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AUDIT OF GRANT AGREEMENT:

Next Generation Equipment Committee Materially Complied with
Terms of the Grant Agreement


Report No. OIG-A-2013-012 | March 27, 2013





Memorandum

To: William Bronte, Chairman, Executive Board, Next Generation Equipment Committee

From: David R. Warren 
Assistant Inspector General, Audits

Date: March 27, 2013

Subject: *Audit of Grant Agreement: Next Generation Equipment Committee Materially Complied with Terms of the Grant Agreement (Report No. OIG-A-2013-012)*

This report presents the results of our audit of the use of grant agreement funds expended for Section 305 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA).¹ This audit was performed at the request of the Amtrak Acting Chief Financial Officer (CFO) and the Next Generation Equipment Committee (NGEC) Finance Subcommittee Chairman.

Section 305 established a Next Generation Corridor Equipment Pool Committee,² comprising representatives of the grantee (the National Railroad Passenger Corporation), the Federal Railroad Administration, host freight railroad companies, passenger railroad equipment manufacturers, interested states, and other passenger rail operators such as commuter railroads.

The Committee received a total of \$4 million to carry out its functions. According to Amtrak's financial records, total Committee expenditures during the audit period (January 1, 2010 through September 30, 2012) amounted to \$1,164,306. The grant expense categories are shown in Appendix I. The functions of the Committee include: (1) determining the number of different types of equipment required, taking into

¹ Division B of Public Law No. 110-432, 122 Stat. 4951-4952.

² The committee was established as of January 1, 2010, and is called the Next Generation Equipment Committee.

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account variations in operational needs and corridor infrastructure; (2) establishing a pool of equipment to be used on corridor routes funded by participating states; and (3) subject to agreements between Amtrak and states, utilizing services provided by Amtrak to design, maintain, and remanufacture equipment. (See Appendix II for additional background information on the grant agreement and the Committee.)

Our audit objectives were to determine whether the Committee (1) has complied with the terms of the grant agreement, to include the propriety of grant expenditures; (2) produced the deliverables contained in the grant provisions; and (3) has established adequate internal controls to govern its activities.

SUMMARY OF RESULTS

The Committee materially complied with the criteria governing grant expenditures, met the deliverables contained in the grant provisions, and has a generally sound system of internal controls to govern its activities. However, we did identify a few relatively minor instances, totaling \$11,345, in unsupported or questioned costs for services billed by one contractor. We also identified some opportunities to strengthen internal controls to help reduce vulnerabilities to waste or abuse. These opportunities are in the areas of support service agreement approval, timely review and payment of invoices, and processing of grant reimbursement requests.

We are recommending that the Committee seek reimbursement for the questioned costs, obtain documentation for the unsupported costs, and take action to improve certain internal controls. The Amtrak Acting CFO and NGECE Finance Subcommittee Chairman concurred with our recommendations.

Minor Unsupported and Questioned Costs

In reviewing the documentation supporting about \$516,000 that the Committee reimbursed the American Association of State Highway and Transportation Officials (AASHTO) during the audit period, we identified relatively minor unsupported or questioned costs of \$11,345, in the areas of travel and other support service costs. Specifically:

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- **Travel Costs.** According to the grant agreement, the grantee's travel costs are to comply with the provisions contained in Title 49, Code of Federal Regulations (CFR),³ as promulgated in Federal Travel Regulations published by the General Services Administration (GSA). In the following areas, travel regulations were not complied with:
 - *Unsupported costs.* AASHTO could not provide supporting documentation, as required, for travel expenses totaling \$8,729. According to the agreement with AASHTO, travel costs need to be supported by invoices or vouchers describing in detail the nature and propriety of the charges.
 - *Questioned costs.* Nine instances in which the GSA hotel per diem geographical rate was exceeded [for example, a \$289 charge for a hotel room in Philadelphia, compared with the GSA-approved daily rate of \$143]. We also noted one instance for \$150 in which alcohol served at a group dinner was included in the submitted expenses. Reimbursement for the costs of alcoholic beverages is not allowed by the travel regulations. We question total costs of \$1,295.

- **Other Support Service Costs—Employee Labor.** According to the AASHTO agreement, work is performed on a cost-reimbursement basis. In the following areas, the agreement was not complied with:
 - *Questioned costs.* The Committee was charged a higher hourly rate due to a bonus paid to an AASHTO employee. Bonuses are not authorized in the agreement between Amtrak and AASHTO; we question \$803 in costs.
 - *Unsupported costs.* Staff time was charged to the Committee in error, resulting in unsupported costs of \$518. According to the agreement with AASHTO, all costs charged to the project need to be supported by properly executed payroll or time records.

The unsupported and questioned costs discussed above were related to the first two AASHTO invoices received by the Committee in June 2010. Since that time, the quality of Amtrak's invoice reviews has improved, and we found no questioned or

³ 49 CFR Part 19 and 48 CFR Chapter I, Subpart 31.2, "Contracts with Commercial Organizations," 31.205-46 (a) (2), states, "costs incurred for lodging, meals, and incidental expenses shall be considered reasonable and allowable only to the extent that they do not exceed on a daily basis the maximum per diem rates in effect at the time of travel as set forth in the Federal Travel Regulations, prescribed by the General Services Administration, for travel in the conterminous 48 United States."

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unsupported costs in invoices submitted after that date. We likewise found no reason to question Amtrak's labor and travel costs or other contract costs.

Committee Internal Controls are Generally Adequate

The Committee's financial and management controls over grant expenditure and Committee responsibilities are generally adequate. However, we identified two minor weaknesses in internal control processes surrounding grant administration that could create vulnerabilities for the misuse or misallocation of funds. First, we found no evidence that the Committee's executive board reviewed and approved agreements with support-service providers. The Committee entered into ongoing agreements with AASHTO for approximately \$1.5 million, plus approximately \$500,000 for subcontractor agreements.

Second, the Committee (Amtrak's Finance Department)⁴ took longer than necessary to pay AASHTO for support services. The payments were made an average of 7 months after receipt of invoices (see Appendix III). Amtrak's policy and best practice for payment processes call for payment to be made within 30 days of invoice receipt.

We also noted that the Finance Department took longer than necessary to submit requests for grant expenditure reimbursement to the Federal Railroad Administration (FRA). The FRA request for reimbursement was submitted by the Finance Department an average of 3 months after the date of the expenditure. The grant agreement specifies that the grantee may initiate cash drawdowns when needed for immediate disbursement required for project purposes. The Finance Department can more quickly recover funds spent and improve cash flow by submitting reimbursement requests on a monthly or bimonthly basis.

⁴ Amtrak's Finance Department and Office of Grant Administration are jointly responsible for reviewing NGEC expenses, making NGEC payments, and filing required quarterly financial reports and grant reimbursement requests.

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RECOMMENDATIONS

We recommend that the NGEN Executive Board, working with the Amtrak Finance Department, take actions to:

1. Seek reimbursement from AASHTO for the questioned costs and obtain documentation for the unsupported costs.
2. Formally approve all existing agreements and establish a policy for the review and approval of all future agreements. These actions should be documented by memorandum or reflected in meeting minutes.
3. Develop and implement a policy for paying contractors in a manner similar to Amtrak's payment policy, which requires payment of invoices within 30 days of receipt.
4. Submit reimbursement requests to FRA within 30 days after paying for support services.

MANAGEMENT AND NGEN COMMITTEE COMMENTS AND OIG ANALYSIS

In commenting on a draft of this report, the Amtrak Acting CFO and NGEN Finance Subcommittee Chairman, stated that Amtrak management and the NGEN Executive Board concurred with the report's recommendations and will take the following actions. Regarding recommendation 1, Amtrak Finance will work with AASHTO to resolve the questioned costs and seek reimbursement as appropriate. For recommendation 2, Amtrak Finance will work with the NGEN Administrative Task Force and Executive Board to ensure that the Executive Board reviews and approves all agreements and sub-agreements with support service providers such as AASHTO. Regarding recommendation 3, Amtrak Finance will continue to work with AASHTO and other support service providers to ensure that invoices submitted to Amtrak are reviewed for allowable costs and paid in a timely manner. On recommendation 4, the Amtrak Acting CFO and NGEN Finance Subcommittee Chairman, stated that while it is Amtrak's practice to submit reimbursement requests to FRA in conjunction with quarterly financial reports, Amtrak Finance will speak to FRA to determine the preference for or feasibility of submitting reimbursement requests more frequently.

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The planned actions meet the intent of our recommendations. Consistent with our standard process, we will follow up to assess the progress in implementing this report's recommendations.

The memorandum from the Amtrak Acting CFO and NGEN Finance Subcommittee Chairman, commenting on the draft report, is reprinted in its entirety as Appendix IV.

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Appendix I

SCOPE AND METHODOLOGY

This report provides the results of our audit to determine if the Next Generation Equipment Committee is in compliance with the terms of the grant agreement, to include the propriety of grant expenditures. We performed our work from November 2012 through February 2013. According to Amtrak's financial records, total Committee expenditures during the audit period (January 1, 2010 through September 30, 2012) amounted to \$1,164,306, with approximately \$2.8 million in funds remaining unspent. The total amount requested and received from FRA in a series of nine reimbursement requests was \$1,046,456.

Table 1 shows the major expense categories.

Table 1: Committee Expenditures, January 1, 2010 through September 30, 2012	
Expense Category	Amount^a
AASHTO contract	\$516,000
Other contracts	154,000
Amtrak labor	491,000
Amtrak travel	3,000
Total	\$1,164,000

^a Amounts are rounded.

Source: Amtrak Finance Department

We reviewed the grant agreement and 49 CFR to establish the criteria to be used in the expenditure testing. We obtained and reviewed all Committee support-service agreements. We included a review of the grant deliverables and determined whether the Committee had met them. We reviewed \$1,151,423 of the total grant expenditures of \$1,164,000 to validate and compared them with supporting documentation, including AASHTO invoices, travel vouchers and supporting documents, and time records. We also reviewed Amtrak's time and travel expense records. We reviewed the prior year

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Office of Management and Budget A-133 audit performed by BDO⁵ and determined that there were no issues related to the grant included in the audit report.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Internal Controls

We reviewed NGEC financial and management controls. NGEC expenditures are processed and paid using Amtrak's accounting system and its Finance Department resources. We performed and relied on substantive testing to determine if the grant expenditures were supported and processed in a timely manner. Our substantive analysis indicated that improvements had been made to the review of grant expenditures. Through our testing we determined that internal controls are generally adequate. We also reviewed the Committee's management controls for carrying out its responsibilities. We found them to be generally sound, with the minor exceptions noted in this report.

Computer-Processed Data

To achieve the assignment's objectives, we used computer-processed data contained in Amtrak's electronic records and accounts payable system of Committee-related expenditures. This also included Amtrak employee time charges in the Time Distribution Reports for Committee activities. We compared the expenditures in the Amtrak financial system with those reported by the Committee's Finance Subcommittee. The data in the accounts payable and Time Distribution Reports systems were not verified, but we consider the data sufficiently reliable for purposes of the audit objectives. We note that Amtrak's financial statement audit for Fiscal Year 2012 showed no significant deficiencies related to accounts payable.

⁵ BDO is the brand name of BDO USA, LLP, a U.S. professional services firm providing assurance, tax, financial advisory, and consulting services.

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Prior OIG Report

Amtrak OIG Report No. A-2012-001, *Passenger Rail Investment and Improvement Act of 2008: Amtrak Has Made Good Progress but Continued Commitment Needed to Fully Address Provisions*, dated October 26, 2011 indicated Amtrak had established a Next Generation Corridor Equipment Pool Committee and produced technical specifications for the next generation train equipment, including the approved specifications for bi-level cars.

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Appendix II

BACKGROUND

Section 305 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) (Division B of Public Law No. 110-432, 122 Stat. 4951-4952) requires the establishment of a Next Generation Corridor Equipment Pool Committee. The Committee is now called the Next Generation Equipment Committee (NGEC). The Committee was established via grant agreement RPD01G2010. The original term of the grant agreement was July 15, 2010 through June 30, 2011. On August 19, 2011, the grantee (the National Railroad Passenger Corporation [Amtrak]) executed Amendment 1 to the original agreement to extend the term of agreement to March 31, 2012, to allow the Committee to continue to spend the original \$2 million grant. Congress appropriated an additional \$2 million for NGEC's activities in the Department of Defense and Full-Year Continuing Appropriations Act of 2011 (Pub. L. No. 112-10, H.R. 1473, April 15, 2011), bringing the total grant amount to \$4 million.

According to the Grant and Amendments No. 1 and No. 3, the Committee's Finance Subcommittee is required to arrange for periodic independent audits of the financial records for the Committee, as appropriate. On September 19, 2012, Amtrak's Acting Chief Financial Officer, who is the Finance Subcommittee Chairman, requested that the Amtrak Office of Inspector General conduct the first audit of the Section 305 grant agreement funds, which covers the period of January 1, 2010 through September 30, 2012.

The Committee's executive board contracted with the American Association of State Highway and Transportation Officials (AASHTO) to provide services in support of the Committee on a cost-reimbursement basis. AASHTO is a nonprofit, nonpartisan association representing highway and transportation departments in the 50 states, the District of Columbia, and Puerto Rico. It represents five transportation modes: air, highways, public transportation, rail, and water. In addition to AASHTO services and other service contracts, Amtrak employees who provide services to the Committee directly charge their time and travel expenses to the grant.

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Appendix III

**AASHTO INVOICE PAYMENTS AND
 FRA REIMBURSEMENT REQUESTS**

JANUARY 1, 2010 THROUGH SEPTEMBER 30, 2012

AASHTO Invoice #	AASHTO Invoice Amount (\$)	AASHTO Invoice Date	Date AASHTO Invoice Paid	# Days Invoice to AASHTO Payment	Finance Department FRA Reimbursement Request Date	# Days from Invoice Payment to Finance Department Request for FRA Reimbursement
SI006383	76,561.00	06/30/2010	09/17/2010	77	10/28/2010	41
SI006397	42,423.00	06/30/2010	10/11/2010	101	10/28/2010	17
SI007203	57,512.90	03/08/2011	01/11/2012	303	01/30/2012	19
SI007204	48,420.87	01/28/2011	01/12/2012	344	05/11/2012	119
SI008378	53,425.53	03/16/2012	06/20/2012	94	10/25/2012	125
SI008377	49,717.79	03/16/2012	06/20/2012	94	10/25/2012	125
SI007406	81,054.01	05/26/2011	06/20/2012	384	10/25/2012	125
SI007869	106,792.90	08/30/2011	06/20/2012	290	10/25/2012	125
Total	\$515,908.00		Average Days	211	Average Days	87
			Average Months	7.0	Average Months	2.9
			Allowance for Processing (Months)	1	Allowance for Processing (Months)	1
			Total Delay (Months)	6.0		1.9

Source: Amtrak OIG analysis of data provided by the Amtrak Finance Department

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Appendix IV

**COMMENTS FROM THE AMTRAK ACTING CFO AND NGENC
 FINANCE SUBCOMMITTEE CHAIRMAN**

NATIONAL RAILROAD PASSENGER CORPORATION
 60 Massachusetts Avenue, NE, Washington, DC 20002
 tel (202) 906-3918, fax (202) 906-3865

Memo



Date March 21, 2013

From Gordon Hutchinson *Gordon Hutchinson*
 Acting Chief Financial Officer

To David R. Warren
 Assistant Inspector General, Audits

Department Finance

Subject OIG Draft Audit Report No. 002-
 2013 *Audit of Grant Agreement: Next
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 with Terms of the Grant Agreement*
 cc William Herrmann, Managing
 Deputy General Council
 Darrell Smith, Chief Business Line
 Planning and Strategy
 Melantha Paige, Senior Audit
 Liaison
 Todd Havens, Director, Risk and
 Compliance Services, KPMG
 Next Generation Equipment
 Committee Executive Board
 Members

We have reviewed the Draft Audit Report No. 002-2013 *Audit of Grant Agreement: Next Generation Equipment Committee Materially Complied with Terms of the Grant Agreement*, and Amtrak Management and the Next Generation Equipment Committee Executive Board concur with the report's recommendations.

Specifically to each of the report's recommendations, we will:

1. *Seek reimbursement from AASHTO for the questioned costs and obtain documentation for the unsupported costs.*
 Amtrak agrees and Amtrak Finance (Business Line Planning & Strategy) will work with AASHTO to resolve questioned costs and seek reimbursement as appropriate.
2. *Formally approve all existing agreements and establish a policy for the review and approval of all future agreements. These actions should be documented by memorandum or reflected in meeting minutes.*
 Amtrak Finance (Business Line Planning & Strategy) will work with the NGENC Administrative Task Force and Executive Board to ensure that the Executive Board reviews and approves all agreements and sub-agreements with support-service providers, such as AASHTO. This has in fact been the more recent practice, as evidenced most

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recently on January 22, 2013, with the NGEN Executive's Board approval of \$10,000 for a facilitator through AASHTO for a February 20, 2013 workshop, and subsequent award to Face to Face Strategies.

3. *Develop and implement a policy for paying contractors in a manner similar to Amtrak's payment policy, which requires it to pay invoices within 30 days of receipt.*
Amtrak Finance (Business Line Planning & Strategy) will continue to work with AASHTO and other support-service providers to ensure that invoices submitted to Amtrak are reviewed for allowable costs and paid in a timely manner in accordance with our policies and agreements. Progress has been made, including AASHTO incorporating several changes to their Travel Reimbursement request forms designed to streamline the review and approval process incorporated in September 2012.

4. *Submit reimbursement requests to FRA within 30 days after paying for support services.*
The grant agreement stipulates that Amtrak must submit payment requests to FRA on a reimbursement basis. It does not specify a frequency. It is Amtrak's practice to submit reimbursement requests to the FRA in conjunction with the quarterly financial reports and forms required by the grant in Sections 111-112. This provides the grantor with a clear picture of the program and appropriate documentation supporting the request. The quarterly SF425 and SF270 financial forms support current and cumulative expenses and cash receipts. The narrative progress reports describe significant achievements made in the quarter. This practice does not hinder Amtrak's ability to make timely payments for allowable costs covered by this agreement. Amtrak Finance (Grants Administration) will speak with the FRA to determine the preference for or feasibility of submitting reimbursement requests more frequently.

Thank you for the opportunity to review the draft audit report.

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Appendix V

ABBREVIATIONS

AASHTO	American Association of State Highway and Transportation Officials
CFR	Code of Federal Regulations
FRA	Federal Railroad Administration
GSA	General Services Administration
NGEC	Next Generation Equipment Committee
OIG	Office of Inspector General
PRIIA	Passenger Rail Investment and Improvement Act of 2008

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Appendix VI

OIG TEAM MEMBERS

Earl Hedges, Senior Director

Joseph Zammarella, Audit Manager

Michael Fruitman, Principal Communications Officer

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Amtrak OIG's Mission	The Amtrak OIG's mission is to provide independent, objective oversight of Amtrak's programs and operations through audits, inspections, evaluations, and investigations focused on recommending improvements to Amtrak's economy, efficiency, 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.
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