustments	
Total (Note 8.)	$32,033,037.18
Apportioned Unexpired Accounts	341,962.82
Unexpired unobligated balance at end of year	341,962.82
Unobligated balance expired at year end (total)	341,962.82
Total Budgetary Resources	$32,375,000.00
Change in Obligated Balance	
New obligations and Upward Adjustments	$32,033,037.18
Outlays (gross)	-28,813,441.35
Unpaid obligations, end of year	$ 3,219,595.83
Obligations Balance at end of year	$ 3,219,595.83
Budgetary Authorization and Outlays	
Budgetary Authorization, gross	$32,375,000.00
Actual offsetting Collections	-642,962.57
Budget authority, net	$31,732,037.43
Outlays, gross	$28,813,441.35
Actual offsetting collections	-642,962.57
Agency Outlays, net	$28,170,478.78

The accompanying notes are an integral part of these financial statements

NOTES TO THE FINANCIAL STATEMENTS
SEPTEMBER 30, 2016

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity, Including Changes Related to STB Reauthorization

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

The Board is specifically responsible for the regulation of the rail and pipeline industries and certain non-licensing regulation of motor carriers and water carriers. The Board has regulatory jurisdiction over railroad rate reasonableness, mergers, line acquisitions, new rail line construction, abandonments of existing rail lines, and the conversion of rail rights-of-way into hiking and biking trails. While the majority of the Board's work involves freight railroads, the STB also performs certain oversight of passenger rail operations and the intercity bus industry, non-energy pipelines, and household goods carriers' tariffs, and rate regulation of non-contiguous domestic water transportation (freight shipping between mainland United States, Hawaii, Alaska, Puerto Rico, and other U.S. territories and possessions). The Board's responsibilities over the National Railroad Passenger Corporation (Amtrak), particularly Amtrak's relationships with the freight railroads, have grown in recent years.
The STB reporting entity consists of the general fund and the user fee receipts fund. User fees not to exceed $1,250,000 are credited to the appropriation as offsetting collections. STB does not own any non-entity assets.

Prior to the enactment of the Reauthorization Act in December 2015, the Board was administratively affiliated with the Department of Transportation and its financial information, including the year-end financial statements, was included in the DOT's consolidated financial statements. As a result of the Reauthorization law, the Board is now an independent agency, which necessitated a significant change in its financial reporting responsibilities. Before the Reauthorization Act, the STB was not required to prepare audited financial statements. As an independent agency, the STB is required to issue an audited set of financial statements in accordance with the Accountability of Tax Dollars Act of 2002. In FY 2016, the DOT Office of Inspector General engaged an independent public accounting firm to audit STB's financial statements. These audited financial statements are presented in this report.

B. Basis of Presentation

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

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

- The Balance sheet presenting the STB's financial position.
- The Statement of Net Cost with the agency's operating results.
- The Statement of Changes in Net Position with the changes in the agency's equity accounts.
- The Statement of Budgetary Resources with the sources, status and uses of STB resources.

C. Basis of Accounting

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

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

E. Accounts Receivable
Accounts receivable consists of amounts owed to STB by the public associated with the user fees charged by the agency for certain filings. An allowance for uncollectible accounts receivable from the public is established after a management review of outstanding accounts and the determination that collection is unlikely to occur considering the debtor's ability to pay.

F. Property, Equipment, and Software
STB had no depreciable assets as of September 30, 2016. The following is the Board's policy regarding property, equipment and software: STB's property, equipment and software represent furniture, fixtures, equipment, and information technology hardware and software, recorded at original acquisition cost and are depreciated or amortized using the straight-line method over their estimated useful lives. STB's maintenance and repair costs are expensed as incurred with a capitalization threshold of $50,000 for individual purchases. Property, equipment, and 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
Advances are generally prohibited by law. Some exceptions include reimbursable agreements and payments to contractors.

H. Liabilities
Liabilities occur as a result of transactions or events that have already occurred. Liabilities are covered by budgetary resources funded by a current appropriation. STB's liabilities include accounts payable and accrued payroll and benefits. Accounts payable include amounts owed to another entity for goods ordered and received.

I. Employee Leave
STB employees accrue annual and sick leave as it is earned. 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
STB recognizes contingent liabilities in balance sheet and statement of net cost when both probable and can be reasonably estimated. In FY 2016, 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 Balances with Treasury:

STB's Fund balance with Treasury account balances as of September 30, 2016 were as follows:

	(Dollars in Thousands)
	FY 2016
Fund Balances:	
General Funds	$ 3,562
Total	$ 3,562
Status of Fund Balance with Treasury:	
Unobligated Balance	
Available	$ 342
Obligated Balance Not Yet Disbursed	3,220
Total	$ 3,562

Note 3. Accounts Receivable:

STB's accounts receivable balances as of September 30, 2016, were the following:

	(Dollars in Thousands)
	FY 2016
Accounts Receivable	$ 11
Total Public	$ 11
Total Receivables	$ 11

The accounts receivable are primarily made up of balances due to the Board from STB customers who submit filings to the Board.

Note 4. Other Assets

	(Dollars in Thousands) September 30, 2016
Intragovernmental	
Advances and Prepayments	$ 767
Total Intragovernmental Other Assets	$ 767

Note 5. Liabilities Not Covered by Budgetary Resources:

STB's liabilities as of September 30, 2016, were the following:

	(Dollars in Thousands) FY 2016
Intragovernmental	
Unfunded FECA Liability	$ 147
Unfunded Employment Related Liability	97
Total Intragovernmental	$ 244
Public (Non-Federal):	
Accounts Payable	$ 266
Federal Employee and Veterans' Benefits Payable	634
Accrued Pay and Benefits	1,512
Total Liabilities Not Covered by Budgetary Resources	$ 2,656
Total Liabilities Covered by Budgetary Resources	$ 840
Total Liabilities	$ 3,496

Note 6. Other Liabilities:

	(Dollars in Thousands)		
Intragovernmental:	Non-Current Liabilities	Current Liabilities	FY 2016 Total
Accrued Pay and Benefits	-	$ 167	$ 167
Total Intragovernmental Covered by Budgetary Resources	-	$ 167	$ 167
Not Covered by Budgetary Resources:			
Federal Employees Compensation Act (FECA)			
2016 Bill (Non-Current)	$ -	$ 65	$ 65
2015 Bill (Current)	67	-	67
Quarter of FY 2016 (Non-Current)	0	15	15
Total FECA Liabilities	67	80	147
Unfunded Employment Related Liability	-	97	97
Budgetary Resources	67	177	244
Total Intragovernmental Other Liabilities	$ 67	$ 344	$ 411
Public:			
Covered by Budgetary Resources:			
Accrued Pay and Benefits	-	$ 673	$ 673
Total Public Covered by Budgetary Resources	-	$ 673	$ 673
Not Covered by Budgetary Resources:			
Accrued Pay and Benefits	-	$ 1,512	$ 1,512
Total Public Not Covered by Budgetary Resources	-	$ 1,512	$ 1,512
Total Public Other Liabilities	-	$ 2,185	$ 2,185

Note 7. Intragovernmental Costs and Exchange Revenues:

	(Dollars in Thousands)		
	Intragovernmental	With the Public	FY 2016 Total
Surface Transportation Board:			
Gross Costs	$ 42,225	$ 21,498	$ 63,723
Less Earned Revenue	-	643	643
Net Program Costs	$ 42,225	$ 20,855	$ 63,080
Net Cost of Operations	$ 42,225	$ 20,855	$ 63,080

Note 8. Statement of Budgetary Resources:

	(Dollars in Thousands)		
	Direct	Reimbursable	FY 2016 Total
Category A	$ 31,390	$ 643	$ 32,033
Total	$ 31,390	$ 643	$ 32,033

	FY 2016
Undelivered orders, Unpaid at the end of the period	$ 2,114

Note 9. Reconciliation of Net Cost of Operations to Budget

Budgetary Resources Obligated

	FY 2016
Obligations Incurred	$ 32,033,037
Less Spending Authority from Offsetting Collections and Recoveries	-642,963
Obligations Net of Offsetting Collections and Recoveries	$ 31,390,075
Net Obligations	$ 31,390,075
Imputed Financing From Costs Absorbed by Others	$ 32,192,094
Net Other Resources Used to Finance Activities	32,192,094
Total Resources Used to Finance Activities	$ 63,582,168
Resources Used to Finance Items Not Part of the Net Cost of Operations	
Change in Budgetary Resources Obligated for Goods, Services and Benefits Ordered but not yet Provided	$ 2,881,006
Resources That Fund Expenses Recognized in Prior Periods	11,067
Total Resources Used to Finance Items Not Part of the Net Cost Of Operations	$ 2,892,073
Total Resources Used to Finance the Net Cost of Operations	$ 60,690,095
Components of the Net Cost of Operations that will not Require or Generate Resources in the Current Period:	
Components Requiring or Generating Resources in Future Periods:	
Increase in Annual Leave Liability	$ 1,511,659
Change in Other Liabilities (+/-)	878,434
Total Components of Net Cost of Operations That Will Require or Generate Resources in Future Periods	$ 2,390,092
Components Not Requiring or Generating Resources:	
Total Components of Net Cost of Operations That Will Not Require or Generate Resources in the Current Period	2,390,092
Net Cost of Operations	$ 63,080,187
Statement of New Cost	$ 63,080,187

PERFORMANCE AND ACCOUNTABILITY FY 2016

Surface Transportation Board

Daniel R. Elliott III, Chairman

November 2016

ABOUT THIS REPORT

This Performance and Accountability Report (PAR) describes the performance measures, results, and accountability processes for the Surface Transportation Board (Board/STB/agency) for fiscal year (FY) 2016. The PAR satisfies the requirement in the *Government Performance and Results Modernization Act of 2010* to annually report the Board's performance results against its established goals.[1] Office of Management and Budget (OMB) Circular No. A-136, *Financial Reporting Requirements*, provides guidance regarding the form and content of the report. The PAR also provides program and financial information to enable the President, Congress, and the public to assess the performance of the STB relative to its mission and resources entrusted to it.

STB OVERVIEW

The STB has broad economic regulatory oversight of the nation's freight railroads, including rates; service; construction, acquisition and abandonment of rail lines; carrier mergers; and the interchange of traffic among railroads.[2] The Board also has certain oversight of passenger rail, pipeline, motor, and water carriers.[3]

The bipartisan Board was formed in 1996 as the successor agency to the Interstate Commerce Commission (ICC).[4] The STB was administratively housed within the Department of Transportation (DOT) until December 18, 2015, when the Surface Transportation Board Reauthorization Act of 2015 (Reauthorization Act)[5] established the STB as a wholly independent agency and expanded its membership from three to five Board Members appointed by the President and confirmed by the Senate.

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[1] Additional references to relevant legislation may be found in this Report's Introduction.

[2] 49 U.S.C. §§ 10101-11908.

[3] 49 U.S.C. §§ 13101-14914, 15101-16106.

[4] ICC Termination Act of 1995.

[5] Pub. L. No. 114-110 (2015).

OUR MISSION

The STB serves as an effective Federal forum for efficient resolution of surface transportation issues and disputes subject to its jurisdiction. The STB is vested with both adjudicatory and policy-making functions and exercises regulatory oversight efficiently and fairly, while working to integrate market forces.

STB VISION

The STB is an independent regulatory agency that supports the world class surface transportation system in the United States through fair and efficient decisions and actions.

STB STRATEGIC GOALS

Strategic Goal 1

Protect and further the public interest in surface transportation matters.

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.

Strategic Goal 3

Provide a timely, efficient, and decisive regulatory process to enable all stakeholders in the surface transportation industry to plan and conduct their operations more effectively and with minimal regulatory costs.

Strategic Goal 4

Ensure that the STB has the organizational structure and the managerial leadership necessary to carry out the first three goals.

MESSAGE FROM THE CHAIRMAN OF THE BOARD

I am pleased to issue the initial *Performance and Accountability Report* for the STB for FY 2016. In FY 2016 the Board continued its vigilant economic oversight of the freight rail industry. As a small agency with significant regulatory responsibilities directed by Congress, our achievements are the direct result of a dedicated staff of professionals, whose understanding of the rail transportation industry, together with a coordinated approach among the Board's offices, leads to efficient, timely, and balanced issue resolution for the railroad industry and the public it serves.

We have significant work to accomplish in the coming years as the railroad industry continues to evolve, and new technologies bring new issues which must be resolved to the benefit of both the railroads and shippers. Nonetheless, I am confident that the focus and direction of this Board, led by the strategic plans we have put in place, will well serve this nation's transportation system. Our strategic plans were designed to guide agency programs and operations to effectively align them with our mission and overall objectives.

Maintaining our focus and direction as we move into the future will enable the STB to be in the best position possible to effectively oversee those areas of U.S. surface transportation subject to our jurisdiction, while being responsive to the legitimate needs of the Board's stakeholders in all segments of the surface transportation industry and the public at large.

Sincerely,

Daniel R. Elliott III
Chairman, Surface Transportation Board
November 15, 2016

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INTRODUCTION

About This Report

This Performance and Accountability Report (PAR) represents the completion of the program and financial management process for the STB for FY 2016. This process began with the development of our Strategic Plan defining the Board's mission and strategic goals and strategies for achieving these goals. We then presented and justified our agency's budget in the STB Budget Request for FY 2016 submitted to Congress. Having executed our budget, we now report on our program performance and use of resources. This report covers the STB's activities and accomplishments from October 1, 2015, through September 30, 2016 (FY 2016).

Relevant Legislation and Guidance

This PAR satisfies the following legislation:

- ***The Federal Manager's Financial Integrity Act of 1982 (FMFIA)*** requires continuous evaluations and reporting of the adequacy of the systems of internal accounting and administrative controls.

- ***The Accountability of Tax Dollars Act of 2002*** requires that the Board prepare and submit to Congress and the Director of OMB an audited financial statement for the preceding fiscal year.

- ***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 information in a more useful manner.

- ***The Inspector General Reform Act of 2008*** amends the Inspector General Act of 1978 to enhance the independence of the Inspectors General, to create a Council of the Inspectors General on Integrity and Efficiency, and for other purposes.

- ***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*** provides for estimates and reports of improper payments by Federal agencies.

Guidance for the format and content of this Report was provided in OMB Circular No. A-136, *Financial Reporting Requirements.*

How This Report is Organized

This report is divided into the following four sections:

I. ***Management's Discussion and Analysis*** provides an overview of the Board and discussions of the Board's strategic goals and areas of statutory responsibility. The section also includes a discussion of STB's mission challenges; controls, systems, and legal compliance; and management assurances on internal controls and financial management systems compliance.

II. ***Program Performance*** includes a discussion of STB's accomplishments during FY 2016 and progress toward meeting the Board's strategic goals and objectives during the fiscal year.

III. ***Financial Information*** provides a financial overview of the Board, a message from the Chief Financial Officer, and the Auditor's Report.

IV. ***Other Information*** includes a report on improper payments and a summary of the financial statement audit.

This Report may be found at STB's website www.stb.gov.

STB Audit History

Prior to the enactment of the Reauthorization Act, the STB was organizationally housed within the DOT, and STB's financial information was included in DOT's consolidated financial statements. No material weaknesses, significant deficiencies, or instances of non-compliance with laws or regulations related to the STB were identified in the FY 2015 DOT consolidated financial statement audit. The Board received an unmodified (clean) audit opinion for FY 2016.

I. MANAGEMENT'S DISCUSSION AND ANALYSIS

A. MISSION AND ORGANIZATION

Overview

The STB is an economic regulatory agency that serves as a specialized court for adjudicating disputes that arise in surface transportation matters. The STB functions as a bipartisan, decisionally independent, regulatory and adjudicatory body.

Vision

The STB is an independent regulatory agency that supports the world-class surface transportation system in the United States through fair and efficient decisions and actions.

The Board has broad economic regulatory oversight of railroads, addressing such matters as rate reasonableness, car service and interchange, mergers and line acquisitions, line constructions, and line abandonments. The Board also has economic regulatory oversight of non-energy pipelines, intercity buses, household goods carriers, collective activities of motor carriers, and water carriers engaged in noncontiguous domestic trade. Under the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), the Board has oversight responsibilities over the National Railroad Passenger Corporation (Amtrak) regarding on-time performance, emergency service orders, and disputes over compensation for access to properties of the freight carriers.

Mission

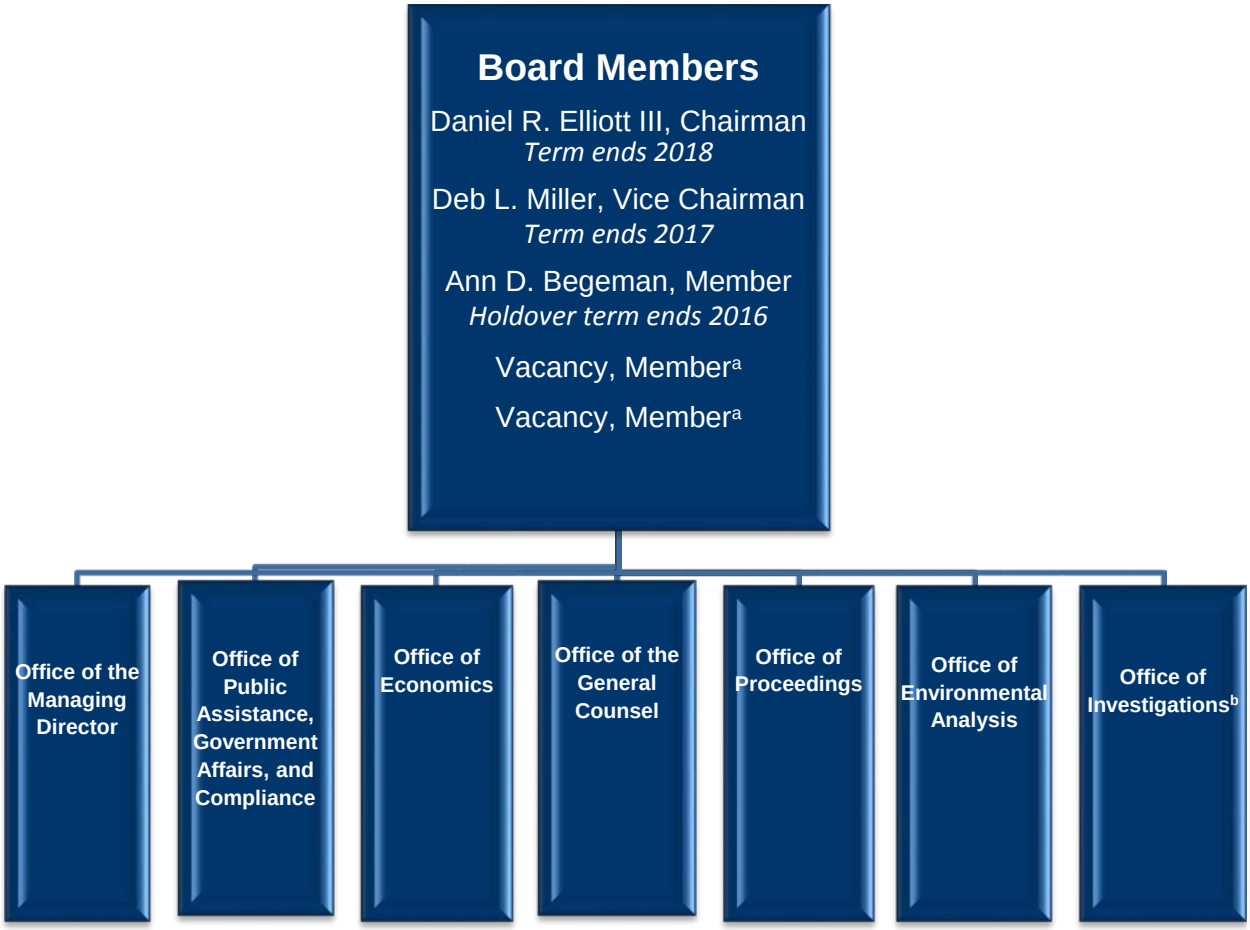
The STB serves as an effective Federal forum for efficient resolution of surface transportation issues and disputes subject to its jurisdiction. The STB is vested with both adjudicatory and policy-making functions, and exercises regulatory oversight efficiently and fairly, while working to integrate market forces.

The Board is charged with providing an efficient and effective forum for the resolution of disputes and other matters within its jurisdiction. In matters brought before it, the Board promotes private-sector negotiations and resolutions where possible and appropriate and facilitates market-based transactions that are in the public interest. When called upon to resolve a dispute, the STB is committed to advancing the national transportation policy goals established by Congress.

STB Organization Chart

The STB is comprised of the offices shown in the Organization Chart below.

Figure 1. STB Organization Chart



[a] The Reauthorization Act expanded the Board's membership from three to five Board Members.

[b] An Office of Investigations was authorized by the Reauthorization Act.

STB Offices

Office of the Managing Director (OMD) provides the administrative support for the agency, including building and space management, resource management, human resources management, and computer systems support. This office is comprised of the following sections: Systems Services, Human Resources, Facilities Management, and Financial Services (headed by the Chief Financial Officer).

Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) serves as the STB's principle point of contact for members of the public; foreign, state and local governments; federal agencies; the U.S. Congress, and the news media. OPAGAC's mission is to aid the public in participating in cases and matters before the STB, to disseminate accurate information and news 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 analysis, monitoring and analysis of passenger rail matters, tariffs, the Board's library, and mediation coordination. OPAGAC is also responsible for the management of the Rail Customer and Public Assistance Program (RCPA Program), which assists the public with informal rail-related disputes nationwide.

Office of Economics (OE) is responsible for the economic, cost, financial, and engineering analyses in cases before the STB. OE also performs analyses in merger and abandonment cases, conducts economic and financial analyses of the railroad industry, and audits Class I railroads. OE also generates and provides the Carload Waybill Sample and the Board's Uniform Rail Costing System (URCS) to the public.

Office of the General Counsel (OGC) responds to questions on a variety of legal issues. The primary mission is two-fold: to enhance the defensibility of agency decisions that might be challenged in court and to defend the STB's decisions in court.

Office of Proceedings (OP) has primary responsibility for developing the public record in formal cases (or proceedings) filed with the STB, making recommendations regarding the resolution of issues presented in those cases, and preparing the decisions issued by the Board.

Office of Environmental Analysis (OEA) assists the Board in meeting its responsibilities under the National Environmental Policy Act of 1969 (NEPA), other federal environmental statutes, and the National Historic Preservation Act (NHPA). NEPA requires that the Board consider the potential environmental impacts of its actions, including direct, indirect and cumulative impacts, before making its final decision in a case. OEA conducts an independent environmental review of cases filed with the Board; prepares any necessary Environmental Impact Statement or Environmental Assessment; conducts public outreach to inform the public and communities about proposals before the Board and opportunities to raise environmental concerns; and provides technical advice and recommendations to the Board on environmental matters.

Office of Investigations

The Reauthorization Act vested the Board with authority to investigate issues of national or regional significance and directed the Board to begin a rulemaking and issue final rules regarding this new authority.

An Office of Investigations would enable the Board to conduct not only new freight rail investigations but also passenger rail investigations under PRIIA. The creation of the Office is dependent upon the Board's appropriations level.

B. STB STRATEGIC GOALS

Summary of Significant Performance Results

This section provides a summary of the Board's strategic goals and objectives and the strategies we used to achieve our objectives and goals. The strategic goals are discussed further in the STB's *Strategic Plan for FY 2016-2020*. The FY 2016 performance plan is based on these goals, which are supported by the STB's annual workload.

Achieving Strategic Goal 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 goals each fiscal year. Our talented staff has worked tirelessly to achieve maximum return for the efforts given. We apply a combination of practical approaches and experience to develop creative resolutions to difficult freight transportation issues.

Strategic Goals: Objectives and Strategies

Following is a listing and explanation of the Board's four Strategic Goals. This section then states the objectives for each goal and strategies for achieving each goal.

Strategic Goal 1

- **Protect the public interest in surface transportation matters.**

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.**

Strategic Goal 3

- **Provide a timely, efficient, and decisive regulatory process to enable all stakeholders in the surface transportation industry to plan and conduct their operations more effectively and with minimal regulatory costs.**

Strategic Goal 4

- **Ensure that the STB has the organizational structure and the managerial leadership necessary to carry out the first three Strategic Goals.**

Congress has established specific policies regarding the surface transportation industry. These policies, set forth in the ICC Termination Act of 1995, guide the Board's mission and strategic goals.

Strategic Goal 1

Protect and further the public interest in surface transportation matters.

OBJECTIVES

- Promote and ensure reasonable transportation rates and practices for users of freight railroads, non-energy pipelines, certain motor carriers, and carriers providing 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 railroad and other surface transportation service that is responsive to the needs of customers, with adequate capacity to meet the needs of a changing economy; and
- Address concentrations of market power in the freight rail industry; and
- Ensure effective oversight of Amtrak on-time performance and serve as a fair and efficient venue for certain passenger rail disputes.

STRATEGIES

- ✓ Encourage carriers to meet their statutory responsibilities through compliance but, when needed, address problems through appropriate Board and court action;
- ✓ Encourage voluntary settlements of disputes through the efforts of the Board's RCPA Program, the Board's alternative dispute resolution procedures, the National Grain Car Council, the Railroad-Shipper Transportation Advisory Council, and the Rail Energy Transportation Advisory Committee;

- ✓ Provide a mechanism for informally resolving disputes involving carriers, shippers, labor, and/or the public;
- ✓ Conduct responsive, fair, impartial, and efficient adjudications;
- ✓ Broadly disseminate information about Board activities to foster effective participation by the public and other government agencies in Board proceedings; and
- ✓ Ensure that the Board's rules, practices and proceedings are open and transparent.

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.

OBJECTIVES

- Encourage the efficient, honest management and operation of surface transportation industries;
- Facilitate the opportunity for surface transportation carriers to generate revenues sufficient to maintain and attract capital necessary for efficient and reliable operations responsive to customers' needs;
- Provide a climate that encourages surface transportation carriers to invest in needed additional capacity; and
- Minimize Federal regulatory control over surface transportation systems.

STRATEGIES

- ✓ Monitor the financial condition of carriers and take appropriate regulatory action where conditions warrant;
- ✓ Monitor the service and operations of carriers and take appropriate regulatory action where conditions warrant;
- ✓ Monitor the impact of railroad financial transactions on the economy and take appropriate regulatory action where conditions warrant; and
- ✓ Foster support for the maintenance and development of adequate transportation systems to sustain the nation's economic growth.

Strategic Goal 3

Provide a timely, efficient, and decisive regulatory process to enable all stakeholders in the surface transportation industry to plan and conduct their operations more effectively and with minimal regulatory costs.

OBJECTIVES

- Ensure that there is sufficient transparency with respect to the Board's dispute resolution activities to enable parties at risk 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; and
- Ensure that the Board's decisions comport with the applicable statutes, precedents and policies.

STRATEGIES

- ✓ Develop adjudicative procedures that balance the needs of carriers for efficient operations and a sufficient return on their investments with the needs of their customers for reasonable transportation rates and services;
- ✓ Offer alternative dispute resolution services that facilitate private sector solutions to problems;
- ✓ Hold conferences, hearings, and oral arguments and provide adequate guidance to the parties as to the methods the Board intends to use to adjudicate disputes; and
- ✓ Have an internal monitoring and management system to ensure that the Board's decisions are timely.

Strategic Goal 4

Ensure that the STB has the organizational structure and the managerial leadership necessary to carry out the first three goals.

OBJECTIVES

- Organize management and deploy staff to ensure the achievement of the Board's strategic goals;
- Recruit and retain staff based on critical needs, shortage skills, and diversity; and
- Employ new technologies to improve Board operational efficiency.

STRATEGIES

- ✓ Monitor performance based on the Strategic Plan and annually evaluate the agency's success in meeting its goals, making refinements as necessary;
- ✓ 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; promote a culturally diverse workforce that maximizes effective utilization of human capital;
- ✓ Utilize technology to enhance the productivity of the Board's workforce. Upgrade the STB's current Lotus Notes based enterprise platform, which is maintained and operated on-site at STB headquarters, to a cloud-based platform that utilizes state of the art IT hardware/software capabilities to effectively manage information and interface with stakeholders and the public; and
- ✓ Refine performance measures to establish baselines against which future performance can be measured.

Planning, Evaluating, and Revising Goals

The STB's approach to evaluating performance measures has driven our overall planning process. STB has consistently improved the planning process through the development and implementation of more efficient information collection and reporting processes. The evaluation process is continuously evolving to maintain and, where necessary, improve the selection and evaluation of performance measures. The measures are in alignment with the agency's strategic objectives and its annual operating plans.

The Board's success in achieving its goals is reviewed annually. Where appropriate, adjustments to the Board's operations and management are implemented. The adjustments may range from minor alterations to the strategic and performance plans to the abandonment of certain strategies and/or the adoption of new strategies.

C. REGULATORY RESPONSIBILITY AND OVERSIGHT

Overview of the STB

The Board is charged with advancing the national transportation policy goals enacted by Congress[6] and promoting an efficient, competitive, safe, and cost-effective freight rail network. The Board accomplishes these goals by enabling railroads to earn adequate revenues that foster reinvestment in their systems, attract outside capital, and provide reliable service, while at the same time working to ensure that effective competition exists between railroads and reasonable rates exist where there is a lack of effective competition.

While much of the agency's work involves freight railroads, the Board also has certain oversight of passenger rail carriers, pipeline carriers, intercity bus carriers, moving-van companies, trucking companies involved in collective activities, and water carriers engaged in non-contiguous domestic trade (i.e., trade involving Alaska, Hawaii, or U.S. territories or possessions).[7] Additionally, the STB has limited but significant regulatory authority over Amtrak; its operations on other railroads' track; disputes over shared track use and facilities; 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 agency is committed to vigilant oversight and the rendering of fair and timely decisions when regulation is required. Where regulatory requirements can be removed or reduced, the Board applies its exemption authority to the maximum extent consistent with the law to streamline approval processes for stakeholders.[8]

The Board has regulatory jurisdiction over railroad rate reasonableness, mergers, line acquisitions, new rail line construction, abandonments of existing rail lines, and the

[6] 49 U.S.C. §§ 10101 (rail), 13101 (motor and water), 15101 (concerning pipelines).

[7] 49 U.S.C. §§ 13101-14914, 15101-16106.

[8] 49 U.S.C. § 10502(a).

conversion of rail rights-of-way into hiking and biking trails.

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 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 services are reasonable. The newly enacted Reauthorization Act vested the Board with authority to investigate issues of national or regional significance on its own accord.

To carry out its regulatory mission, the Board primarily engages in three types of formal activities: adjudication, rulemaking, and licensing. First, the Board adjudicates disputes between shippers and railroads on the reasonableness of the carriers' rates and service practices. In some instances, the Board also adjudicates disputes between the carriers themselves, or between the railroads and local communities in which their lines are located. Second, the Board conducts rulemaking proceedings, in which the agency proposes regulations that it believes are needed to carry out the agency's mission. After issuing a notice of the proposed regulations, the Board receives comments from its stakeholders and other interested parties and, based on those comments, decides whether to adopt, not adopt, or adopt with modification the proposed regulations. Third, the Board is required to approve any entry to, exit from, or consolidation within, the rail transportation market to ensure that the transactions are in the public interest.

The following section lists the Board's areas of statutory responsibility by discipline.

Areas of Statutory Responsibility

Rail

- Common Carrier Obligation
- Exemptions from regulation
- Rail Mergers
- Line Transfers, Leases, and Trackage Rights
- Line Sales to Noncarriers
- Labor Protection
- Rate Regulation for Common Carriage, including--
  - Public Disclosure of Rates and Service Terms
  - Advance Notice of Rate Increases or Changes in Service Terms
  - Maximum Rate Reasonableness for Captive Traffic
- Contracts for Transportation of Agricultural Products requirements, including:
  - Filing of Summaries
  - Protest and Matching Rights
  - Equipment Limitations
- Rail Cost Adjustment Factor (RCAF) Computation
- Reasonableness of Practices
- Rate Discrimination
- Car Supply and Interchange
- Emergency Service Orders
- Competitive Access
- Line Constructions, including Line Crossings
- Line Abandonments, including--
  - Financial Assistance
  - Rails-to-Trails
  - Public Use for Rights-of-way
- Feeder Line Development Program
- Collective Ratemaking (and Antitrust Immunity)
- Interlocking Officers and Directors
- Recording Liens
- Data Collection and Oversight
- Passenger Rail Oversight
  - Amtrak On-Time Performance
  - Amtrak-Host Carrier Compensation Disputes
  - Amtrak-State Sponsored Short Distance Corridor Funding Disputes
  - Passenger Rail Line Construction

Motor Carriers

- Common Carrier Obligation
- Rate Reasonableness for--
  - Residential Household Goods Moves
  - Joint Motor-Water Rates in Noncontiguous Domestic Trade
  - Collectively set Rates
- Collective Ratemaking (and Antitrust Immunity)
- Pooling
- Undercharges
  - Household Goods Operations, including--
    - Tariffs (not filed)
    - Antitrust Immunity for Agent-Van Lines
- Preemption of Intrastate Regulation
- Bus Company Mergers
- Bus Company Through-Route Requirements

Pipelines

- Common Carrier Obligation
- Rate Regulation, including—
  - Public Disclosure of Rates and Service Terms
  - Advance Notice of Rate Increases or Changes in Service Terms
  - Reasonableness
- Reasonableness of Practices
- Rate Discrimination

Domestic Water Carriage

Tariff Filing and Rate Reasonableness Requirements for Noncontiguous Domestic Trade

Intermodal

Rail-water connections for non-contiguous domestic trade

Following is a discussion of the Board's areas of statutory responsibility.

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 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 from the full application procedures under 49 U.S.C. § 10502. 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 railroads whose lines do not connect with each other, carriers need only follow a simple notification procedure to invoke a class exemption (an across-the-board exemption from the full application procedures, applicable to a broad class of transactions) at 49 C.F.R. § 1180.2(d)(2). When larger carriers are involved in merger activities, more rigorous procedures apply, and carriers may be required to file "safety integration plans" under rules that the Board has issued jointly with the Federal Railroad Administration (FRA).[9]

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

[9] 49 C.F.R. Parts 244 and 1106.

a simple notification process. Acquisitions resulting in a carrier having at least $5 million in annual net revenues require additional notice, in advance of anticipated labor impacts, to give employees and the communities served by those carriers an opportunity to adjust to the effects of a 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, and help preserve rail service in many areas of the country.

Trackage Rights

Trackage rights arrangements allow a railroad to use the track of another railroad that 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 trackage rights for overhead operations only, and these expire in one year or less.

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. The agency maintains class exemptions providing a simple notification procedure for the construction of connecting track on an existing rail right-of-way, on land owned by the connecting railroads, or 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 does

not interfere with the operation of the existing line and if the owner of the existing line is compensated. If railroads cannot agree to terms, the Board can prescribe appropriate compensation.

Line Abandonments

Railroads require Board approval to abandon a rail line or to discontinue all rail service over a line to be held in reserve. Abandonment or discontinuance authority may be sought by an entity with operating authority over the line, or an "adverse" abandonment or discontinuance action may be brought by an opponent to a line's continued operation.

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

Preservation of Rail Lines

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

1) Offers of Financial Assistance

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

2) Feeder-Line Development Program

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

3) Trail Use/Rail Banking

The Board administers the National Trails System Act's "rail banking" program allowing railroad rights-of-way approved for abandonment to be preserved for the future restoration of rail service and for interim use as recreational trails. When a railroad and a trail sponsor agree to negotiate for interim

trail use, the agency issues a Certificate of Interim Trail Use or a Notice of Interim Trail Use. If a trail use arrangement is reached, the right-of-way remains under the agency's jurisdiction and does not revert to the original landowners.

Liens on Rail Equipment

Liens on rail equipment and water vessels 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 1,463 liens in FY 2016.

Railroad Rates

Cost of Capital

Each year, the Board determines the after-tax, composite cost of equity 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" for a variety of regulatory purposes. It is employed in maximum railroad-rate cases, feeder-line applications, rail-line abandonments, trackage-rights cases, rail-merger reviews, the Board's URCS and, more generally, in annually evaluating the adequacy of individual railroads' revenues.

Common Carriage or Contract Carriage

Under federal law, railroads have a common carrier obligation to provide rail service upon reasonable request. A railroad can provide that service either under rate and service terms agreed to in a transportation contract with a shipper or under openly available common-carriage rate and service terms. 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 7 days of the contracts' effective dates. Summaries must contain specific information contained in 49 C.F.R. pt. 1313 and are available on the agency's website.

Rate Disclosure Requirements: Common Carriage

A railroad's common-carriage rates and service terms must be disclosed upon request, and advance notice must be given for rate increases or changes in service terms. Rates and terms for agricultural

products and fertilizer must also be published. These regulatory requirements 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 container traffic, boxcar traffic, and other miscellaneous commodities.

Rate Challenges: Market-Dominance Limitation

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%. The Board's URCS is used to provide a measurement of a railroad's systemwide-average variable costs of performing various rail services.

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

Rate Challenges: Rate-Reasonableness Determination

To assess whether a challenged rate is reasonable, the Board generally uses "constrained market pricing" (CMP) principles. These principles limit a railroad's rates to levels necessary for an efficient carrier to make a reasonable profit. CMP principles recognize that, to earn adequate revenues, railroads need pricing flexibility, including charging higher rates on "captive" traffic (traffic with no alternative means of transportation). The CMP guidelines also impose constraints on a railroad's ability to do so. The most commonly used 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.

Rate Challenges: Simplified and Expedited Rate Guidelines

In 1996, the Board adopted simplified and expedited rate guidelines in *Rate Guidelines—Non-Coal Proceedings,* 1 S.T.B. 1004 (1996). During the next decade, only two cases were brought to the Board under these guidelines, and both settled with the facilitation of Board-led mediation.

Because no cases had been decided under the simplified guidelines since their establishment, the Board examined and revised its simplified guidelines.[10] As part of the new simplified guidelines, the Board created a methodology for "medium-sized" cases and modified its previous simplified guidelines for "small-sized" cases.

Specifically, the Board adopted a simplified version of the SAC test for medium-sized cases, which it dubbed "Simplified-SAC," and modified the previously adopted "Three Benchmark" methodology for small-sized cases, under which a challenged rate is evaluated in relation to three benchmark figures from the rates of a comparable group of traffic.

A shipper challenging a rate may choose to present evidence using either a Simplified-SAC or Three-Benchmark approach but with limits on the relief available if the Three-Benchmark procedure is used. The maximum recovery for Three-Benchmark cases is $4 million, indexed for inflation.[11]

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 service and practices. Among its broad remedial powers, the Board may compel a railroad to provide alternative service by another railroad, switching operations for another railroad, or access to its terminal for another railroad. To prevent the loss of necessary rail service, the Board can issue temporary service orders during rail-service emergencies by directing a railroad to operate, for a maximum of 270

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

[11] See *Rate Regulation Reforms*, EP 715 (STB served July 18, 2013, Dec. 3, 2014).

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-Shipper Discussions

Except for discussions of matters pending before the Board, the agency welcomes informal shipper meetings with the three Board Members and staff to discuss general service, transportation, and other issues of concern. During FY 2016, the Board continued to foster industry dialogue about railroad service through meetings of the Board's Advisory Committees, as discussed in the Annual Performance Report section.

Dialogue between Railroads and Their Customers

As an aid to rail customers in their business planning and to enhance the Board's perspective on rail service, the Board continued its annual practice (initiated in 2004) of asking railroads to submit to the agency a forward-looking assessment of their respective abilities to meet end-of-year business demands for U.S. rail service. The Board publicly posts the railroads' responses on the agency's website. As noted, the Board also issued an order requiring CP to provide additional detail regarding its plan for responding to the fall service demand.

During FY 2016, the Board continued to encourage railroads to establish a regular dialogue with their customers as a productive way of preventing and addressing rail customer-service concerns. In addition to the RCPA Program's dispute-resolution work, RCPA staff regularly monitored the rail industry's operating performance to identify service issues before they became 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,[12] the Board must consider the environmental impacts of its actions before making its final decision in certain cases filed before the Board. The STB's OEA assists the Board by conducting independent environmental reviews of certain cases filed before the agency. This includes preparation of any necessary environmental documentation, such as an Environmental Impact Statement (EIS), when a railroad proposal presents a potential for significant environmental impacts, or a more limited Environmental Assessment (EA). OEA also conducts public outreach to inform interested parties about railroad proposals and to provide an opportunity to raise environmental concerns.

Environmental Review Process

The Board typically conducts environmental reviews for rail-line construction proposals, abandonments, and mergers using the Board's environmental rules,[13] regulations of the President's Council on Environmental Quality,[14] and other applicable federal environmental requirements. Environmental reviews consider all applicable federal environmental laws, including the Endangered Species Act,[15] Coastal Zone Management Act,[16] Clean Air Act,[17] Clean Water Act,[18] NHPA,[19] and pertinent hazardous- substance laws.

The public plays an important role in the environmental review process. OEA first presents to the public the preliminary results of its analysis of potential environmental impacts in either a Draft EIS or a Draft EA in a railroad proceeding requiring environmental review. This analysis is based on information available at the time from the involved railroad, the public, OEA's independent analysis, and, in some cases, site visits by Board staff to the proposed project area. The Board then provides an opportunity for public review and comment on all aspects of the drafts. During the public comment period, the Board may decide to hold one or more public meetings to assist public

[12] 42 U.S.C. §§ 4321-45.
[13] 49 C.F.R. § 1105.
[14] 40 C.F.R. §§ 1500-08.
[15] 16 U.S.C. §§ 1531-44.
[16] 16 U.S.C. §§ 1451-1466.
[17] 42 U.S.C. §§ 7401-7671.
[18] 33 U.S.C. §§ 1251-1388.
[19] Recodified as 54 U.S.C. § 300101 et seq. on December 19, 2014.

participation. After the public comment period, the Board performs any needed additional analysis and prepares a Final EIS or EA presenting recommendations to the Board. The STB then considers the entire environmental record, together with the transportation aspects of the proposal, in reaching its decision in a case.

The Board encourages railroad applicants to consult with communities that could be affected by a proposal and negotiate mutually acceptable agreements with local governments and organizations to address specific local concerns. The STB also has authority to impose conditions to address potential adverse effects of a proposed action on communities. Such conditions typically could address impacts to public safety, land use, air quality, wetlands and water resources, biological resources, soils and geology, visual resources, hazardous waste and materials, noise and vibration, historic and cultural resources, and potentially disproportionate impacts on minority and low-income populations (the latter known as "environmental justice" conditions).

To conserve its limited resources, the Board may use third-party contractors, who work under OEA's direction, control, and supervision to assist in preparing environmental analyses.

Rail Line Constructions

In assessing a construction proposal's potential environmental impacts, the Board considers alternatives to the proposed action, direct effects on regional or local transportation systems, safety, land use, energy use, air and water quality, noise, environmental justice, biological resources, historic resources and coastal zones, as well as cumulative and indirect impacts of any new construction.

Rail Line Abandonments

The Board's review of rail line abandonments includes an analysis of potential environmental impacts associated with track removal and any traffic diversion from a line proposed for abandonment. Mitigation conditions imposed on abandonments often involve the protection of critical habitats for threatened and endangered species, historic and cultural resources, and wetlands.

Railroad Mergers and Acquisitions

The potential environmental impacts of proposed railroad mergers include changes in rail traffic patterns on existing lines. The Board may impose conditions designed to mitigate potential system-wide and corridor-specific environmental impacts. Such conditions may address at-grade crossing safety and traffic delays, including delays for emergency response vehicles; hazardous-materials transportation safety; air quality; noise impacts; and, where pertinent, may also address potentially disproportionate environmental justice impacts. Safety-integration plans (prepared by merger applicants in consultation with FRA) additionally describe the process for combining and safely integrating infrastructure, equipment, personnel, and operating practices of two or more entities following a merger or acquisition.[20]

Financial Condition of Railroads

The Board monitors the financial condition of railroads as part of its oversight of the rail industry. The agency prescribes a uniform accounting system[21] for railroads to use for regulatory purposes. The Board requires Class I railroads to submit quarterly and annual reports containing financial and operating statistics, including employment and traffic data.[22] Based upon information submitted by carriers, the Board compiles quarterly employment reports, as well as annual wage statistics of Class I railroads. The above information is discussed further in the Appendix of this report.

The Board publishes "rail cost adjustment factor" (RCAF) indices each quarter to reflect changes in costs incurred by the rail industry.[23] These indices include an unadjusted RCAF (reflecting cost changes experienced by the railroad industry, without reference to changes in rail productivity) and a productivity-adjusted RCAF (reflecting national average productivity changes, as originally developed and applied by the ICC, based on a 5-year moving average).[24] Additionally, the Board publishes the RCAF-5 index that also reflects national average productivity changes but is calculated as if a 5-year moving average had been applied consistently from the

[20] *See* 49 C.F.R. Part 1106.

[21] 49 U.S.C. §§ 11141-43, 11161-64, 1200-1201.

[22] 49 U.S.C. §§ 11145, 1241-1246, 1248.

[23] *See* Appendix A.

[24] 49 U.S.C. §§ 10708, 1135.

productivity adjustment's inception in 1989.[25]

Positive Train Control (PTC) Reporting

In 2013 the Board adopted final reporting rules regarding PTC[26], an automated system designed to prevent train-to-train collision and other accidents. Specifically, railroads must separately report information on capital and operating expenditures for PTC when submitting information for the Board's annual Form R-1 reports (financial and statistical reports by Class I carriers). In this way, PTC expenses may be viewed both as components of, and separately from, other capital investments and expenses.

Amtrak and Passenger Rail

The Board has limited, but significant, regulatory authority involving Amtrak, including authority to ensure that Amtrak may operate over other railroads' track, to address disputes concerning shared use of tracks and other facilities (including disputes concerning Amtrak's statutory right of preference over other railroads' lines), and to set the terms and conditions of shared use if Amtrak and railroads or regional transportation authorities fail to reach voluntary agreements.

During an emergency, the Board may require a rail carrier to provide facilities, on terms prescribed by the Board, to enable Amtrak to conduct its operations. The Board also has authority to direct commuter rail operations in the event of a cessation of service by Amtrak.

PRIIA[27] expanded the Board's jurisdiction over passenger rail. PRIIA authorizes the STB to institute enforcement or investigatory action under certain circumstances. Following investigatory action, the agency is to identify reasonable measures and make recommendations to improve Amtrak performance and/or service quality, and it can award damages and prescribe other relief in appropriate instances.

Under certain circumstances, the Board may be called upon to set terms for access to

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

[26] *Reporting Requirements for Positive Train Control Expenses and Investments*, EP 706 (STB served Aug. 14, 2013).

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

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.

Section 209 of PRIIA requires Amtrak, in consultation with the Secretary of Transportation and the relevant states, to establish a standardized, nationwide methodology for allocating operational and capital costs among Amtrak and the relevant states for certain state-subsidized intercity passenger rail services. The statute provides that if Amtrak and the relevant states do not voluntarily adopt such a methodology, the Board shall do so. As most, but not all, of the affected states reached agreement with Amtrak on a methodology, Amtrak in 2011 petitioned the Board to determine that the proposed methodology is the appropriate methodology under PRIIA. The Board did so, finding the proposed methodology met the requirements of PRIIA Section 209(a).[28]

Thereafter, as Amtrak and the affected states implemented the approved methodology by means of a jointly-developed Policy, issues emerged over time requiring clarification or modification of the Policy. To foster consensual resolution of those issues, in 2014 the Board engaged the Federal Mediation and Conciliation Service (FMCS) to organize and facilitate focused discussions involving Amtrak and the affected states. In June 2015, the parties, with the assistance of the Board-sponsored FMCS facilitation team, reached agreement on the creation of a committee structure including Amtrak, the FRA, and the affected states, to negotiate and resolve ongoing cost allocation issues. Since then, that committee, with the continuing support of FMCS under Board auspices, has made substantial progress toward reaching agreement among the parties on various specific cost-allocation topics.

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."[29] Excluded from this jurisdiction, however, is

[28] *See Amtrak's Pet. for Determination of PRIIA Section 209 Cost Methodology*, FD 35571 (STB served Mar. 15, 2012).

[29] 49 U.S.C. § 10501(a)(2)(A).

"mass transportation provided by a local government authority." [30]

Motor Carriage

Bureau Agreements

The Board may approve agreements by motor carriers to collectively set through routes and joint rates, establish uniform classifications and mileage guides, and engage in certain other collective activities. Beginning January 1, 2008, the Board ceased to allow carriers to set base rates and related matters collectively, and the agency terminated its approval of all outstanding motor-carrier bureau agreements, as well as antitrust immunity for them.[31] Consequently, some motor carrier bureaus disbanded altogether while others revised their activities significantly to comply with the antitrust laws.

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 bus carriers to provide through routes with other carriers.

[30] 49 U.S.C. § 10501(c)(2)(A).

[31] *Motor Carrier Bureaus—Periodic Review Proceeding*, EP 656 (STB served May 7, 2007, and June 28, 2007).

Motor Carrier Rate Reasonableness

The Board may review the reasonableness of motor carrier rates established collectively. In view of the Board's termination of approval for motor carriers to set rates collectively, that type of rate is no longer sanctioned.

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.

D. AGENCY MISSION CHALLENGES

Relationship Between Strategic Goals and Performance Goals

The strategic goals broadly enunciate the purposes for which the Board was created and shape how the Board achieves its mission. The Board's annual performance plan identifies budget program activities and establishes more specific performance goals. The performance plan 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.

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 legislation governing surface transportation in the United States;
- Changes in the Board's budget, staffing and resource limits, and authorization;
- Changes because of the implementation of a full user-fee funding program;
- Changes in market demand and strategic direction in the surface transportation industries;
- Unanticipated nationwide or regional economic growth or recession;
- Major changes in the ability of surface transportation carriers to compete effectively and/or provide responsive and reliable service; and
- The impact of ongoing homeland security activities on the surface transportation industry.

E. CONTROLS, SYSTEMS, AND LEGAL COMPLIANCE

The STB fully recognizes that internal controls are fundamental to the systems and processes the STB uses to manage its operations and achieve its strategic goals. As noted in the Chairman's Statement of Assurance in the following section, the STB does not have any material weaknesses or nonconformance to report for FY 2016.

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

The STB received an unmodified (clean) audit opinion for FY 2016. During interim testing, there was one finding that related to reporting of actuarial Federal Employees' Compensation Act (FECA) liabilities and unfunded FECA liabilities in the STB financial statements. These liabilities relate to future FECA costs for STB employees or former ICC employees. The STB's interim

June 30, 2016 financial statements contained no information on FECA liabilities. It is our policy to address such findings at the highest management level and resolve any findings or recommendations that may arise from the audit. Therefore, the STB corrected the issue and included these liabilities in the FY 2016 year-end financial statements.

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 Treasury for collection. The collection of delinquent debts is conducted by the Bureau of Fiscal Services through the Cross-Servicing Program and 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 amount of 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 94% of invoices were paid on time in FY 2016. The four late payments[32] resulted in interest charges of $526 on total payments of $2.8 million. The Board, working with Enterprise Services Center (ESC), our shared service provider, is taking proactive steps to increase the number of on-time payments to 100% and to prevent duplicate payments using Enterprise Data Quality software provided by ESC.

[32] Three payments were paid late due to delays in receiving payment approvals. One payment was paid late due to ESC's oversight.

Annual Review of User Fees

The STB is required to update its user fees at least annually.[33] The fees are calculated using the current update formula at 49 C.F.R. § 1002.3(d)[34], subject to Board policy regarding capped fees. The calculation is based on six components: direct labor; government fringe benefit costs; operations overhead factor; office overhead factor; Board overhead factor; and any publication (Federal Register) cost if necessary. All costs are based on the most recently completed fiscal year data available. User fees were updated in Docket No. EP 542 (Sub-No. 24) issued August 2, 2016, and effective September 1, 2016.

Performance Measure Summary

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

USA Spending Reconciliation

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

DATA Act Requirements

ESC is testing software that is intended to enable the Board to comply with the requirement of the DATA Act to start capturing award information in financial systems effective January 1, 2017. ESC is on target to also implement additional patches to enable the STB to meet the requirement to produce financial data files to submit to the DATA Act Broker. These activities will enable us to meet the DATA Act requirements per public law.

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[33] 49 C.F.R. § 1002.3.

[34] Adopted through notice and comment procedures in *Regulations Governing Fees for Services Performed in Connection With Licensing & Related Services—1987 Update*, 4 I.C.C.2d 137 (1987).

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 requires agencies to report on final actions taken on OIG audit recommendations. While the Reauthorization Act removed the requirement for DOT to provide administrative support to the Board, it provided the DOT Inspector General the authority to review the financial management, property management, and business operations of the Board, including internal accounting and administrative control systems, to determine the Board's compliance with applicable federal laws, rules, and regulations.

In FY 2016, the DOT OIG engaged an independent public accounting firm to audit the Board's financial statements. As explained earlier in this section of the report, the STB received an unmodified (clean) audit opinion for FY 2016.

Lease Renewal Planning and Relocation

The STB's General Services Administration (GSA) lease expires in February 2017. The Board requested funding for space planning, including hiring a contractor to act as our representative during the design and construction phase of our lease renewal. In addition to space planning, the Board anticipates incurring construction and relocation costs in FY 2017.

F. CHAIRMAN'S FMFIA STATEMENT OF ASSURANCE

This memorandum provides the Surface Transportation Board's (STB) fiscal year (FY) 2016 Federal Managers' Financial Integrity Act of 1982 (FMFIA) assurance statement and summarizes noteworthy internal control and management efforts in support of that assurance.

This statement reflects the status for the year ended ***September 30, 2016***.

FMFIA (Pub. L. 97-255)

STB management is responsible for establishing and maintaining effective internal control to meet the objectives of Sections 2 and 4 of FMFIA. STB conducted its internal control assessment in accordance with OMB Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*. Based on the results of the assessment, STB can provide reasonable assurance that internal control over operations, reporting, and compliance were operating effectively and can provide reasonable assurance that the objectives of FMFIA Sections 2 and 4 are being met as of September 30, 2016.

Those objectives are:

- Obligations and costs are in compliance with applicable law,
- Funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation,
- Revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets,
- Audit findings are promptly resolved, and
- Financial systems (if applicable) conform to principles, standards, and related requirements prescribed by the Comptroller General.

STB is reporting no material weaknesses or financial system non-conformances for the year ended September 30, 2016.

Office of Management and Budget (OMB) Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control; Appendix A: Internal Control over Financial Reporting

STB management is responsible for establishing and maintaining effective internal controls over financial reporting. The STB conducted its assessment of the effectiveness of STB's internal control over financial reporting in accordance with the requirements of OMB Circular A-123, Appendix A. During FY 2016, the STB documented and assessed internal controls over two business processes:

- Cost Accounting
- Revenue and Receivables

In addition, an assessment was performed on the financial management system, Delphi, including obtaining an annual Statement on Standards for Attestation Engagements 16 (SSAE 16) Service Organization Control (SOC) Type II Report from the Enterprise Services Center (ESC) to determine if financial system non-conformances exist.

Based on the results of the assessment, STB provides reasonable assurance that its internal control over financial reporting was operating effectively and no material weaknesses were identified as of June 30, 2016.

Government Charge Card Abuse Prevention Act (Charge Card Act) of 2012 (P.L. 112-194) OMB Circular A-123, Appendix B: Improving the Management of Government Charge Card Programs

The Charge Card Act establishes reporting and audit requirement responsibilities for executive branch agencies. The STB has reviewed the Purchase and Travel Card programs for compliance with the Charge Card Act, and can provide reasonable assurance that appropriate policies and controls are in place to mitigate the risk of fraud and inappropriate charge card practices.

The STB also reviewed the Purchase and Travel Card programs for compliance with OMB Circular A-123, Appendix B requirements. Based on the results of the evaluation, STB can provide reasonable assurance that it is in compliance with OMB Circular A-123, Appendix B.

Federal Financial Management Improvement Act of 1996 (FFMIA) (P.L. 104-208)
OMB Circular A-123, Appendix D: Compliance with FFMIA

FFMIA requires establishing and maintaining financial management systems that substantially comply with the following three FFMIA Section 803(a) requirements: Federal Financial Management System Requirements,

applicable Federal accounting standards, and the United States Standard General Ledger (USSGL) at the transaction level.

Based on the results of the FFMIA Compliance Determination Framework utilized from OMB Circular A-123, Appendix D and management's assessments of its internal controls within financial management systems as described under the OMB Circular A-123, Appendix A section above, the STB has determined that financial management systems were in compliance with FFMIA for FY 2016.

OMB Circular A-11: Preparation, Submission, and Execution of the Budget

Information Technology (IT) Resource Statements

- As required by OMB Circular, A-11:
- The Chief Information Officer (CIO) affirms that the CIO has reviewed and approved the major IT investments portion of the budget request.
- The Chief Financial Officer (CFO) and CIO affirm that the CIO had a significant role in reviewing the planned IT support for major program objectives, and significant increases and decreases in IT resources.
- The CFO and CIO affirm that the IT Portfolio included appropriate estimates of all IT resources included in the budget request.

Federal Information Security Management Act of 2002 (FISMA) (P.L. 107-347)

The STB underwent a FISMA review by the Department of Transportation's Office of Inspector General in FY 2015 that assessed STB for compliance with FISMA requirements. In November 2016, the STB will submit its required annual security report to the Department of Homeland Security's CyberScope. The STB also actively monitors for cybersecurity related threats and remediates vulnerabilities when found for its systems and network.

Based on the results of the evaluations and active monitoring and remediation described above, the STB is able to provide reasonable assurance that the objectives of Sections 2 and 4 of the FMFIA are being met.

Please contact Marcin Skomial, the Board's CFO or Lindsay Visco, the Board's Deputy Chief Financial Officer if any further information is needed.

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Daniel R. Elliott III
Chairman

II. PROGRAM PERFORMANCE

A. PROGRAM PERFORMANCE OVERVIEW

The STB provided a performance plan to Congress pursuant to the GPRA Modernization Act. Our performance goals are organized to achieve our strategic goals.

During FY 2016, the STB continued to make progress in modernizing its business processes. The Board is continuously responding to the railroad industry and the shipping public they serve. This includes the increased operating efficiencies being utilized by the railroads such as PTC, expanding transportation capacity, and finding sound economic solutions for today's transportation world. In FY 2016, the Board responded quickly to the public's need for real-time data relative to crude oil movements in the upper Midwest region of the United States.

The Board also implemented a grant-stamp procedure beginning December 15, 2011.[35] This procedure is used for the issuance of decisions in uncontested, routine procedural matters delegated to the STB's Director of OP whenever further explanation or discussion is unnecessary. This procedure is designed to better serve the public, streamline Board processes, and remove uncertainty.

The Board's significant accomplishments in FY 2016 are summarized in Tables 1 and 2. Table 1 lists the number of decisions issued by the Board in FY 2016 by category. Table 2 lists STB court-related work in FY 2016 by category. These tables do not reflect some Board activities that provide direct and indirect support for rulemakings and decisions in specific cases. These activities include enforcement activities; rail audits and rail carrier reporting oversight; administration of the rail waybill sample; development of URCS; and case-related correspondence and informal public assistance.

[35] Per *Policy Statement on Grant Stamp Procedure in Routine Director Orders*, EP 709 (STB served Nov. 14, 2011).

Table 1. STB Decisions Served FY 2016

Category		Decisions Served
RAIL		
Carrier Consolidations (Mergers or Control)		**28**
Rates and Services		
Rate Reasonableness	*36*	
Car Supply and Interchange	*1*	
Competitive Access	*3*	
Total		**40**
Constructions		**26**
Abandoned Rail Lines		
Abandonments	*140*	
Financial Assistance	*1*	
Rails to Trails	*93*	
Total		**234**
Other Line Transactions		
Line Consolidations (Leases, Trackage Rights, Joint Use)	*42*	
Line Acquisitions Under 49 U.S.C. 10901	*39*	
Line Acquisitions by Shortline	*30*	
Feeder Line Development	*7*	
Acquisition and Operation 10502	*7*	
Total		**125**
Data Collection and Oversight -- RCAF		**7**
Passenger Rail		
Amtrak Track Use/Compensation	*7*	
Passenger Rail – Other	*2*	
Total		**9**
Exemption Rulemakings		**44**
TOTAL RAIL		**513**

Table 1. STB Decisions Served FY 2016 *(cont'd)*		
Category		**Decisions Served**
MOTOR		
Bus Regulation (Mergers or Control)	9	
Other Motor	1	
Total		**10**
WATER		**0**
PIPELINE		**0**
OTHER		**53**
TOTAL NONRAIL		**63**
TOTAL RAIL AND NONRAIL		**576**

Table 2. STB Court Related Work FY 2016	
Category	**Court Work**
RAIL	
Rates and Services - *Reasonable Practice*	***7***
Constructions	***3***
Abandoned Rail Lines - *Abandonments, Financial Assistance*	**7**
Data Collection and Oversight - *Reports (Rail)*	***1***
Passenger Rail - *Amtrak Track Use/ Compensation*	**5**
Other Rail	***32***
MOTOR	**0**
WATER	**0**
PIPELINE	**0**
OTHER[a]	**629**
TOTAL RAIL AND NONRAIL	**684**

[a] These activities include statutes such as the Freedom of Information Act and the laws governing ethical conduct of Federal employees.

B. ANNUAL PERFORMANCE REPORT

Introduction

The STB's performance management system includes specific strategic goals and performance measures. The strategic goals represent the Board's mission and reflect the overall outcomes and objectives the Board seeks to achieve. Table 3 lists the Board's strategic goals, performance goals, and performance measures and shows our progress in FY 2016 toward meeting our goals. This section also contains a discussion of STB's regulatory and administrative accomplishments in FY 2016.

STB Regulatory Accomplishments

Rulemakings

The Board is continuously looking to update its regulations as needed.[36] For example, the Board adopted final rules that updated the accounting and reporting requirements in its Uniform System of Accounts (USOA) for Class I Railroads to be more consistent with Generally Accepted Accounting Principles (GAAP).[37] The Board also revised certain schedules and instructions in the Annual Report for Class I Railroads to better meet regulatory requirements and industry needs.

The Board instituted a proceeding to assess procedures that are available to parties in litigation before courts to expedite such litigation and the potential application of any such procedures to rate cases before the Board.[38] The Board is also assessing ways to move SAC rate cases more expeditiously.

The Board is working on proposed rules pursuant to the Reauthorization Act. Specifically, the Board is working on establishing procedures for investigations conducted on the Board's own initiative.[39]

[36] *Improving Regulation and Regulatory Review*, Docket No. EP 712.

[37] *Accounting and Reporting of Business Combinations, Security Investments, Comprehensive Income, Derivative Instruments and Hedging Activities*, Docket No. EP 720.

[38] *Expediting Rate Cases*, Docket No. EP 733.

[39] Section 12 of the Reauthorization Act of 2015; *Rules Relating to Board-Initiated Investigations*, Docket No. EP 731.

Table 3. STB Strategic Goals and Annual Performance Measures

Strategic Goal	Performance Goal	Performance Measure	FY 2016
Protect Public Interest	Ensure that Board decisions comport with statutes, precedents, and policies and are fair and reasonable.	1. Court challenges to Board decisions do not raise unanticipated issues that the Board should have addressed; 2. Court rulings do not reverse Board decisions as unfair or unreasonable.	0% 100%
Foster Economic Efficiencies	Economic Oversight: Provide timely, accurate, and useful financial and operational data and decisions.	3. Cost of capital, rail revenue adjustments, and revenue adequacy decisions are released per schedule, and 4. Requests for waybill data are handled within 7 days of requests.	100% 100%
Provide Timely, Efficient, and Decisive Regulatory Process	Ensure that Board decisions meet applicable deadlines	5. All decisions, notices, and other documents are published and served promptly and copies made available to the public the same day; and 6. Congressional and public e-mail and telephone inquiries are fully answered within 14 days. 7. Board's decisions on railroad abandonments are issued within 110 days of initial filing; 8. Statutory deadlines imposed on all cases are met at least 90% of the time; and 9. Met dispute resolution deadlines 90% of time.	100% 100% 100% 100% 100%
Ensure Necessary Organization/ Management Structure is Available to Carry Out First Three Goals	Operation Oversight/Enforcement: Monitoring rail operations, resolving complaints, and contracts.	10. 90% of informal complaints are handled within 30 days of receipt; 11. Data is collected and processed within 24 hours; 12. 90% of requestors are given correct information and complaint resolved; and 13. Requests for certified copies of documents are handled within 5 business days.	100% 98% 100% 100%

The Board amended its rules and adjusted its procedural schedule in SAC cases.[40] The STB also amended its arbitration procedures at 49 C.F.R. §§ 1108 and 1115.8.[41]

Environment Impact Statements (EIS) and Environment Assessments (EA)

The Board works on EISs and EAs in construction and acquisition transactions. These cases are either in (1) various stages of environmental review or (2) subject to Board oversight on the environmental mitigation imposed on the grant of Board authority. Environmental mitigation monitoring and evaluation is overseen by the Board to ensure project compliance with certain environmental conditions that the Board believes is reasonable and appropriate to minimize potential environmental impacts related to a transaction. The EISs cover a wide range of potential environmental impacts, including wetlands that support both aquatic and terrestrial species, movement of hazardous materials, emergency response, safety, noise, endangered and threatened species, climate change, community effects, farmlands, and affects to tribal communities and historic resources. The EISs also provide the Board, reviewing and cooperating agencies, and the public with information to assess alternatives that meet the transaction's purpose and need and identify potential avoidance and mitigation measures. The Board maintains working relationships with stakeholders to facilitate resolutions.

In one EIS transaction[42], the STB worked closely with more than 18 federally recognized Native American tribes, the Advisory Council on Historic Preservation, and other consulting parties to develop a new Programmatic Agreement under the NHPA.

The Board is a cooperating agency on a 65-mile High-Speed Train EIS.[43] The Board monitors the implementation and

[40] Section 11(b) of the Reauthorization Act of 2015; *Revised Procedural Schedule in Stand-Alone Cost Cases*, Docket No. EP 732.

[41] *Revisions to Arbitration Procedures*, Docket No. EP 730.

[42] In *Tongue River Railroad Company, Inc.—Rail Construction and Operation—In Custer, Powder River and Rosebud Counties, Mont.*, Docket No. FD 30186, Tongue River Railroad Company sought authority to construct and operate a 42-mile line from two proposed mines in Montana to a main rail line to move coal to Michigan, Minnesota, and the Pacific Rim via proposed ports in the Pacific Northwest.

[43] *California High-Speed Rail Authority—Construction Exemption—In Merced, Madera and Fresno Counties, Cal.*, Docket No. FD 35724.

effectiveness of the overall environmental mitigation in cases such as CN's acquisition of 198-mile Elgin, Joliet and Eastern Railway Company (EJ&E) line around Chicago for diverting CN trains from congested rail lines running into Chicago to a less congested line in the western suburbs of Chicago. [44] The Board granted authority to construct and operate a rail line extension in Alaska and imposed 100 environmental mitigation measures, including oversight and quarterly monitoring.[45] The Board has conducted scoping meetings regarding a railroad's intent to construct and operate an approximately 278-mile rail line that would extend through Midwest states to connect with existing Class I railroads.

The Board accepted consulting agency status for a proposed 63-mile multimodal transportation corridor in California.[46] The freeway/tollway project includes a high-speed rail component, designed for the median of the freeway. The Board works with State Historic Preservation Offices and holds meetings with stakeholders and the public to discuss the results of its EAs that address environmental and historic concerns. EAs span a wide geographic area and a range of environmental impacts, such as increased rail traffic over existing rail lines, prime farmland, avoiding or minimizing wetlands impacts, assessing greenhouse gas emissions, and developing agreements with other stakeholders to reduce impacts to historic sites and structures.

Merger Cases and Oversight

In FY 2016, the Board continued to analyze monthly operating reports and quarterly environmental reports filed by Canadian National Railway Company (CN) as a condition of STB's approval of CN's acquisition of EJ&E.[47] These reports allow the Board to assess the effects of CN's post-acquisition operations on communities in the greater Chicago area; e.g., the frequency and duration of blocked roadway crossings. In FY 2016, the Canadian Pacific Railway engaged in an initiative to merge with the Norfolk Southern Corporation. The Board

[44] *Canadian National Railway Company and Grand Trunk Corporation—Control EJ&E West Company*, Docket No. FD 35087.

[45] *Alaska Railroad Corporation—Construction and Operation Exemption—a Rail Line Extension to Port Mackenzie, Alaska*, Docket No. FD 35095.

[46] *High Desert Corridor*, Docket No. FD 35941.

[47] *Canadian National Railway Company and Grand Trunk Corporation—Control—EJ&E West Company*, Docket No. FD 35087.

responded to members of Congress, State and local officials, shippers, and members of the public. CP later decided to cease efforts to pursue merger discussions with NS.

Dispute Resolution

To carry out the Board's regulatory mission at a time of increased caseload and fewer resources, the Board encourages parties to use alternative dispute resolution (ADR). Since the start of FY 2008, the STB has conducted mediation in 30 proceedings, resulting in 8 cases being settled.

In 2013, the Board adopted new arbitration and mediation rules under which the Board may order parties into mediation or grant mediation upon request. Several STB employees have received formal mediation training so they may leverage their substantive work experience and specialized training to provide stakeholders with an effective pathway for resolving disputes outside of litigation. In September 2016, the Board further modified its ADR rules in accordance with new requirements in the Reauthorization Act.

Uniform Rail Costing System

The Board continues to recode and modernize URCS, the Board's general purpose costing system. The modernized version will allow users to dynamically change inputs and observe the impact on unit costs. The Board has proposed improvements to better reflect operating efficiencies as shipment size increases.[48]

Waybill Sample

The waybill describes the disposition of a traffic movement, from origin to destination, and serves as the basis for determination of freight charges and interline settlement. It contains detailed information on over one-half million individual movements randomly selected each year. The waybill sample is used to track traffic movements, determine revenue and costs related to movement segments, and assist in rail planning. In FY 2016, the Board distributed 44 annual, 14 monthly, and 5 quarterly waybill samples to requestors.

[48] *Review of the General Purpose Costing System*, EP 431 (Sub-No.4) (STB served Feb. 3, 2013).

Court Actions

During the year, the OGC assisted the Solicitor General in briefing two cases before the Supreme Court.[49,50] The Office also filed three briefs, a petition for rehearing, three motions for dismissal or summary affirmance in the U.S. courts of appeals, and oppositions to a stay request and to a motion for summary vacatur. The OGC also assisted the Department of Justice (DOJ) in several court cases. Due to the high quality of the work of the OGC, DOJ elected to join in each of the briefs the STB prepared and to represent the United States in court at oral argument this year.

Amtrak and Passenger Rail

The Board continues to work on its passenger rail responsibilities under PRIIA. Board staff meet regularly with Amtrak staff to discuss Amtrak's monthly on-time performance operating statistics. The Board has issued a final decision with standards for measuring passenger train on-time performance.[51] Under PRIIA, a finding that on-time performance has averaged less than 80% over two consecutive calendar quarters triggers the Board's authority to investigate the cause of such performance and award damages and other relief.

The Board assists with the implementation of the cost allocation formula for Amtrak's state-sponsored routes.[52] Through the Federal Mediation and Conciliation Service, the Board arranged for informal, neutral facilitation of other, long-term issues between the States and Amtrak in the implementation of cost allocation.[53] The result is a robust governance structure among the States, Amtrak, and the FRA.

Fixing America's Surface Transportation Act of 2015 (FAST Act)

The STB proposed regulations[54] to implement passenger rail-related dispute resolution provisions of Title XI of the FAST Act.[55] The FAST Act added to the Board's existing passenger rail adjudicatory

[49] *U.S. Dept. of Transp. v. Ass'n of Am. Railroads*, Docket No. 13-1080.

[50] *Alabama Dept. of Revenue v. CSX Transportation, Inc.*, Docket No. 13-533.

[51] *On-Time Performance under Section 213 of the Passenger Rail Investment and Improvement Act of 2008*, Docket No. EP 726, served July 28, 2016.

[52] *Amtrak Petition for Determination of PRIIA Section 209 Cost Methodology*, Docket No. FD 35571.

[53] PRIIA Section 209.

[54] In *Dispute Resolution Procedures Under the Fixing America's Surface Transportation Act Of 2015*, Docket No. EP-734, served July 28, 2016.

[55] Pub. L. No. 114-94, December 4, 2015.

responsibilities related to Amtrak. Now included are provisions involving Amtrak cost recovery for its operations on state supported routes and for costs allocated to states in their use of rail facilities for commuter-rail operations within the Washington, D.C.-to-Boston Northeast Corridor.

Advisory Committees

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

The *Railroad-Shipper Transportation Advisory Council (RSTAC)* is comprised of 14 private-sector senior executives representing large and small railroads and rail customers and one member-at-large. RSTAC works to strengthen the national rail industry, improve service levels, foster mutually beneficial relations between large and small railroads and shippers across commodity groups, and advise the STB, the Secretary of Transportation, and congressional committees on rail transportation policy and improvements in the transportation system.

The *Rail Energy Transportation Advisory Committee (RETAC)* is a forum for discussing emerging issues concerning the rail transportation of energy resources such as coal, crude oil, ethanol, and other biofuels. The 25 voting members of RETAC include large and small railroads, coal producers, electric utilities, the biofuels industry, the petroleum production industry, and the private railcar industry.

The *National Grain Car Council (NGCC*) assists the Board in addressing problems concerning grain transportation by fostering communication among railroads, shippers, rail-car manufacturers, and government. The NGCC consists of 14 representatives from Class I railroads, 7 from Class II and Class III railroads, 14 from grain shippers and receivers, and 5 from private rail car owners and manufacturers.

Public Outreach and Informal Dispute Resolution Program

In FY 2016, the Board kept Congress and the public informed about agency actions and policies through hearings, printed transcripts, and customer-service pamphlets made widely available through the agency's website www.stb.gov. The Board's public

communications and public meetings are summarized in Table 4.

The RCPA Program continues to be the Board's most effective tool for resolving disputes informally between shippers and railroads, thus avoiding expensive and lengthy formal cases. The Board has mounted an extensive outreach effort, especially to small shippers who have increasingly taken advantage of this free program. In FY 2016, the Board handled over 1,500 inquiries and informal requests for dispute resolution, as shown in Table 5.

The RCPA Program office includes attorneys and former railroad and shipper employees who have decades of experience in rail shipping, operations, marketing, analysis, tariffs, and rates. Program staff attempt to seek common ground and to facilitate the informal settlement of disputes.

The Board engages informally with the Federal Motor Carrier Safety Administration and the Federal Maritime Commission to discuss household goods trends and issues of common interest. The Board also assists customers of household goods moving companies to resolve service and rate disputes.

RCPA's services are available to anyone with a question or issue within the Board's area of expertise. RCPA also explains the differing jurisdictions of various federal transportation agencies and redirects parties and individuals to them as necessary.

Table 4. Board Member Public Communications and Board Public Meetings FY 2016

Testimonies[a]	Written Speeches	Meetings[b]
3	5	14

[a] Before the U.S. Congress.

[b] Conducted nationwide by the Board's OEA.

Table 5. STB RCPA Inquiries During FY 2016	
Commodity Group	**Count**
Aggregates	6
Agricultural Products	50
Automobile	4
Chemicals	46
Coal	8
Construction Debris	1
Construction Materials	1
Empty Freight Cars	4
Forest Products	11
Hazardous Waste/Radioactive Waste	8
Household Goods	65
Industrial Products	11
Intermodal	1
Metals and Minerals	9
Municipal Waste	2
Not Specified by Shipper	16
Miscellaneous[a]	1,170
Passenger	85
TIH	3
Total	1,501

[a] Includes inquiries regarding procedural assistance, informal legal or regulatory guidance, agency information, abandonment records, other records, tariff rule or rate questions, or other commercial or rail service disputes where the underlying commodity is not disclosed.

STB Administrative Accomplishments

Financial Services

The Section of Financial Services, headed by the Chief Financial Officer, had significant accomplishments in FY 2016, a year in which the Board transitioned from a modal administration of DOT to a wholly independent agency as a result of the Reauthorization Act. The Section's most notable accomplishments are listed below:

- Completed the transition of the Board's financial management, budget, and acquisition functions to the wholly independent STB.
- Completed negotiations with DOT's Working Capital Fund that resulted in a Memorandum of Understanding between the Board and DOT to ensure the Board's continued access to Human Resources, Financial, and Information Technology (IT) services as an independent agency.
- Collaborated with the Board's Directors and senior leadership to complete detailed cost analyses and plans for implementing Reauthorization Act mandates that included two new Board Member Offices and an Office of Investigations.
- Forged direct relationships with OMB and Congressional staff to implement the Board's budgetary bypass authority as an independent agency, allowing the Board to fully function as an independent agency and submit budgetary requests directly to Congress.
- Collaborated with the Board's IT and project management staff to assess the fiscal and operational requirements to modernize the Board's IT solutions that led to the development of long-range financial projections for the comprehensive update of the Board's systems.
- Presented the Board's budgetary spending projections to implement the Reauthorization Act mandates as well as funding requirements to support the modernization of the Board's aging IT infrastructure.
- Ensured the Board's compliance with the Accountability of Tax Dollars Act of 2002 and forged a relationship with DOT's OIG to meet the independent audit requirements of the financial

statements in accordance with Generally Accepted Government Auditing Standards.

- Completed the submission of the FY 2017 budget request to OMB and Congress and developed and amended spending plans throughout the fiscal year to ensure cost effectiveness and maximum use of resources provided by Congress.
- Administered funds management to ensure that Board priorities are achieved in response to programmatic changes and operational circumstances. Developed spending plans to assist in monitoring overall spending.
- Ensured that user fee and miscellaneous receipt collections are properly recorded and deposited to provide financial resources for Board operations in accordance with the Department of Treasury's guidelines.
- Ensured that the procurement of services, supplies, and equipment were timely processed in accordance with Federal Acquisition Regulation (FAR) regulations and small acquisition procedures.
- Provided guidance to Board staff to ensure use of the appropriate procurement vehicle to accomplish the Board's requirements and mission.
- Provided internal control oversight of Board administration operations in accordance with OMB Circular A-123, *Management Accountability and Controls*, to ensure that no waste, fraud, or abuse exists and provided supporting documentation to external auditors performing internal control audits of the Board and its administration operations.
- Provided liaison with the Board's accounts payable and receivable provider to ensure that the Board's accounting operations and fund management are in accordance with the GAAP and Treasury and fiscal guidelines. Prepared the required external financial statements for Congress, OMB, Treasury, and external stakeholders.

Information Technology

The Reauthorization Act repealed the requirement for DOT to provide administrative support to the Board. This separation resulted in significant new IT requirements for the Board, such as the acquisition of a Trusted Internet Connection (TIC) and the establishment of a comprehensive Information Security program. During FY 2016, the Board completed the following tasks toward the establishment of an Information Security program independent of DOT:

- Initiated Continuous Diagnostics & Monitoring (CDM) and Cyber hygiene through the Department of Homeland Security.
- Completed updates to Security policies and procedures.
- Prepared initial reports per the Federal Information Security Management Act (FISMA) to submit to Cyberscope.
- Acquired and implemented security tools to replace services previously provided by DOT.
- Established and implemented STB security controls to transition from DOT-provided controls.
- Set up IT security awareness and privacy training for all STB personnel.

In FY 2016, the STB procured TIC Services from CenturyLink and completed the cutover from a DOT provided TIC to STB Services. The Board also initiated the setup of a T-1 internet connection through ESC to replace the DOT provided T1 line and support the separation of STB's financial and HR systems from DOT.

The STB also began the transition of PIV services from DOT to GSA's USAccess program. The setup of the STB.GOV domain name has begun.

As a first step towards upgrading the Board's IT infrastructure and complying with the GSA's "Cloud First" mandate, the Board's email has been migrated from a legacy Lotus Notes environment to Microsoft's Office 365 Services. The move to the Cloud supports the Board's IT requirements for Contingency of Operations Planning and will reduce the long-term cost to the Board of having to provide these services in-house. All user mailboxes were migrated to Office 365 in FY 2016. As part of this effort, a foundation was also established to use Amazon Web Services for migration of servers to the Cloud.

To continue the Board's efforts to upgrade its IT infrastructure and capabilities, over 60% of older laptops and desktops were replaced by newer, more powerful laptops.

Additionally, the Board continues to work toward replacing its case management system. The new case management solution is expected to not only provide basic case management capabilities but also support the automation of manual processes, reducing duplicative efforts and data entry.

The STB's IT section has also made significant accomplishments to support the Section of Financial Service. These accomplishments include the rollout of the electronic timekeeping system to all employees, eliminating paper-based time certification.

Website Redesign

The Board continues to upgrade the functionality of its website to make it easier to maintain and update and more accessible and transparent through an intuitive and mobile friendly user experience. The modernized website is intended to provide payment of fees by credit card through Pay.gov, more powerful search capabilities, easier procedures for commenting on Board proceedings, and more streamlined and enhanced electronic filing capabilities.

Human Resources

Our most vital resource at the STB is our people. Effective management of our workforce is crucial to our ability to provide financially sound and reliable surface transportation systems that serve the public interest. Accordingly, the STB developed its ***Human Capital Plan for 2013-2017*** to serve as its road map for personnel management.

The STB continues to be an agency in transition. Due to retirements, the Directors of the Offices of Proceedings; General Counsel; and Public Affairs, Government Affairs and Compliance have all transitioned and there has been significant turnover in STB staff. The overwhelming majority of the STB staff is no longer former ICC employees who transitioned to the STB when it was created in 1996. Thanks to prudent planning and implementation of the policies outlined in the HCP, the STB is confident that it could replace the significant number of recent retirees with highly skilled and motivated employees subject to budget availability.

The STB developed the HCP in fulfillment of the mandate from the Office of Personnel Management (OPM) and our desire to maximize the use of human capital considering the challenges that are facing us. The purpose of the HCP is to align the STB's human assets with our operational, IT, and support processes for the benefit of those we serve. We seek to create and maintain a performance-based organization. Greater responsibility and accountability are key objectives of this HCP.

We are committed to working with our managers, employees, and other stakeholders to ensure progress is made toward meeting our human capital goals. Managers are held accountable for human capital decisions and the merit system principles, and our employees are informed of the efforts we are undertaking to support them.

The HCP relies upon the STB Workforce Plan. Workforce planning is the systematic process of identifying and addressing the gaps between the agency's workforce of today and the human capital needs of the future. Another critical element of strategic human capital planning is the Human Capital Accountability System, which identifies how to measure and track success when implementing HR initiatives. Tracking the initiatives and measuring them against expected outcomes helps drive management decisions regarding human capital prioritizing and funding. Our Human Capital Solutions Implementation Plan assists with tracking.

Several diagnostic tools and standards for success have been developed to assist agencies to better manage their human capital assets, such as OMB Standards for Success, OPM Human Capital Scorecard, and GAO Tools. While many of these standards apply to larger departments and independent agencies, STB considered many of these standards in developing its HCP.

Building on past efforts to provide standards and tools, OPM developed the Human Capital Assessment and Accountability Framework (HCAAF) to serve as a road map for human capital transformation. The HCAAF is also a comprehensive standard for human capital results, human resources programs, and merit system compliance. The five systems of the HCAAF collectively provide a consistent, comprehensive representation of human capital management for the Federal Government.

Table 6. Human Capital Assessment and Accountability Framework (HCAAF) Systems
Strategic Alignment (Planning and Goal Setting)
Leadership/Knowledge Management (Implementation)
Performance Culture (Implementation)
Talent Management (Implementation)
Accountability (Evaluating Results)

The HCAAF systems are distinct and yet interrelated to serve a common purpose of producing and supporting a world class workforce that:

- Is effective in achieving agency mission results;
- Delivers the highest quality products and services; and
- Quickly adapts to changing environments.

The STB's human capital goals are built around the HCAAF. Our HCP, along with detailed information about our human capital goals, performance, accountability, and HCAAF, are available in human capital documents at the STB.

HR's significant accomplishments for FY 2016 are listed below:

- Coordinated with DOT to review HR system operations and with OPM and shared system providers to maintain stable HR system operations.
- Reviewed employee personnel folders to ensure employee documents are correct, include previous federal service records and credit for previous military service, and reflect correct service credit computation and retirement data.
- Ensured all HR specialists have OPM Delegated Examining Unit training.
- Developed standard operating procedures, checklists, and templates to improve the accuracy and timeliness of retirement processing.
- Obtained diversity training for all STB employees.
- Resolved employee relations issues, finding solutions that work for managers and employees.
- Recruited for the first time using Workforce Recruitment Program (WRP), a government-wide program for college students with disabilities.
- Obtained free, on-site training from the Federal Retirement Thrift Saving Board (TSP) for mid-career and pre-separation employees.

III. FINANCIAL INFORMATION

A. MESSAGE FROM THE CHIEF FINANCIAL OFFICER

During FY 2016, the STB was reauthorized as an independent agency. In this year of transition, we continued to focus on our statutory responsibilities with sound fiscal discipline. I am pleased to present the financial section of this Performance and Accountability Report. The STB's financial position is fairly presented in the accompanying financial statements and related notes, which were prepared in conformity with accounting principles generally accepted in the United States and requirements set forth in OMB Circular No. A-136, *Financial Reporting Requirements*.

This unmodified opinion on the STB's financial statements highlights the continuing commitment of this agency to maintain sound financial management of the resources entrusted to us. The STB's financial condition is sound, and the Board has sufficient internal controls in place to ensure that its budget authority is not exceeded and that funds are used efficiently and effectively.

FY 2016 included the following key accomplishments, demonstrating the effectiveness and efficiency of the STB's financial functions:

- A continuous record of no material weaknesses, significant control deficiencies, or nonconformance with the FMFIA and other applicable laws and regulations;
- Continued focus on internal controls, as mandated by OMB Circular No. A-123, providing budget information in concise and reliable formats; and
- As required by the Accountability of Tax Dollars Act of 2002, accurate and timely issuance of financial statements prepared from, and fully supported by, the books and records of the STB in accordance with GAAP standards approved by the Federal Accounting Standards Advisory Board and OMB Circular No. A-136, *Financial Reporting Requirements.*

The STB is committed to exemplary financial management and strives to enhance

operational efficiency at every opportunity. Major examples of this commitment are the Board's conversion to Microsoft Office 365 and efforts to migrate servers to the Cloud.

This report clearly evidences the STB's commitment to fulfill its Congressional delegated responsibilities. As CFO, I am proud of the role the STB continuously plays in effectively managing its resources and continuing to protect the interest of the American public.

Sincerely,

Marcin Skomial
Chief Financial Officer
Section of Financial Services
Office of the Managing Director
November 15, 2016

B. FINANCIAL PERFORMANCE OVERVIEW

The STB has appropriate internal controls to ensure that its budget authority is not exceeded and funds are utilized efficiently and effectively in performance of STB's mission.

The STB's financial condition as of September 30, 2016, is sound. Due to limited in-house resources, the recording of STB's daily accounting transactions and events is performed by ESC, STB's accounting services provider.

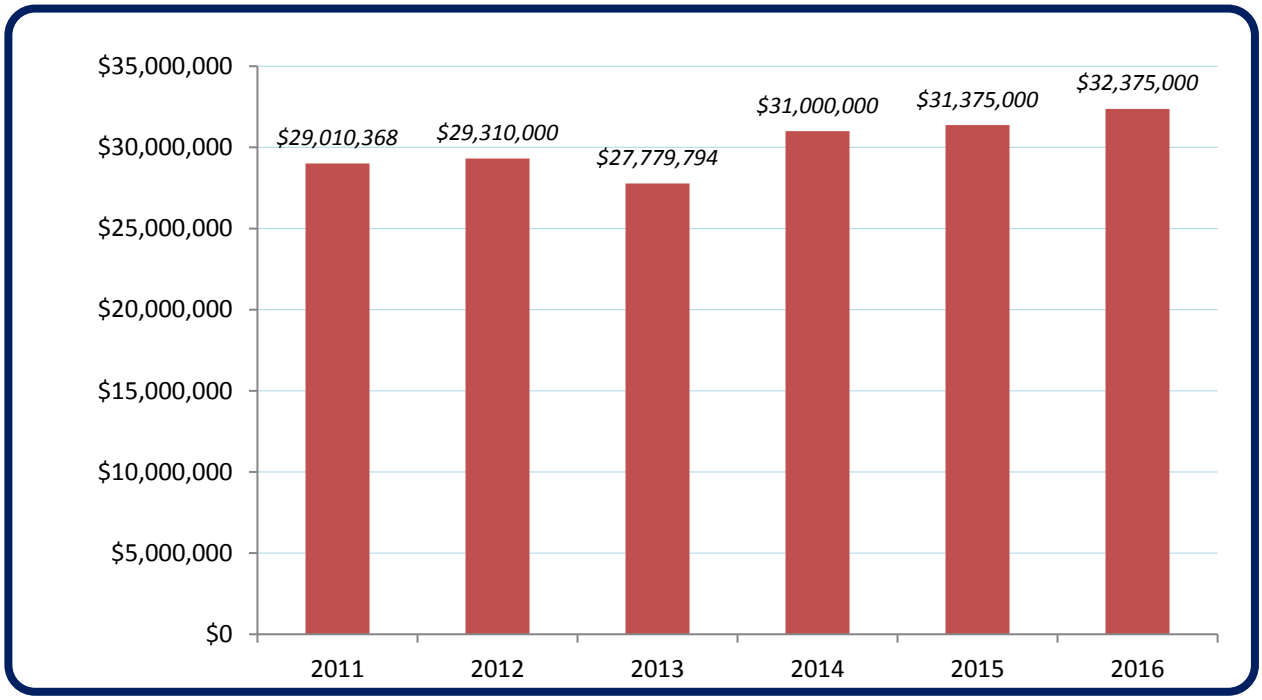
All financial statements and related information have been compiled and presented as required by the Accountability of Tax Dollars Act of 2002. The financial statements have been prepared from, and are fully supported by, the books and records of the STB in accordance with GAAP standards approved by the Federal Accounting Standards Advisory Board and OMB Circular No. A-136, *Financial Reporting Requirements.*

Source of Funds

STB receives its annual funding through an annual appropriation from Treasury, in line with the STB's annual budget request. STB received appropriations of $32,375,000 for FY 2016, which is an increase of $1,000,000 over the FY 2015 final appropriation level. The Board's appropriations for fiscal years 2011 through 2016 are shown in Figure 2.

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

Figure 2. STB Appropriations for FY 2011-2016 [a, b, c]



[a] Appropriations data are from annual appropriation acts as shown in the *STB Budget Request for FY 2017* (February 2016), Exhibit I-6.

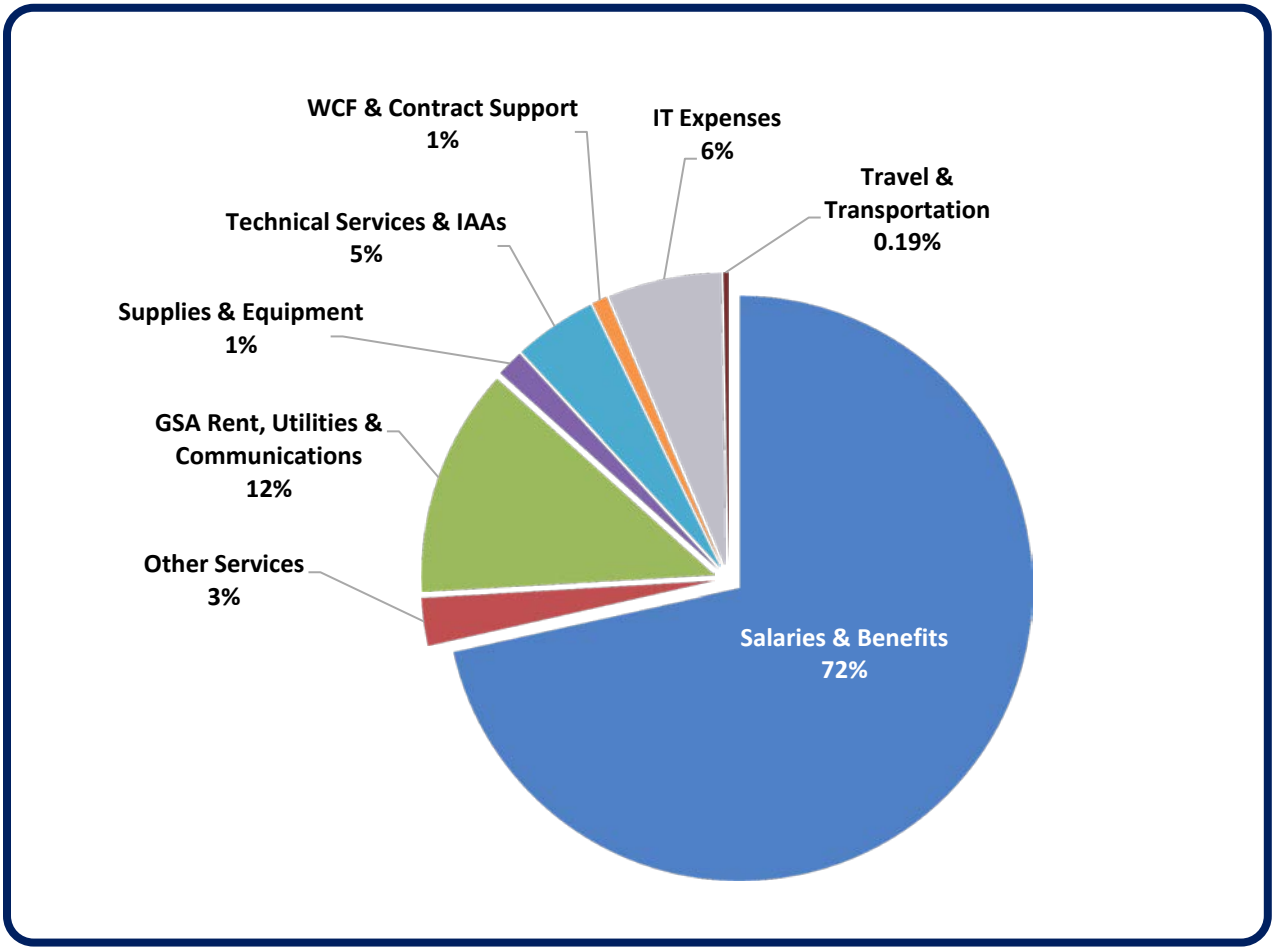
[b] User fees of up to $1.25 million are credited to the Board's appropriation as offsetting collections.

[c] In December 2015 the Reauthorization Act established the Board as a wholly independent agency.

Uses of Funds by Expense Category

The allocation of appropriated funds for the STB for FY 2016 is shown in Figure 3. This chart expresses the appropriated funds as a percentage of STB's total appropriation. A detailed listing of funds by category is shown in Table 7.

Figure 3. STB Use of Appropriated Funds for FY 2016



Notes to Figure 3:

a) *Salaries and Benefits* includes Reimbursable Obligations.

b) *Other Services* includes Printing, Training, Guard Service, Security Investigations, and Building Maintenance.

c) *Supplies and Equipment* includes Health and Miscellaneous Services.

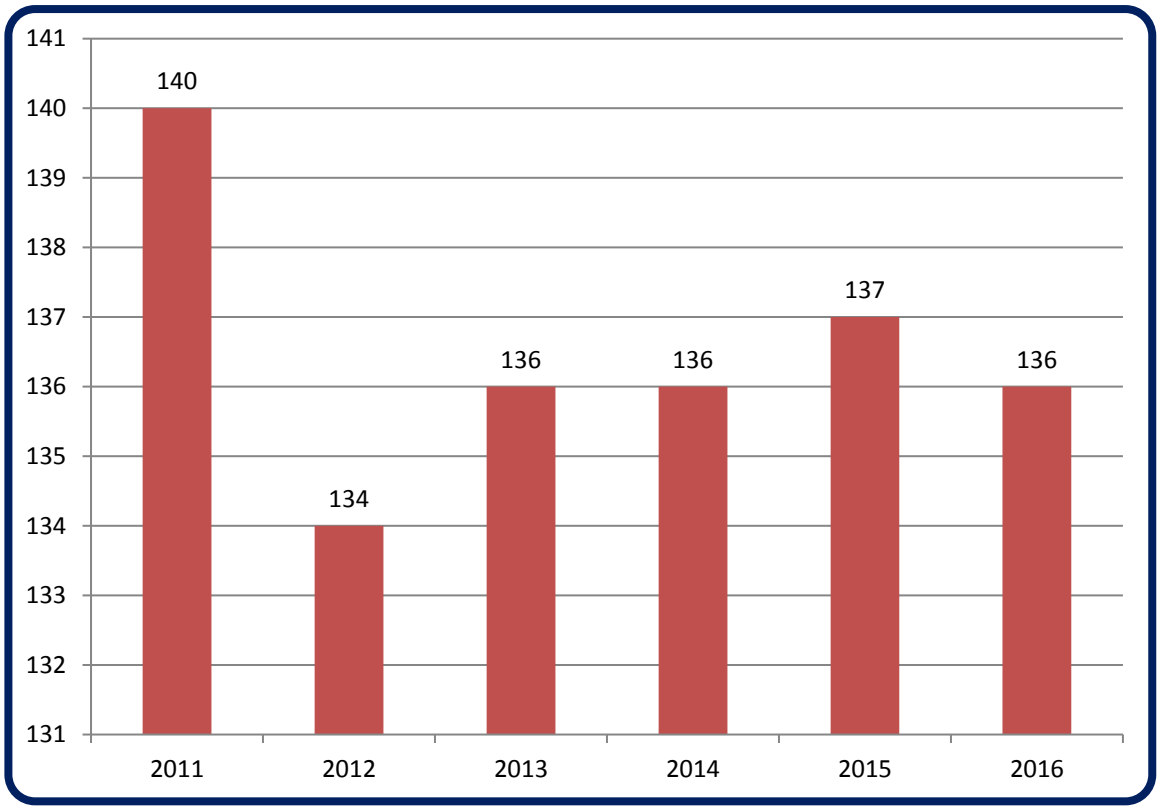
d) *Technical Services and IAAs (Interagency Agreements)* includes Waybill and Lease Renewal Planning.

Table 7. STB Use of Appropriated Funds for FY 2016
(in thousands of dollars)

CATEGORY	FY 2016
FULL TIME PERMANENT APPT.	$16,533
OTHER THAN FULL-TIME PERMANENT	$478
OTHER PERSONNEL COMPENSATION	$204
CIVILIAN PERSONNEL BENEFITS	$5,209
TOTAL PERSONNEL COMPENSATION & BENEFITS	**$22,424**
TRAVEL AND TRANSPORTATION	$61
GSA RENT, COMMUNICATIONS & UTILITIES	$3,851
PRINTING	$19
TECHNICAL SERVICE AGREEMENTS, INCLUDING WAYBILL & LEASE RENEWAL PLANNING	$481
TRAINING	$74
DOT WORKING CAPITAL FUND (WCF) & CONTRACTING SUPPORT	$272
GUARD SERVICE, SECURITY INVESTIGATIONS & BUILDING MAINTENANCE	$719
STB RELOCATION ESTIMATE	$0
ACCOUNTING SERVICES & OTHER INTERAGENCY AGREEMENTS (IAAs)	$967
HEALTH & MISC. SERVICES	$108
OFFICE SUPPLIES, PERIODICALS, LEXIS NEXIS & WEST LAW	$342
EQUIPMENT & FURNITURE	$19
IT EXPENSES, INCLUDING SUPPLIES, CONTRACT SUPPORT, EQUIPMENT	$2,053
SUBTOTAL, DIRECT OBLIGATIONS	**$8,966**
REIMBURSABLE FULL TIME PERMANENT APPT.	$493
REIMBURSABLE PERSONNEL BENEFITS	$150
SUBTOTAL, REIMBURSABLE OBLIGATIONS	**$643**
TOTAL OBLIGATIONS	**$32,033**

To carry out Congress' charge, the STB has assembled a small but highly experienced staff of economists, lawyers, accountants, auditors, engineers, and experts in rail, shipping, and environmental matters. While the Board participates in more than 1,200 decisions and court-related matters each year, significant resources are consumed by a few complex rate cases. Much of the Board's staff time is devoted to analyzing the economic and environmental impacts of its decisions, ensuring that its decisions are fair, and defending those decisions in court. The STB FTEs for fiscal years 2011–2016 are shown in Figure 4.

Figure 4. STB FTEs for FY 2011-2016 [a]



[a] FTE employment data are from Board reports to OPM (SF 113-G). FTE totals are averages for each fiscal year.

C. FINANCIAL STATEMENT HIGHLIGHTS

Discussion and Analysis of Financial Statements

The financial statements contained in the section *Independent Auditors' Report and Principal Financial Statements* report the agency's financial position and the results of operations on an accrual basis. These annual financial statements—Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, and Statement of Budgetary Resources—along with related notes provide a clear description of the agency's mission and the significant accounting policies used to develop the statements.

The STB financial statements presented in this report are for FY 2016. No comparative statements are provided because prior to FY 2016, the Board's financial data were combined in DOT financial statements. Thus, there are certain obligated funds that were available to the Board in its relationship with DOT. Per public law, DOT is required to carry these accounts on their books until such obligations expire.

Limitations of the Financial Statements

Responsibility for the integrity and objectivity of the financial information presented in the financial statements lies with STB management.

The accompanying principal financial statements have been prepared to report the financial position and results of operations of the entity, pursuant to the requirements of 31 U.S.C. 3515 (b). While the statements have been prepared from the books and records of the entity in accordance with GAAP for federal entities and the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. The statements are presented for a component of the U.S. Government. As such, liabilities cannot be liquidated without legislation that provides resources to do so.

Balance Sheet

The major components of the Balance Sheet are assets, liabilities, and net position. *See*

Table 8. Assets represent agency resources that have future economic benefits. The STB assets of $4,340,124 as of September 30, 2016 were comprised of the Fund Balance with the Treasury and two receivables accounts, as shown in the table.

The Fund Balance with Treasury of $3,561,637 is the STB's largest asset and represents 82% of the agency's total assets. Fund balances with the U.S. Treasury are mostly undisbursed cash balances from appropriated funds to address current liabilities. The STB does not maintain any cash balances outside of the U.S. Treasury and does not have any revolving or trust funds. The STB has no capitalized assets.

Liabilities are recognized when they are incurred, regardless of whether they are covered by budgetary resources. In FY 2016, the STB had total liabilities of $3,496,180. The largest component, Other Liabilities, is described in the footnotes to the financial statements provided in the *Independent Auditors' Report and Principal Financial Statements* section of this report. The STB's net position represents the difference between assets and liabilities, as shown in Table 8.

Table 8. Summary of Assets, Liabilities and Net Position
as of September 30, 2016

Category	FY 2016	
Assets		
Fund Balance with Treasury	$ 3,561,637	
Receivable Accounts- Intra Govt. Receivable	767,420	
Accounts Receivable - Public	11,067	
Total Assets		$ 4,340,124
Liabilities		
Liabilities with the Public		
Accrued payables, benefits, and other liabilities	$ 2,14,461	
Accounts Payable	266,082	
Federal Employee Benefits	634,294	
Intragovernmental Liabilities	411,343	
Total Liabilities		$ 3,496,180
Net Position		$ 843,944

D. INDEPENDENT AUDITORS' REPORT and PRINCIPAL FINANCIAL STATEMENTS

STB Audit History

Prior to the enactment of the Reauthorization Act, the STB was organizationally housed within DOT, and STB's financial information was included in DOT's consolidated financial statements. For FY 2015, no material weaknesses, significant deficiencies, or instances of non-compliance with laws or regulations related to the STB were identified during the DOT consolidated financial statement audit. A copy of the related report is available at www.oig.dot.gov/library-item/32796.

STB Audit for FY 2016

Before the Reauthorization Act, the STB was not required to prepare audited financial statements. In FY 2016, the DOT OIG engaged an independent public accounting firm to audit STB's financial statements. The Board received an unmodified audit opinion for FY 2016. The auditor found no issues during final testing of internal controls and identified no compliance issues. This section of the report includes the Auditors' Report and the audited financial statements.

Insert Auditor's Report and Financial Statements (20 pages)

IV. OTHER INFORMATION

A. IMPROPER PAYMENTS INFORMATION ACT

The STB has fully complied with the requirements of the Improper Payments Information Act of 2002 and as amended by the Improper Payments Elimination and Recovery Act of 2012. As required, the STB has reviewed all programs and activities administered to determine which activities are considered susceptible to significant erroneous payments as defined by the Act.

Following the guidance of OMB Circular No. A-136, a risk assessment analysis was completed by the Board in FY 2015 and updated in FY 2016. OMB Circular No. A-136 defines significant erroneous payments to be annual erroneous payments in a program that exceed both $10 million and 1.5% or $100 million of total annual disbursements. The assessment considered certain risk factors that would likely cause improper payments. It covered all disbursement programs including payroll, intragovernmental transactions, and vendor payments. It was determined that the STB does not meet the baseline criteria stated in OMB Circular No. A-136 (Appendix C).

The STB's authorized budget for FY 2016 was $32,375,000. The largest annual disbursements related to salaries and benefits and represent 72% of the annual budget. The next largest allocation of funds (12%) was for GSA rent, utilities, and communications. Based on the results of testing a sample of payroll transactions, our assessment of risk factors, and our reliance on internal controls, including an appropriate segregation of duties, performed at both the service provider level and STB, we have determined that no STB programs and activities were susceptible to significant erroneous payments in FY 2016. We are confident we have an efficient and effective process (including detailed documentation process rules) that provides a reasonable assurance that payments are made for legitimate and proper expenses of the STB.

We plan to continuously review, monitor, and evaluate our programs and activities and

periodically perform updates to our risk assessments, especially when programs may experience changes in processing transactions or testing results indicate potential flaws in our internal control procedures.

Enterprise Services Center

Due to the STB's limited human resource staffing for its accounting functions and financial reporting functions, support services are provided under contract with ESC. Coordinating with ESC has greatly enhanced our capabilities for identification of improper payments using detailed internal controls at both the STB and ESC levels.

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 pre-payment processes, ESC verifies an entity against both SAM and the Internal Revenue Service's Taxpayer Identification Number (TIN) Match Program before establishing them as a vendor in our core financial accounting system.

Do Not Pay (DNP) Business Center

An important part of the STB's program integrity efforts designed to prevent, identify, and reduce improper payments is integrating Treasury Department's DNP Business Center into our existing processes, which was done in coordination with our service provider ESC. The DNP Business Center is used to perform online searches, screen payments against the DNP databases, and augment the data analytics capabilities.

Using the DNP Business Center helps the STB improve the quality and integrity of information in our financial system. In FY 2015, ESC engaged DNP Analytics Services to match our vendor records with the Death Master File (DMF). The review identified high-risk vendor records possibly associated with deceased individuals and enabled us to classify vendor records into risk-based categories for further evaluation. ESC deactivated 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 was made.

B. SUMMARY OF FINANCIAL STATEMENT AUDIT

The Board received an unmodified (clean) audit opinion for FY 2016. The auditor found no issues during final testing of internal controls and identified no compliance issues.

APPENDIX

Information Available on the STB Website

Board Decisions, Filings, and News Releases, and Board Members' Speeches and Testimony

The STB is pleased to provide on its website the information discussed herein. Specifically, the Board posts its decisions, filings, and news releases to its website. The site also contains Board Members' speeches and testimony before Congress.

Financial and Operations Reports, Decisions, and Notices

The Board also includes financial and operations reports for Class I railroads and the following periodic financial decisions and notices issued by the STB:

Commodity Revenue Stratification Report—showing the revenue and URCS variable costs by two-digit STCC code for each of three Revenue-to-Variable Cost (RVC) Ratio categories.

Depreciation Rate Prescriptions—depreciation rates, by property account, for each Class I railroad.

Indexing the Annual Operating Revenues of Railroads—an annual notice setting forth the annual inflation-adjusting index numbers (railroad revenue deflator factors) used to adjust gross annual operating revenues of railroads for classification purposes.

Rail Cost Adjustment Factor (RCAF)—an index used to adjust for inflation in long-term railroad contracts, rate negotiations, and transportation studies as computed quarterly in *Quarterly Rail Cost Adjustment Factor*, EP 290 (Sub-No. 5).

Railroad Cost of Capital—determination of the cost of capital rate for the railroad industry issued annually in EP 558.

Railroad Cost Recovery Procedures—Productivity Adjustment—productivity adjustment factor used to adjust the quarterly RCAF, computed annually in EP 290 (Sub-No. 4).

Railroad Revenue Adequacy—determination of revenue-adequate railroads issued annually in EP 552.

Board Publications

The following Board publications are available on the agency's website.

Class I Freight Railroads—Selected Earnings Data—compilation of railway operating revenues, net railway operating income, net income, and revenue ton-miles of freight of Class I railroads developed from quarterly RE&I and CBS forms compiled quarterly.

Guidance to Historic Preservation—an overview of the Board's involvement in historic preservation relating to railroad licensing proceedings, including those in which a railroad seeks agency authorization to abandon a rail line or acquire or construct a new rail line.

Guide to the STB's Environmental Rules—questions and answers to assist in understanding and applying the Board's environmental rules.

Overview: Abandonments and Alternatives to Abandonments—rules and regulations applicable to abandonments, line sales, and rail banking (April 1997).

Rail Rate Studies—study of trends in average annual rail rates, based on data of select commodity groups obtained from the annual waybill files.

Report of Railroad Employment—Class I Line-Haul Railroads (Form C)—monthly compilation of the number of railroad employees in this industrial segment.

Request for Interim Trail Use—a sample of a request for both a Public Use Condition and a Trail Use Condition.

So You Want to Start a Small Railroad: Surface Transportation Board Small Railroad Application Procedures—rules and regulations involved in applying for Board authority to operate a new railroad (revised March 1997).

Surface Transportation Board Annual Reports—reports covering the Board's activities from its Jan. 1, 1996 inception through FY 2013.

Surface Transportation Board Reports, Volumes 1 through 7—GPO-published reports containing major Board decisions, including final rules, served January 1996 through December 2004.

Wage Statistics of Class I Railroads in the United States (Statement A-300)—compilation of the number of employees, service hours, compensation, and mileage as developed from Wage Forms A and B (compiled annually).

Software, Data, and User Documentation

The following software, data, and user documentation are available from the Board.

Uniform Railroad Costing System (URCS) Phase III Railroad Cost Program—used to develop individual shipment cost estimates for U.S. Class I railroads and the eastern and western regions of the United States. The *URCS Phase III Railroad Cost Program* and *User Manual*, as well as Worktables and Data for recent years, are available on STB's website www.stb.gov at *Industry Data > Economic Data > URCS*.

Confidential Carload Waybill Sample File—movement-specific sample of U.S. railroad traffic used by the Board and others. The *Confidential Carload Waybill Sample File* is available for a fee. Requests for access to the data must follow the procedures specified in 49 C.F.R. § 1244.9. The *Reference Guide for the Surface Transportation Board Carload Waybill Sample* is available on STB's website www.stb.gov at *Industry Data > Economic Data > Waybill*.

Carload Waybill Sample Public Use File—non-confidential railroad movement and revenue data for use in performing transportation planning studies. The *Carload Waybill Sample Public Use Files* for recent years are available on STB's website www.stb.gov at *Industry Data > Economic Data > Waybill*.