

RBC TRANSPORTATION SOLUTIONS-LLC
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To: RAILCET
From: Ray Chambers
Date: September 27, 2022
Subject: Intelligence Report—AASHTO Rail Conference Report

I participated in the AASHTO Annual Rail Transportation Meeting in Kansas City from September 19-22. Most state rail directors from across the country were there.

The overwhelming activity surrounded the implementation of the FRA new Corridor Identification and Development Program. Headed by Deputy Administrator Jennifer Mitchell more than 40 FRA senior staff participated. They conducted a number of stakeholder meetings including an hour-long session with representatives of rail maintenance, construction, and operations contractors. Gregg Baxter (passenger operations) and I led that discussion on behalf of rail contractors.

At the opening of that session, I made a presentation on behalf of contractors and called for FRA encouraging maximum competition. Jennifer Mitchell and Paul Nisenbaum, who is running the grant programs, responded that the identification and development of all intercity corridors under 750 miles is now FRA responsibility. While significant funding is directed to Amtrak, at least \$12 billion is available in grants to states. They are well aware the law authorizes competition for services along intercity routes. The Attachment provides a summary of my remarks as well as the principal points of discussion. (See Attachment)

The conference program itself was comprehensive. There was a panel on the State-Amtrak Intercity Passenger Rail Committee, which is a statutory body composed of States-Amtrak- and FRA designed to resolve costing issues between states and Amtrak. There was also an additional organization called the States for Passenger Rail Coalition which is dominated by states but includes Amtrak. I talked with several participants about opening that up to rail contractors.

I had great side bar discussions with numerous participants including Karen Hedlund, a Member of the Surface Transportation Board. I advocated that the STB should adopt a policy promoting competition for intercity passenger rail service and should become proactive in promoting competition. Had dinner with the Chairman of the Big Sky Rail Authority. They have strong political support for significant passenger rail operations including the long-distance North Coast Hiawatha that once connected Chicago, Illinois to Seattle, Washington. This would require significant track investment. If the economics can be demonstrated they would be open to competition for the operation. Also had dinner with insurance executives of a major firm for a “blue sky” discussion of insurance arrangements, including pooling, which would cover public and private expanded intercity passenger operations.

**ATTACHMENT – HIGHLIGHTS OF THE MEETING BETWEEN FRA AND RAIL CONTRACTORS
Kansas City, Missouri – September 20, 2022**

The meeting was Chaired by Jennifer Mitchell, Deputy Administrator, FRA and Paul Nisenbaum, Associate Administrator for Policy and Development. Ray Chambers and Gregg Baxter led for rail operations, maintenance, and construction contractors.

Chambers opened with the following points:

RAIL CONTRACTORS SUPPORT INTERCITY PASSENGER RAIL COMPETITION. The rail statutes, including the Bipartisan Infrastructure Law, authorize and even encourage competition on intercity corridors. The new Corridor Identification and Development Program (CID) gives FRA complete control over identification, development, and funding of all intercity corridors under 750 miles. CID is agnostic on choice of operators and service providers. The states have at least \$12 billion available to them over the next five years if they chose to take the lead with a competitive process.

In the expansion to come Amtrak will have obvious advantages following a half century of near monopoly. But the States, who must subsidize these routes, for the first time have the opportunity to maximize competition over the next five years and now have access to significant funding.

FRA should help develop a process that promotes States/Authorities implementing competitive options for expanding intercity passenger rail. Our request is that FRA work with rail contractors in providing technical assistance and guidance in sculpting a viable framework for a level competitive playing field.

Mitchell and Nisenbaum responded they are well aware Congress created a new opportunity for competition in intercity operations—and they will follow the law. This was followed by a lively discussion on specific points.

One FRA spokesperson expressed the personal opinion that while clearly new operations could be subject to competition—the 30 existing state supported routes could also be competed at state option. Currently, consistent with the statutes “metrics and standards” including on time performance for intercity routes are being designed by FRA. This in turn would raise the question of would those apply if an alternative operator replaced Amtrak under a State authority? Chambers responded that private operators and contractors would prefer commercial negotiation (the commuter model) but given FRA’s role it deserves further discussion the role of FRA deserves further discussion.

There was also discussion on the statutory State, Amtrak Intercity Passenger Rail Committee (SAIPRC) which was established to collaborate on a cost sharing methodology for States

contracting with Amtrak. Chambers noted this was created to address costing issues resulting from Amtrak's near monopoly control over state supported routes. Now there is a clear second option for competition. Chambers noted most costing issues between the states and Amtrak would be resolved through true "apples to apples" competition. However, the very existence of the SAIPRC with closed discussions between FRA and a Competitor (Amtrak) could create an advantage to Amtrak as a competitor. Therefore, it needs to be re-evaluated and refined. Chambers proposed exploring establishment of a working group composed of States, rail operations and construction contractors, FRA and Host Railroads to develop effective competitive mechanisms. He expressed the opinion competition is the only real option for states to effectively challenge Amtrak costing. The main purpose would be an ongoing dialogue to collaborate on a viable methodology to introduce real competition into the intercity marketplace.