



OFFICE of INSPECTOR GENERAL
NATIONAL RAILROAD PASSENGER CORPORATION

GOVERNANCE:

Final Observations on Amtrak's Use of CARES Act Funds

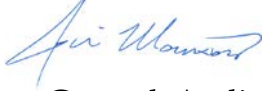
OIG-A-2021-005 | December 15, 2020

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Memorandum

To: Tracie Winbigler
Executive Vice President/Chief Financial Officer

From: Jim Morrison 
Assistant Inspector General, Audits

Date: December 15, 2020

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

Beginning in March 2020, Amtrak (the company) experienced a sharp drop in ridership and passenger revenues as a result of the coronavirus pandemic. The company responded with cost-cutting actions, including canceling some train service and temporarily reducing management pay and retirement benefits. Despite these actions, the company projected that revenues would still not cover its reduced costs and requested assistance from Congress. Congress responded by providing the company with \$1.018 billion through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)¹ to “prevent, prepare for, and respond to” the pandemic. Projecting a slow return of passengers through next year, the company requested \$4.85 billion in funding for fiscal year (FY) 2021, which includes \$2.8 billion that company executives say is necessary to avoid furloughs, sustain state supported and long distance service, and meet debt obligations.

Our objective for this final report is to complete our review of the company’s use of CARES Act funds and its controls to accurately track and report on them.² In summary, we found that the company is effectively using, accounting for, and reporting on these funds, and that it has addressed the initial risks we identified in August 2020.³ We also identified two opportunities for the company to improve its controls if Congress approves additional assistance.

¹ Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, div. B, title XII, 134 Stat. 281 (2020).

² As of October 31, 2020, the company had approximately \$131 million in CARES Act funds remaining that it plans to expend in FY 2021.

³ *Governance: Observations on Amtrak's Use of CARES Act Funds* (OIG-MAR-2020-013), August 5, 2020.

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To do this work, we reviewed the company's formal plan to spend these funds and tested the processes and controls it implemented to ensure accurate accounting and reporting. We also interviewed key company officials from the Finance department who are responsible for reporting on the funds to the Federal Railroad Administration (FRA). In addition, we interviewed officials from the Human Resources and Procurement departments, which established processes for approving leave and purchasing coronavirus-related supplies. For additional details on our scope and methodology, see Appendix A.

In commenting on a draft of this report, the Executive Vice President/Chief Financial Officer emphasized the seriousness with which the company takes its fiduciary responsibility to spend CARES Act funds wisely. The company also stated its intent to consider the two opportunities we identified to enhance its controls if Congress provides further assistance. For management's complete response, see Appendix B. Management also provided technical comments that we have incorporated throughout this report as appropriate.

BACKGROUND

The company received CARES Act funds through amendments to its FY 2020 grant agreements for the Northeast Corridor and National Network. Although the amendments require the company to report pandemic-related spending in its monthly grant expenditure report to FRA, the act places few restrictions on how the company uses most of these funds. One key restriction, however, is that the act sets aside \$239 million to offset costs that states owe to the company for providing intercity passenger rail service.

State supported services. Under cost-sharing agreements with the states, the company provides intercity train service to 17 states on 28 routes.⁴ 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 CARES Act provides that for FY 2020, states will not have to pay more than 80 percent of the amount they paid for expenses incurred in FY 2019. For example, if a state paid the company \$1 million for FY 2019 expenses, the company cannot charge the state more than \$800,000 for FY 2020

⁴ In 2008, Congress passed the Passenger Rail Investment and Improvement Act of 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.






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expenses. The company can draw down from the \$239 million each month to make up any difference between the state's payment and actual costs.

Remaining funds. The company is using the remaining \$779 million in four other categories, which are described in Figure 1 along with the state supported category. Before it began spending these funds, the company developed—and FRA agreed with—a formal plan identifying how it expected to use, account for, and report funds in each category. Through October 2020, the company has spent about \$887 million of the \$1.018 billion in total funds (87 percent). With FRA's approval, the company plans to use the remaining funds in FY 2021 for Northeast Corridor operating expenses.

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Figure 1. Use of CARES Act Funds Through October 2020

Expenditure Category	Description	Funds Spent to Date (in millions)
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.	\$2
Salary and Wage Payments to Employees Affected by the Coronavirus 	Includes 10 to 14 days of paid leave for employees affected by the coronavirus. The company has identified potential situations that would make an employee eligible for leave—for example, testing positive for the coronavirus or coming in close contact with someone who tested positive.	\$5
State Supported Services (PRIIA Section 209) 	The CARES Act stipulates that states' share of the company's costs of providing intercity passenger rail service in FY 2020 is to be no more than 80 percent of the states' FY 2019 payments. CARES Act funds are to be used to cover the difference between the actual cost of providing this service and the reduced amount the states have to pay.	\$161^a
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 railroads.	\$324
Other Expenditures 	Includes train-related expenses such as fuel, power, and commissary food, except those related to state-supported services. The company is also including portions of Northeast Corridor capital programs and debt service payments.	\$395
Total		\$887

Source: OIG analysis of Finance department data

Note: ^aThe company did not report state supported service expenses for October because it is adjusting its cost allocation methodologies to account for the reduction in long distance service as a result of the pandemic. It plans to report October and November expenses in the December monthly expenditure report.

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In August 2020, we issued an interim report on the company's use of CARES Act funds. We reported that the company had moved swiftly to develop a comprehensive plan for using, tracking, and reporting on these funds and was implementing controls and processes to oversee their use. We also identified some risks associated with the company's quality assurance checks on its financial reporting, transparency with state stakeholders on cost sharing, and the physical security of coronavirus-related supplies at offices and other worksites.

THE COMPANY ADDRESSED PRIOR RISKS AND ACCOUNTED FOR AND REPORTED ON THE FUNDS APPROPRIATELY

The company has addressed the risks we identified and is effectively using, accounting for, and reporting on funds received under the CARES Act. If Congress approves additional assistance, we have identified two opportunities for the company to minimally adjust its controls for approving paid leave for coronavirus-related absences and reporting for state supported services to make them consistently effective.

Testing individual purchase transactions. The company followed through with its commitment to test the eligibility of a sample of the individual purchases it charged to the account it established for coronavirus-related supplies, equipment, and services. As of November 2020, these tests identified only one ineligible purchase for a nominal value, which was removed and assigned to another account for purchases not paid for with CARES Act funds. We performed a similar test of 77 different transactions representing more than half of the total \$1.3 million in expenses the company incurred from March through June 2020 and found no ineligible purchases.

We noted in our prior report that the company's Risk and Controls group was slow to start its testing. This delay was the result of an initial learning curve, competing priorities, and loss of staff. As of October 2020, however, the group is nearly caught up with its testing and has a plan to stay current going forward. Since the company improved the timing of its testing, this control is working as designed to ensure that the company is using these funds as intended.

Paid leave for coronavirus-related absences. As the coronavirus swept through the country, the company swiftly implemented a paid-leave program to ensure that employees did not work when they were sick or potentially contagious. Through October 2020, the company reports it has provided this leave to more than 5,000 employees.

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Initially, the Human Resources department's Medical Services group approved employees' requests for paid leave immediately but, when appropriate,⁵ asked them to provide medical documentation such as evidence of a positive test or a doctor's note as soon as possible. Our analysis of the company's paid leave data⁶ showed that 37 percent of employees approved for leave in that March 2020 did not provide medical documentation when required.⁷ According to the company's Chief Medical Officer, this type of evidence was often difficult to obtain in the early months of the pandemic because—testing was not widely available, and doctors' offices were still largely closed. With an overriding need to prioritize employee and passenger safety, Medical Services approved the paid leave even in the absence of medical documentation. As the pandemic wore on, however, documentation generally became easier to obtain, and the Medical Services group tightened its requirements mid-summer to ensure better compliance with the program's requirements.⁸ Under the new process, Medical Services approves the leave but does not authorize that the employee be paid for it until the employee provides the supporting documentation.

The company's data shows that employees are improving compliance with the program requirements. In October 2020, after Medical Services put the new process in place, just 14 percent of employees did not provide documentation in advance of receiving paid leave. Although this is a significant improvement, more consistent application of the new policy could further reduce the incidence of noncompliance.⁹

State supported services. We found that the company successfully applied its billing formula for all but a very small portion of the funds designated for state supported services. Further, despite the complexity of applying the new billing formula, the company submitted its reports on the use of state supported funds to FRA on time each month. As of September 2020, \$78 million in state-supported funds remain, and the

⁵ The company does not require medical documentation for employees it determines to be close contacts of other employees with confirmed coronavirus cases, which included approximately 2,000 employees as of October 2020.

⁶ We analyzed data from the company's primary database for tracking and approving paid coronavirus-related leave and employees' medical documentation from March through October 2020.

⁷ The Chief Medical Officer told us that some employees may have provided the required documentation, but Medical Services staff did not update the database to reflect its receipt. We did not ask Medical Services to research all cases lacking medical documentation because the group continues to need all available resources to process new requests for leave and assess employee fitness to return to duty.

⁸ Medical Services officials told us the policy changed "mid-summer" but could not provide an exact date.

⁹ Because we were using de-identified data and did not review employee medical information, we are not questioning whether Medical Services acted appropriately in approving paid leave.

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states and the company have agreed to continue to apply the formula until the funds run out.

As we verified the accuracy of the reports, we identified a few anomalies in agreements or service patterns that affected this formula, resulting in the company underreporting its use of these funds by about \$686,000 on a total of \$97 million, as of June 2020. Once we brought this to the company's attention, the Finance department revised its reporting to more accurately reflect the remaining funds. These reports are the company's primary means of communicating its remaining balances to FRA, Congress, and other stakeholders. In addition, the company communicates these balances to the states in bi-weekly meetings based on these reports. Going forward, for the remaining funds for state supported services and any additional pandemic-related funds it receives, the company may consider proactively checking for such anomalies as agreements and service patterns may continue to change.

Supplies and equipment. The company's procurement team successfully sourced, procured, and distributed goods and equipment necessary to protect workers from the spread of the coronavirus. As the company prepared for its workers to return to their offices, it distributed hand sanitizer, cleaning supplies, and masks to stations and offices across the country. Because employees were slower to return to their offices than the company expected, site coordinators at the company's two largest office locations— 1 Massachusetts Avenue in Washington, D.C., and Philadelphia's 30th Street Station— told us they faced challenges storing and securing the large quantities of supplies. The site coordinators were able to store most of them in secure locations but had to store some in more easily accessed areas, such as file rooms, spare offices, and conference rooms.

In our prior report, we identified the risk of theft or loss if the company did not appropriately secure coronavirus-related supplies. From April through August 2020, the Amtrak Police Department received five reports of theft of these and other cleaning supplies, although the losses totaled less than \$1,000. In addition, in response to our report, the company committed to developing a tracking tool for these supplies, and we confirmed it is in the process of implementing and distributing this tool. This tracking tool will help the company manage its inventory and protect these supplies.

Monthly expense report review. The company quickly implemented the new reporting requirements for expenditures funded by the CARES Act and has submitted all of its monthly expenditure reports to FRA on time. As an additional measure to ensure the accuracy and reliability of these reports, the company committed its Risk and Controls

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group to perform a detailed review of the expenses before submitting the report to FRA. Although all the reports were timely, during one month, the Risk and Controls group was not able to review the entire report before it was sent, and the one section that it did not review included a \$4.2 million error. The company corrected this error and has subsequently ensured that the full report is provided to the Risk and Controls group for a complete review before sending it to FRA.

CONCLUSION

The company has demonstrated good stewardship of its CARES Act funds by effectively accounting for and reporting on how it is using these funds to address pandemic-related needs. If Congress provides additional assistance, our observations may provide insight on how minimal adjustments can further strengthen this stewardship.

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APPENDIX A

Objective, Scope, and Methodology

This report provides the results of our audit of the company's management of CARES Act funds. Our objective was to complete our review of the company's use of these funds and its controls to accurately track and report on them. Our scope focused on the funds the company spent from March through September 2020. We performed our audit work from April through December 2020 in Bear, Delaware; Bolden, Delaware; Philadelphia, Pennsylvania; and Washington, D.C.

To assess the company's use of and controls over its CARES 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 their approval of this plan. In August 2020, we briefed congressional stakeholders on our interim report and our planned work to complete this audit.

Monthly expenditure report review and transaction testing. To assess the effectiveness and timeliness of the company's independent review of monthly expenditure reports, we interviewed the Risk and Controls manager responsible for conducting the review, assessed his summary work papers, and verified the on-time submittal of the monthly expenditure reports to FRA. We also reviewed the manager's methodology for testing a sample of expenditures to determine whether the company was appropriately using the CARES Act accounting codes.

To independently assess whether the company was using these codes appropriately, we tested our own sample of the \$1.3 million in expenses it charged to the CARES Act accounting codes from March through June 2020. We systematically selected the 75 highest-dollar-value purchases across nine categories of expenses,¹⁰ and we added two lower-dollar purchases to ensure that we selected at least one expenditure from each of the categories. We excluded purchases for personal protective equipment and cleaning supplies because we determined that these items were low risk for being ineligible expenses under the CARES Act. Our sample included a total of \$677,542

¹⁰ The nine categories of expenditures are: maintenance materials; environmental and safety; communications; meetings, trainings, and travel; office and facility; materials overhead; on board services; professional fees; and other.

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in purchases, which accounted for approximately 51 percent of the funds the company spent on these types of purchases during this time. We reviewed supporting invoices, purchase orders, and other transaction documents to confirm the descriptions of goods, quantities, dollar amounts, and business purposes of each of the purchases in our sample.

Coronavirus-related leave. To assess the company's controls over paid coronavirus-related leave, we spoke with officials from the company's Human Resources Medical Services group, who demonstrated how they receive, document, approve, and communicate with Payroll (in the Finance department), which processes the leave. To determine whether Medical Services received all required medical documentation from employees approved for leave, we analyzed de-identified employee leave records for March through October 2020 from the primary Medical Services database. To assess the adequacy of controls over the payout of leave, we compared all the leave that Payroll processed from March through mid-August 2020 to records that Medical Services maintains and we verified that the approved dates and duration of the leave matched. Because we were using de-identified data, and because Medical Services personnel are currently processing a large volume of active employee coronavirus cases, we were not able to verify whether employees who did not provide the required medical documentation were entitled to leave.

State supported services. To assess the company's administration of the \$239 million designated for state supported services, we spoke with company officials responsible for managing the partnerships with states and developing the individual state bills. We also interviewed officials from three states and the Executive Director of the State-Amtrak Intercity Passenger Rail Committee. To assess the accuracy of the monthly funds it spent, we assessed how the company applied the billing formula to cap current costs at 80 percent of FY 2019 costs. We also compared state bills from March through June 2020 to the amounts it reported in the monthly state services expenditure report to FRA and recalculated the amount needed to offset state supported costs each month. We discussed the anomalies we found during these reviews with Finance managers, who subsequently revised their reporting.

Supplies and equipment. To assess the company's process for obtaining, distributing, and storing coronavirus-related supplies and personal protective equipment, we spoke with individuals from the Procurement department and the company's Incident Response Team, which leads the company's responses to events such as a major accident or a natural disaster. We conducted site visits to warehouses in Bear and

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Bolden, Delaware, and Washington, D.C., as well as offices in Washington, D.C., and Philadelphia, Pennsylvania. During these visits, we interviewed individuals responsible for receiving, storing, and distributing supplies and equipment, and we observed how they were storing and distributing them. We also emailed and spoke with station managers across the country to obtain end-users' perspectives on the company's ability to distribute supplies and equipment. We reviewed the company's plans, training, and guidance it provided to site coordinators responsible for facilitating employees' return to work, and we assessed the spreadsheet a company director developed to track distribution and use of supplies and equipment at the site coordinators' locations. Because we had raised concerns in our interim report about the risk of loss of these supplies, we also reviewed Amtrak Police Department reports of theft of coronavirus-related and other cleaning supplies.¹¹

We conducted this performance audit in accordance with generally accepted governmental 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 objective.

Internal Controls

We assessed the internal controls the company has in place for using, accounting for, and reporting on the CARES Act funds. Specifically, we assessed the internal control components and underlying principles and determined that five internal control areas were significant to the audit objective:

- **Control environment.** The control environment is the foundation for an internal control system. Management should establish an organizational structure, reporting lines, and appropriate authorities and responsibilities in the pursuit of objectives.
- **Risk assessment.** Having established an effective control environment, management assesses the risks facing the company as it seeks to achieve its

¹¹ We reviewed all Amtrak Police Department reports of cleaning supply thefts from March 2020 to October 2020 although we could not determine whether some of the cleaning supplies stolen were specific to new coronavirus-related cleaning protocols.

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objectives. Management should also consider the potential for fraud when identifying, analyzing, and responding to risks.

- **Control activities.** Control activities are the actions management establishes through policies and procedures to achieve objectives and respond to risks in the internal control system. Management should design control activities such as training requirements, segregation of duties, and approvals. Management should also design the entity's information system and related control activities and should implement control activities through policies and procedures.
- **Information and communication.** Management uses quality information to support the internal control system and achieve company objectives. Management should communicate internally and externally the necessary quality information to achieve company objectives.
- **Monitoring.** Management establishes activities to assess the quality of performance over time and promptly resolve the findings of audits and other reviews. Management should establish and operate activities to monitor the internal control system and evaluate the results. Management should remediate identified internal control deficiencies on a timely basis.

We developed our audit work to ensure that we assessed the internal controls that were significant to our audit objective. This included reviewing the company's compliance plan for using, accounting for, and reporting on CARES Act funds and interviewing officials from the company with responsibility for implementing this plan. We also conducted tests of new controls established in response to the CARES Act. If the company relied on existing controls, we did not retest these controls because the company's independent accounting firm (external auditors) included them in its annual reviews and did not identify any significant deficiencies. Because our review was limited to the internal control components and underlying principles relevant to our audit objective, we may not have identified all of the internal control deficiencies that existed at the time of this audit.

Computer-Processed Data

To assess the company's accounting for direct coronavirus-related expenditures, we relied on transaction data directly from its Systems Applications and Products (SAP) system—the resource planning platform that integrates the company's major business processes. We tested the reliability of these data by independently generating the

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transaction data directly from SAP and compared their total value to the transaction data the company generated from SAP. We also compared the total value of data from SAP to totals the company reported to FRA and noted no exceptions. Based on our tests, we determined that the data were sufficiently reliable to meet our objective.

To assess the company's process for approving paid leave for coronavirus-related absences, we relied on payroll data obtained directly from SAP. We also examined call records from a database developed and populated by Human Resources. We tested the reliability of Human Resources' paid leave database by observing Medical Services employees entering records into the database and discussing with them their processes and procedures for documenting approvals. We also compared a cumulative file of all employee records approved by Medical Services and sent to Payroll for processing, as well as the payroll records housed in SAP. We discussed any discrepancies with officials from both Human Resources and Payroll. Based on our observation and tests, we determined that the discrepancies we found were negligible and that the data were sufficiently reliable for meeting our objective.

Prior Reports

In conducting our analysis, we reviewed the following reports:

Amtrak OIG

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

Government Accountability Office (GAO)

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

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APPENDIX B

Management Comments

NATIONAL RAILROAD PASSENGER CORPORATION

Memo



Date	December 11, 2020	From	Tracie Winbigler, EVP CFO 
To	Jim Morrison, Assistant Inspector General, Audits	Department	Finance
		cc	William J. Flynn, CEO Eleanor Acheson, EVP General Counsel Constantin Comeanu, VP FP&A 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 Mark Vierling, VP Procurement & Logistics Christian Zacariassen, EVP CIO
Subject	Management Response to <i>Governance: Final Observations on Amtrak's Use of CARES Act Funds</i> (Draft Audit Report for Project No. 012-2020)		

This memorandum provides Amtrak's response to the draft audit report titled, "*Final Observations on Amtrak's Use of CARES Act Funds*". Management appreciates the opportunity to respond to the OIG's report. We continue to take very seriously our fiduciary duty to spend the CARES Act funds wisely and we're pleased that the OIG noted we were effectively addressing the observations identified in their interim report. This final report also identified two opportunities for Amtrak to further enhance its controls if additional Congressional assistance is approved. Amtrak welcomes this feedback, as there is always opportunity for further improvement, and will consider these opportunities to strengthen our stewardship of future federal funds.

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APPENDIX C

Abbreviations

CARES	Coronavirus Aid, Relief, and Economic Security
FRA	Federal Railroad Administration
FY	fiscal year
GAO	Government Accountability Office
OIG	Amtrak Office of Inspector General
PRIA	Passenger Rail Investment and Improvement Act of 2008
SAP	Systems Applications and Products
the company	Amtrak

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APPENDIX D

OIG Team Members

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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

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or

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