AMTRAK OFFICE *of* INSPECTOR GENERAL
NATIONAL RAILROAD PASSENGER CORPORATION

GOVERNANCE:

Amtrak Continues to Demonstrate Good Stewardship of Pandemic Relief Funds

OIG-MAR-2021-009 | May 12, 2021

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AMTRAK OFFICE *of* INSPECTOR GENERAL
NATIONAL RAILROAD PASSENGER CORPORATION

Memorandum

To: Tracie Winbigler
Executive Vice President/Chief Financial Officer

From: Jim Morrison
Assistant Inspector General, Audits

Date: May 12, 2021

Subject: *Governance: Amtrak Continues to Demonstrate Good Stewardship of Pandemic Relief Funds* (OIG-MAR-2021-009)

Amtrak (the company) continues to experience low ridership and revenues as a result of the coronavirus pandemic. As the pandemic took hold, the company took actions to reduce costs, including cutting the frequency of some long distance trains and reducing its workforce through furloughs and other actions. Among other assistance, in December 2020, Congress provided $998 million in pandemic relief funds through the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (Relief Act).[1] Congress directed the company to use these funds to prevent further furloughs and service reductions, and to offset the capital and operating costs of state and Northeast Corridor operators. As of March 31, the company had spent $468 million, with a balance of $530 million remaining.

Our review objective was to assess the extent to which the company is accurately and transparently using, accounting for, and reporting on the Relief Act funds. We performed a similar assessment of the company's use of funds provided under the Coronavirus Aid, Relief, and Economic Security (CARES) Act[2] and found that the company had generally established and implemented effective controls.[3] The company also incorporated our suggestions for improving accountability and transparency.

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[1] The Coronavirus Response and Relief Supplemental Appropriations Act of 2021, Pub. L. No. 116-260, div. M, title IV, 134 Stat. 1182 (2020), enacted December 27, 2020.

[2] In March 2020, Congress provided an initial $1.018 billion through the CARES Act to help the company "prevent, prepare for, and respond to" the coronavirus pandemic. Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, div. B, title XII, 134 Stat. 281 (2020).

[3] *Governance: Observations on Amtrak's Use of CARES Act Funds* (OIG-MAR-2020-013), August 5, 2020, and *Governance: Final Observations on Amtrak's Use of CARES Act Funds* (OIG-A-2021-005), December 15, 2020.

For this assessment, we focused on changes in application of state operator funds, new funding provided for Northeast Corridor operators, and new workforce-related restrictions. Because our prior work found that the company's controls over pandemic-related funds were generally effective, we confirmed that the controls are still in place, but we did not re-test them. We reviewed the company's formal plan to spend Relief Act funds and reviewed expenditure reports and other documents. We also interviewed key company personnel from the Finance, Human Resources, and Labor Relations departments. In addition, we sought perspectives from the Federal Railroad Administration (FRA), Northeast Corridor Commission (NECC),[4] State-Amtrak Intercity Passenger Rail Committee (SAIPRC),[5] and selected state partners. This report provides information about actions the company took from December 27, 2020, through April 30, 2021.[6]

In March 2021, Congress provided another $1.7 billion for the company in the American Rescue Plan Act of 2021 (Rescue Plan).[7] Similar to the CARES and Relief Acts, Congress provided these funds to cover general operating costs, certain capital and debt expenses, and to assist the company's state partners. We did not include the Rescue Plan funds in the scope of this review. We do, however, highlight instances where the company plans to use these new funds in the same ways as previous funds that we reviewed in prior reports. For additional details on our scope and methodology, see Appendix A.

SUMMARY OF RESULTS

We found that the company continues to be a good steward of the funds Congress provided and is, in general, accurately using and accounting for funds provided in the Relief Act to address pandemic-related needs. Specifically, the company developed and is implementing a spending plan that incorporates a change in the allocation of funds for its state partners and the new funding for Northeast Corridor operators. The company is also applying the same controls to spending in other categories, such as

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[4] In 2008, Congress passed the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). Section 212 created the NECC and tasked it with creating a cost-sharing model to equitably assign operating and capital costs among all Northeast Corridor operators.
[5] Congress directed SAIPRC to facilitate collaboration among the company, states, and the FRA, and to oversee implementation of a standard cost-sharing methodology for state supported services.
[6] We conducted our work in accordance with standards we developed for alternative products.
[7] American Rescue Plan Act of 2021, Pub. L. No. 117-2, enacted March 11, 2021.

general operating expenses and capital, which we found to be effective in our prior work.

We also identified two opportunities for the company to be more transparent in its communications and reporting on its planned spending and adherence to workforce provisions. First, proactively sharing its spending plans for these and any future pandemic-related funds with FRA would allow FRA to review and request changes before the company begins to spend the funds. Additionally, more comprehensive reporting on the status of all furloughed employees would provide stakeholders a more complete picture of the extent to which the company was able to use the Relief Act funds to prevent further furloughs.[8] Communicating effectively with primary stakeholders and ensuring complete transparency in reporting will further the company's good stewardship as Congress continues to provide financial assistance as the company recovers from the pandemic.

Most recently, Congress provided Rescue Plan funds with very similar direction and purpose as the CARES and Relief Acts. Because we have reviewed the company's controls over its use, accounting, and reporting of these types of funds and found them to be generally effective, we determined that the risk is low that the company will have challenges administering these funds. The Rescue Plan also requires the company to reinstate daily long distance service and recall furloughed employees. We confirmed that the company has developed a plan to comply with these provisions, but its execution of this plan was outside the scope of this review. We will continue to monitor the company's use of Rescue Plan funds and compliance with the other operating provisions.

In commenting on a draft of this report, the Executive Vice President/Chief Financial Officer acknowledged the importance of our observations and identified specific actions the company plans to complete by May 2021, to implement them. These include proactively sharing its spending plan with the FRA for the Rescue Plan and any future funds and reporting all furloughs to the FRA. For management's complete response, see Appendix B. Management also provided technical comments that we have incorporated throughout this report as appropriate.

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[8] As a result of our oversight and conversations with the company and FRA about the issue of transparency, on April 12, 2021, the FRA began requiring the company to report all furloughs—including those unrelated to the coronavirus—in its weekly reports. On April 15, 2021, the company began reporting accordingly.

BACKGROUND

In December 2020, Congress provided $998 million in Relief Act funds to help the company maintain operations. The company received these funds as amendments to its fiscal year (FY) 2021 annual grant agreements with FRA. The amendments require the company to report monthly pandemic-related spending and weekly furlough actions to FRA. Congress directed the company to use the funds to prevent additional coronavirus-related furloughs and service reductions and prohibited it from contracting work to replace furloughed employees. Although the Relief Act provides few restrictions on how funds are to be spent, it requires the company to use specific amounts to help offset some costs owed by states and commuter rail operators as follows:

- **State supported services cost sharing ($175 million).** The company has agreements with 17 states to provide intercity train service on 28 routes.[9] Under these agreements, the company invoices each state monthly for the amount that its operating costs for these services exceed the related ticket revenues. The Relief Act provided $175 million in funds to help states pay the company for providing these services while the pandemic continues to suppress ticket revenues and strain state budgets. Unlike the CARES Act, which limited the states' financial obligations to 80 percent and provided funds to the company to cover the remaining balance, the Relief Act assigned the funds to each state supported route in a lump sum based on a percentage of its FY 2019 costs and revenues. The company made these funds available to the state or states responsible for each route. The states could choose to apply the total amount in one month or incrementally over time for the routes' operating or capital expenses.

- **Northeast Corridor cost sharing ($110 million).** The company shares Northeast Corridor capital costs with other users of the corridor, such as state commuter rail operators. Each fiscal year, the company works with the NECC and these operators to agree on a program of capital investments intended to ensure that infrastructure components such as track, structures, and signals remain in a state of good repair. The NECC model allocates the program's costs to the commuter rail operators based on metrics such as train miles and passengers counts. For FY 2021, the operators owed the company $220 million to cover the capital

[9] In 2008, PRIIA Section 209 required the company to develop and implement a standardized methodology for establishing and allocating among the states and Amtrak the operating and capital costs of providing intercity rail passenger service on designated corridors, or routes of not more than 750 miles.

program. The Relief Act provided the company with $110 million to use in lieu of these capital payments.

The remaining $713 million allows the company to maintain the size of its workforce and service levels as of the date of the Relief Act. The company is using, accounting for, and reporting on these funds in the following categories, as described in Figure 1.

Figure 1. Use of Relief Act Funds Through March 2021

Expenditure Category	Description	Funds Spent to Date (in millions)[a]
Direct Coronavirus-Related Expenditures	Includes cleaning services for stations, offices, and other facilities; train cleaning products; and personal protective supplies, such as masks, gloves, and hand sanitizer.	**$0.8**
Salary and Wage Payments to Employees Affected by the Coronavirus, and Vaccine Incentives	Includes paid leave for employees affected by the coronavirus and incentives paid to employees for receiving vaccinations.	**$8.7**
State Supported Services (PRIIA Section 209)	Includes a defined amount for each route based on FY 2019 costs and revenues. The states may choose how and when to apply the funds and whether to use them for operating or capital expenses.	**$52.8**
Northeast Corridor Shared Costs (PRIIA Section 212)	Includes funds to be used "in lieu of" capital payments from the state commuter rail operators.	**$16.7**

Operating Labor and Associated Taxes	Includes operating labor and associated taxes for all company employees, except those related to services the company provides to states and other partners, such as commuter rail operators. This includes labor and taxes for employees who the company might otherwise have furloughed absent Relief Act funds.	**$208.9**
Capital Expenditures	Includes Northeast Corridor capital projects such as annual track maintenance, major equipment purchases, technology initiatives, and maintenance of stations.	**$0**[b]
Debt Service Payments	Includes debt service payments from October 1, 2020, forward. For FY 2021, this category includes all debt instruments except the Railroad Rehabilitation and Improvement Financing related payments.	**$63.7**
Other Qualifying Operating Expenditures	Includes all operating expenditures other than as described above, and excludes costs allocated to state-supported state partners, commuter services, reimbursable work, and any other contract under which the company is reimbursed for its costs.	**$116.7**
Total		**$468.3**

Source: OIG analysis of Finance department data
Notes:
[a] Funds spent to date are net of revenues reported by the company to date.
[b] The company plans to spend $22 million on capital expenditures. FRA must approve the capital spending plan before the company programs the funds.

From October 1, 2020, to December 27, 2020, the company eliminated positions and furloughed 1,231 employees[10] as part of an effort to reduce costs and respond to the pandemic. The company had planned to eliminate additional positions but suspended these actions because the Relief Act funds allowed the company to instead cover the salaries and wages of these employees. The funds also allowed the company to

[10] This included 54 employees whose furloughs the company did not record until after December 27. Company officials told us the late recording of some of these furloughs was the result of delays entering them into SAP—the company's human capital management system—and in other cases reflected the length of time it took to complete the chain of seniority-related employee displacements.

maintain the service levels in place at that time, with the intentions of adding back service as demand increased.

In a furlough, agreement employees with seniority—or tenure in a union—have a contractual right to displace more junior employees. After the company notifies an employee of an impending furlough, the employee has up to 15 days to exercise these seniority rights or essentially "bump" a more junior employee from that person's job. That employee may then exercise the same rights. This process continues until either an employee chooses not to exercise these rights or until someone is too junior to replace another employee, at which point the junior employee goes out on furlough.

On March 17, 2021, the President signed the Rescue Plan, which provides another $1.7 billion to the company to address operating and capital needs as it continues to recover from the pandemic. Like the Relief Act, the Rescue Plan provides funds to help cover the company's operating and capital costs, to help states pay the company for providing services and maintaining infrastructure, and to help repay the company's debt. In addition, Congress directed the company to recall all employees furloughed as a result of the pandemic after October 1, 2020, and restore long distance service to pre-pandemic frequencies and the company has a plan to do so.

THE COMPANY IS DEMONSTRATING GOOD STEWARDSHIP, BUT REPORTING COULD BE MORE TRANSPARENT

The company continues to accurately use and account for the funds it received under the Relief Act, including for the change in the allocation of state supported service funds and new funds for Northeast Corridor services. We identified two opportunities, however, for the company to be more transparent in how it communicates its spending plan for pandemic-related funds and how it reports employee furloughs.

Prior Work Verified Accurate Reporting and Controls for Majority of Funds

We did not assess the company's use and reporting on six of the eight expenditure categories[11] because we verified in our prior work that its controls were generally effective for properly using and accounting for those expenditures. These controls

[11] The six categories are (1) direct coronavirus-related expenses, (2) salary and wage payments to employees affected by the coronavirus and vaccine incentives, (3) operating labor and associated taxes, (4) capital expenditures, (5) debt service payments, and (6) other qualifying operating expenditures.

include establishing separate accounting codes for pandemic-related expenses and using its existing payroll process for operating labor expenses. The company included these controls in its formal spending plan for the Relief Act funds. The Rescue Plan also provides additional funds for these six categories, and Finance managers assured us that it will continue to apply the same controls.

Successful Implementation of New Allocation Formula for State Supported Funds

We found that the company successfully coordinated with FRA, SAIPRC, and states to calculate and determine the amounts that each state supported route would receive under the formula in the Relief Act. This included ensuring that states that share financial responsibility for route costs came to an agreement on how to allocate the funds.[12] To determine how to split the funds, the states applied the percentages used for sharing operating expenses and revenues. For example, the formula allocated $6.2 million to the *Hiawatha* line, which operates between Chicago, Illinois, and Milwaukee, Wisconsin. Based on existing cost-sharing percentages, the states agreed to allocate $1.5 million to Illinois (25 percent) and $4.6 million to Wisconsin (75 percent).

Under the Relief Act, states can choose to have their funds applied retroactively to unpaid bills beginning in October 2020 and use them for capital or operating expenses. A SAIPRC official told us that this flexibility allows the states to make decisions about when and how to use the funds. As of March 2021, $122 million in funds for state supported services remain, and the states and the company have agreed to continue to apply them according to state preferences until the funds run out.

The Rescue Plan provides $174.9 million for state supported services and directs the company to apply the funds using the same formula it used for the Relief Act funds. Company officials told us they plan to apply these new funds using the same agreed-upon tools and processes developed for the Relief Act funds.

Northeast Corridor Stakeholders Agree on How to Apply Funds

The company successfully coordinated with the NECC, FRA, and the state commuter rail operators to develop a plan to apply funds from the Relief Act. The company plans to provide the operators with credits for six months' worth of capital payments in

[12] For 22 of the 28 routes, one state has sole financial responsibility. For the remaining six routes, multiple states share financial responsibility.

FY 2021, and these operators will not make any capital payments from March through August 2021.[13] NECC executives and commuter rail representatives from two Northeast Corridor states confirmed their agreement with the company's approach and timing. As of March 2021, $93 million in Northeast Corridor funds remain, and the company expects to spend them by the end of September 2021.

The Rescue Plan provides $109.8 million for Northeast Corridor services and directs the company to apply the funds in lieu of capital payments similarly to the Relief Act. Company officials told us they plan to distribute these funds using the same methodology they used to allocate the Relief Act funds.

Company Could Embrace a More Proactive Approach to Sharing Its Spending Plan

In our prior reviews of the company's use of pandemic assistance funds, we found that the company proactively communicated its plan for using, tracking, and reporting the funds with FRA and made changes to it as a result of their review. For the Relief Act funds, however, the company did not similarly share its spending plan until the FRA requested a copy.

Company officials told us they did not share the plan with stakeholders because it was very similar to the one for the CARES Act, which FRA had previously approved. But FRA officials said that, as grant providers, an early review of the company's intent gives FRA the opportunity to request adjustments before the funds are expended. For example, after reviewing the company's plan for the CARES Act funds, FRA advised the company it could not use funds to substitute for rent payments the company was unable to collect from station retail tenants during the pandemic. An early review also allows FRA to ensure that the company will use the funds as Congress intended to address pandemic-related needs. Going forward, more timely communication with stakeholders regarding how it intends to use future pandemic assistance funding will help the company ensure that it is using its funds consistent with stakeholders' intent.

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[13] New Jersey Transit and Long Island Railroad, by separate agreements, make capital payments to the company that are different (and typically less than) the capital obligation indicated by the NECC cost allocation model. Their share of the Relief Act funds is estimated to cover capital payments through September 2021.

More Transparent Furlough Reports Could Better Inform Stakeholders About Workforce Status

The Relief Act directed the company to use its supplemental funds to prevent further coronavirus-related furloughs, and FRA requires the company to report weekly all such furloughs. Company officials told us they did not plan to initiate any such furloughs after December 27, 2020, when the Relief Act became effective. The company accurately recorded and reported to the FRA the 1,231 furloughs it initiated prior to this date but did not report another 32 furloughs it processed from that date to March 31, 2021, because it characterized them as unrelated to the coronavirus.

The company told us that these 32 furloughs were typical of normal business operations. For example, some resulted when employees who returned from a leave of absence found that other employees with more seniority had taken their positions. The returning employees either went into furlough status or displaced other employees with less seniority. Additionally, the company brought back some furloughed employees to fill a workforce need and then furloughed other employees in their place. A company official described this as a "one-for-one" replacement process: for each worker recalled, the company furloughed another. The official explained that the company viewed maintaining the same number of employees in unpaid furlough status as a way to make the Relief funds last longer. The official added that preserving funds early in the year was a priority because the company did not know whether or when Congress would provide additional funds.

The circumstances, however, for these 32 furloughs and the company's treatment of them are not materially different from the furloughs the company identified as coronavirus-related and reported to FRA prior to December 27, 2020. Labor Relations officials confirmed that the company is providing the same extended medical benefits to both groups of furloughed workers.[14] In addition, the Rescue Plan requires the company to bring back only the workers who were furloughed because of the pandemic, but the company plans to recall all furloughed workers, further suggesting a minimal distinction between the two groups of furloughs.

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[14] The company is providing paid medical benefits for all employees furloughed because of the coronavirus through September 2021 (unless they decline to accept recall and terminate employment with the company); collective bargaining agreements require the company to pay medical benefits only for the month when the furlough occurred and the following three months.

Further, a senior union official representing 185 furloughed employees, including employees in both groups, told us that, in his view, the reasons for the furloughs are virtually indistinguishable, and “all occurred because of the pandemic.” Finally, the company’s position that these 32 furloughs resulted from returning employees’ exercising their seniority rights overlooks the fact that the company eliminated many of the positions the returning workers might have been able to hold because of pandemic-related service suspensions. For example, as part of the company’s efforts to save costs, it combined two long-distance trains operating out of Miami, thus reducing the number of train attendant positions.[15] In January 2021, two attendants returned from a leave of absence but did not have positions to occupy because employees with more seniority filled all available positions. As a result, the company furloughed these two employees and classified them as non-coronavirus related furloughs.

As a result of our oversight and conversations with the company and FRA regarding the importance of transparently reporting its furlough counts, on April 12, 2021, FRA began requiring the company to report all furloughs—including those not related to the coronavirus—in its weekly reports. Accordingly, in its April 15 weekly furlough report to FRA, the company reported the 32 furloughs we identified. It subsequently reported three additional non-coronavirus related furloughs as of April 29, 2021. Going forward, continuing to report all furloughs will better ensure that the company’s stakeholders—employees, union leadership, FRA, and Congress—have a more complete picture of the status of the company’s workforce.

In addition to providing new pandemic-assistance funds, the most recent Rescue Plan requires the company to bring back all workers furloughed as a result of the pandemic. Better transparency about this process and details on the status of all furloughed employees will help the company’s stakeholders more clearly assess the company’s compliance with the provisions in the Rescue Plan.

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[15] The *Silver Meteor* and *Silver Star* began operating a combined daily service between New York City and Miami on July 6, 2020.

CONCLUSION

The company continues to demonstrate good stewardship of federal funds provided to prevent, prepare for, and respond to the pandemic. The company is accurately reporting on how it is using funds from the Relief Act to help states and commuter rail operators meet their obligations to the company. Nonetheless, we identified opportunities for the company to be more transparent about its spending plans and workforce status to provide its oversight agencies and Congress better insight into how the company is using funds to address pandemic needs. Because the company continues to receive and will likely require additional federal assistance as it recovers from the pandemic, the company can help reassure Congress and other stakeholders that it is using these funds as intended by communicating thoroughly and transparently to stakeholders.

MANAGEMENT RESPONSE AND OIG ANALYSIS

In commenting on a draft of this report, the Executive Vice President/Chief Financial Officer acknowledged the importance of our observations and identified specific actions the company plans to complete by May 2021, to implement them. These include proactively sharing its spending plan with the FRA for the Rescue Plan and any future funds and reporting all furloughs to the FRA. For management's complete response, see Appendix B. Management also provided technical comments that we have incorporated throughout this report as appropriate.

APPENDIX A

Objective, Scope, and Methodology

This report provides the results of our review of the company's management of Relief Act funds. Our objective was to assess the extent to which the company is accurately and transparently using, accounting for, and reporting on these funds. Our scope focused on actions the company took from January through March 2021. We performed our audit work from January through May 2021 in Washington, D.C.

To assess the company's accuracy and transparency in using, accounting for, and reporting on the Relief Act funds, we reviewed the company's compliance plan, which established expenditure categories, methodologies for tracking monthly spending, and monitoring and reporting controls. We also spoke with senior FRA managers responsible for overseeing federal funds provided to the company to discuss the formula for calculating the amounts state supported routes receive, new funding provided for Northeast Corridor commuter rail operators, and new workforce-related restrictions.

State supported services cost sharing. To assess the company's administration of the $175 million designated for state supported services, we spoke with company officials responsible for managing its partnerships with states and developing the individual state bills. We also interviewed state officials from Connecticut, where the company operates both state supported and Northeast Corridor service, and the Executive Director of the State-Amtrak Intercity Passenger Rail Committee. To assess the accuracy of the funds the company reported spending, we assessed how the company calculated the formula to allocate the funds to each route based on a percentage of its FY 2019 costs and revenues. We also compared all state bills from February and March 2021 to the amounts it reported in the monthly state services expenditure report to FRA. To confirm that states who share financial responsibility for route costs agreed on how to allocate the funds, we obtained and reviewed documentation of the states' agreement provided by the Finance department.

Northeast Corridor cost sharing. To assess the company's administration of the $110 million to be used in lieu of capital payments from commuter rail operators in the Northeast Corridor, we spoke with company officials responsible for managing the partnerships and developing the operators' bills. We also interviewed state officials from Connecticut and Pennsylvania and the Executive Director of the Northeast

Corridor Commission. We selected Connecticut and Pennsylvania because both states partner with the company on state supported routes and share Northeast Corridor costs with the company through state agencies or commuter authorities such as the Southeastern Pennsylvania Transportation Authority. To assess the accuracy of the funds the company reported spending, we assessed how the company allocated the funds for all operators in accordance with the Northeast Corridor Commission capital plan for FY 2021. We also compared those allocations to the expenditures the company reported in the monthly FRA Northeast Corridor expenditure report for February and March 2021.

Workforce-related restrictions. To assess the company's compliance with the new workforce-related restrictions, we spoke with Human Resources officials responsible for processing and reporting employee furloughs and two senior union officials representing workers furloughed during the pandemic. We also reviewed correspondence with the company's Law department and spoke with a senior official in Government Affairs to better understand the company's position on classifying and reporting furloughs. To assess the accuracy of furlough reporting from January through March 2021, we obtained and reviewed the supporting documentation to confirm the number of furloughs reported weekly to the FRA. Additionally, to confirm the effective date of these furloughs, we obtained and reviewed a sample of furlough letters provided to employees and records maintained by Operations department managers responsible for maintaining records of personnel actions. To assess the company's adherence to the prohibition on contracting work to replace furloughed employees, we confirmed its compliance with Labor Relations, which is responsible for ensuring the company is not violating provisions in its collective bargaining agreements. We also spoke with union representatives, whose role is to protect members' jobs, and who would therefore likely have been aware if the company had attempted to replace furloughed workers' jobs with contract labor.

We conducted our work in accordance with standards we developed for alternative products.

Computer-Processed Data

To assess the accuracy of the company's for reporting of coronavirus-related furloughs, we relied on personnel transaction data directly from its Systems Applications and Products (SAP) resource planning platform, which integrates the company's major business processes. We tested the reliability of these data by independently generating the personnel transaction data directly from SAP and comparing the totals to the personnel transaction data the company generated from SAP. We also compared the total value of data from SAP to totals the company reported to FRA. We discussed any discrepancies with officials from both Labor Relations and Transportation. Based on our observation and tests, we determined that the discrepancies we found were negligible and that the data were sufficiently reliable to meet our objective.

Prior Reports

In conducting our analysis, we reviewed the following reports:

Amtrak OIG

- *Governance: Final Observations on Amtrak's Use of CARES Act Funds*, (OIG-A-2021-005), December 15, 2020

- *Governance: Observations on Amtrak's Use of CARES Act Funds*, (OIG-MAR-2020-013), August 5, 2020

Government Accountability Office (GAO)

- GAO, *COVID-19: Sustained Federal Action Is Crucial as Pandemic Enters Its Second Year*, (GAO-21-387), March 31, 2021

- GAO, *COVID-19: Urgent Actions Needed to Better Ensure Effective Federal Response*, (GAO-21-191), November 30, 2020

APPENDIX B

MANAGEMENT COMMENTS

NATIONAL RAILROAD PASSENGER CORPORATION

Memo

AMTRAK

Date	May 10, 2021	From	Tracie Winbigler, EVP CFO
To	Jim Morrison, Assistant Inspector General, Audits	Department	Finance
		cc	William J. Flynn, CEO Eleanor Acheson, EVP General Counsel Andrea Gansen, VP Labor Relations Stephen Gardner, President Carol Hanna, VP Controller Roger Harris, EVP Marketing & Revenue Scot Naparstek, EVP COO Dennis Newman, EVP Strategy & Planning Steven Predmore, EVP CSO Mark Richards, Sr Director Amtrak Risk & Controls Qiana Spain, EVP CHRO Christian Zacariassen, EVP CIO

Subject Management Response to *Management Advisory Report: Governance Amtrak Continues to Demonstrate Good Stewardship of Pandemic Relief Funds (Draft Report for Project No. 0005-2021)*

This memorandum provides Amtrak's response to the draft management advisory report titled, "*Amtrak Continues to Demonstrate Good Stewardship of Pandemic Relief Funds*". Management appreciates the opportunity to respond to the OIG's observations.

We take our fiduciary duty to appropriately spend the Pandemic Relief Funds very seriously and were pleased with the observation in the report acknowledging that we continue to demonstrate good stewardship and that the controls we established and implemented when we received the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* funds remain in place. The observations provided meaningful input and we are initiating actions to address each in a timely manner, as further described below.

<u>Observations</u>:

The report identified two opportunities to improve transparency in Amtrak's communications and reporting. A summary of the two observations, followed by management's response, is as follows:

1. **Company Could Embrace a More Proactive Approach to Sharing Its Spending Plan (excerpts from the observation)**

- "Proactively sharing its spending plans for these and any future pandemic-related funds with FRA [Federal Railroad Administration] would allow FRA to review and request changes before the company begins to spend the funds."
- "In our prior reviews of the company's use of pandemic assistance funds, we found that the company proactively communicated its plan for using, tracking, and reporting the funds with FRA and made changes to it as a result of their review. For the Relief Act funds, however, the company did not similarly share its spending plan until the FRA requested a copy."
- "Going forward, more timely communication with stakeholders regarding how it intends to use future pandemic assistance funding will help the company ensure that it is using its funds consistent with stakeholders' intent."

Management Response/Action Plan: We agree that the plan for using, tracking, and reporting the funds was provided to the FRA upon their request. We will ensure that our compliance plan for the subsequent round of relief funds, which we received in April, is proactively provided to the FRA and will do the same for any future funding received.

Responsible Amtrak Official(s): Carol Hanna, VP Controller.

Target Completion Date: May 2021

2. **More Transparent Furlough Reports Could Better Inform Stakeholders About Workforce Status (excerpts from the observation)**

- "More comprehensive reporting on the status of all furloughed employees would provide stakeholders a more complete picture of the extent to which the company was able to use the Relief Act funds to prevent further furloughs."
- "The Relief Act directed the company to use its supplemental funds to prevent further coronavirus-related furloughs, and FRA requires the company to report weekly all such furloughs. Company officials told us they did not plan to initiate any such furloughs after December 27, 2020, when the Relief Act became effective. The company accurately recorded and reported to the FRA the 1,231 furloughs it initiated prior to this date but did not report another 32 furloughs it processed from that date to March 31, 2021, because it characterized them as unrelated to the coronavirus."
- "As a result of our oversight and conversations with the company and FRA regarding the importance of transparently reporting its furlough counts, on April 12, 2021, FRA began requiring the company to report all furloughs—including those not related to the coronavirus—in its weekly reports." "Going forward, continuing to report all furloughs will better ensure that the company's stakeholders – employees, union leadership, FRA, and Congress – have a more complete picture of the status of the company's workforce."

Management Response/Action Plan: As of April 12, the requirements of the National Network and Northeast Corridor grant agreements require reporting of all furloughs to the FRA on a weekly basis and we are providing and will continue to provide such reports in a timely manner.

Responsible Amtrak Official(s): Andrea Gansen, VP Labor Relations

NATIONAL RAILROAD PASSENGER CORPORATION

Target Completion Date: Reporting on all furloughs began with the company's April 15, 2021 report to the FRA.

APPENDIX C

Acronyms and Abbreviations

CARES Act	Coronavirus Aid, Relief, and Economic Security Act
FRA	Federal Railroad Administration
FY	fiscal year
NECC	Northeast Corridor Commission
OIG	Amtrak Office of Inspector General
PRIIA	Passenger Rail Investment and Improvement Act of 2008
Relief Act	Coronavirus Response and Relief Supplemental Appropriations Act of 2021
Rescue Plan	American Rescue Plan Act of 2021
SAIPRC	State-Amtrak Intercity Passenger Rail Committee
SAP	Systems Applications and Products
the company	Amtrak

APPENDIX D

OIG Team Members

Eileen Larence, Deputy Assistant Inspector General, Audits

Leila Kahn, Senior Director

Todd Kowalski, Senior Audit Manager

Joshua Stearns, Senior Auditor

Clare Shepherd, Senior Auditor

Alejandra Rodriguez, Data Analytics Senior Manager

Alison O'Neill, Communications Analyst

OIG MISSION AND CONTACT INFORMATION

Mission

The Amtrak OIG's mission is to provide independent, objective oversight of Amtrak's programs and operations through audits and investigations focused on recommending improvements to Amtrak's economy, efficiency, and effectiveness; preventing and detecting fraud, waste, and abuse; and providing Congress, Amtrak management, and Amtrak's Board of Directors with timely information about problems and deficiencies relating to Amtrak's programs and operations.

Obtaining Copies of Reports and Testimony

Available at our website www.amtrakoig.gov

Reporting Fraud, Waste, and Abuse

Report suspicious or illegal activities to the OIG Hotline

www.amtrakoig.gov/hotline

or

800-468-5469

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