



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

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October 18, 2022

Mr. Stephen Gardner
President and Chief Executive Officer
Amtrak
1 Massachusetts Ave, N.W.
Washington, DC 20001

Dear Mr. Gardner,

On September 2, 2021, the Amtrak Office of the Inspector General (OIG) published a report on Amtrak's efforts to comply with the *Americans with Disabilities Act (ADA)*.¹ Despite noting several improvements, the OIG also expressed that without better planning, Amtrak cannot expect to achieve *ADA* compliance at the 312 remaining stations over its six year timeline.² Given that over a year has passed since this report, I am writing today to request a detailed update on Amtrak's *ADA* efforts, and to express concerns over planning and management for long term projects at Amtrak.

The *ADA* was passed in 1990 and established a 20-year timeframe for intercity rail stations to be accessible to persons with disabilities.³ Amtrak's June 2022 *ADA* Progress Report states that Amtrak has fully managed to address its *ADA* responsibility at only 90 of the 387 stations where it is fully or partially responsible for implementation.⁴ In other words, Amtrak has only managed to bring approximately two stations into full compliance per year on average since the *ADA* was passed.⁵

¹ AMTRAK OIG, OIG-A-2021-012, GOVERNANCE: BETTER PLANNING AND COORDINATION COULD HELP THE COMPANY ACHIEVE ITS AGGRESSIVE TIMELINE FOR ADA COMPLIANCE (2021), available at <https://amtrakoig.gov/sites/default/files/reports/OIG-A-2021-012%20ADA.pdf> [hereinafter 2021 OIG REPORT].

² *Id.*

³ 42 U.S.C. § 12162(e)(2)(A)(ii)(I).

⁴ AMTRAK, ADA PROGRESS REPORT JUNE 2022 1 (2022), available at <https://www.amtrak.com/content/dam/projects/dotcom/english/public/documents/corporate/foia/amtrak-ada-progress-report-june-2022.pdf>.

⁵ See *id.* See also AMTRAK OIG, 109-2010, ADA: LEADERSHIP NEEDED TO HELP ENSURE THAT STATIONS SERVED BY AMTRAK ARE COMPLIANT (2011), available at https://amtrakoig.gov/sites/default/files/reports/ada_final_report_1006.pdf [hereinafter 2011 OIG REPORT] (demonstrating that historically, based on Amtrak's own data, it appears as that the two stations per year compliance rate remained consistent as Amtrak stated in 2009 that it had only brought 48 stations into ADA compliance.)

Amtrak's stunning lack of progress on *ADA* compliance comes despite evidence of it spending millions of dollars of taxpayer money on such efforts. According to the 2021 OIG report, Amtrak spent \$346 million on *ADA* upgrades between fiscal year (FY) 2015 and FY2020.⁶ That represents an average spending of approximately \$69 million per year. Furthermore, the report also notes that the target date of compliance is FY2027, and Amtrak intends to spend \$1.2 billion to become compliant.⁷

Since the enactment of the *ADA*, the Amtrak OIG conducted two audits, one in 2011 and another in 2014, which determined that Amtrak made only limited progress on these efforts due in part to the program's management structure.⁸ As you may know, Amtrak failed to implement the recommendations made in 2011 and took until 2014 to begin showing improvement on issues the OIG identified.⁹ After these audits, the OIG noted in its 2021 audit that Amtrak did finally make improvements, but that planning issues persist.¹⁰

Amtrak's failure to expeditiously tackle *ADA* compliance resulted in legal action. On June 9, 2015, the United States Department of Justice (DOJ) notified Amtrak of several findings detailing Amtrak's failure to implement *ADA* regulations.¹¹ The DOJ cautioned Amtrak that if it could not correct the deficiencies listed, that the Attorney General could initiate a lawsuit under the *ADA*.¹² Unfortunately, Amtrak did not heed these warnings and five years later, in December 2020, the DOJ moved forward with litigation.¹³ On the same day the complaint was filed, Amtrak reached a settlement with the DOJ which requires Amtrak complete designs to make 135 stations accessible, complete construction at 90 of those stations, begin construction at 45 more stations, and undertake all of this work over the course of only nine years.¹⁴ In addition to these terms, Amtrak was required to set up a \$2.25 million compensation fund for those harmed by Amtrak's failure to come into *ADA* compliance.¹⁵

Despite the large amounts of spending, the availability of funds, and the cautioning from its OIG, Amtrak only just started to take its obligations under the *ADA* seriously—under the shadow of a settlement agreement with the DOJ. It is extremely concerning that Amtrak, a

⁶ OIG 2021 REPORT *supra*, note 1 at 1.

⁷ *Id.* at 2.

⁸ AMTRAK OIG, OIG-A-2014-010, TRAIN OPERATIONS AND BUSINESS MANAGEMENT: ADDRESSING MANAGEMENT WEAKNESS IS KEY TO ENHANCING THE AMERICANS WITH DISABILITIES PROGRAM 2-3 (2014), available at https://amtrakoig.gov/sites/default/files/reports/audit_report_oig-a-2014-010.pdf [hereinafter 2014 OIG REPORT].

⁹ 2021 OIG REPORT *supra*, note 1.

¹⁰ *Id.*

¹¹ Letter from Rebecca B. Bond, Chief of Disability Rights, DOJ to Joseph H. Boardman, President and Chief Executive Officer, Amtrak (June 9, 2015), available at https://www.ada.gov/amtrak_letter_of_findings.pdf.

¹² *Id.*

¹³ Complaint, U.S. v. The National Passenger Railroad Corporation (Amtrak), No. 1:20-cv-3503 (D.C. Cir. Dec. 2, 2020) available at https://www.ada.gov/amtrak_comp.html.

¹⁴ Press Release, DOJ, Amtrak Pays Over \$2 Million to Individuals in Disability Settlement (Jan. 12, 2022), available at <https://www.justice.gov/opa/pr/amtrak-pays-over-2-million-individuals-disability-settlement> [hereinafter DOJ Press Release].

¹⁵ Press Release, DOJ, \$2.25 Million Fund Available in Justice Department Settlement with Amtrak (Jan 29, 2021), available at <https://www.justice.gov/opa/pr/225-million-fund-available-justice-department-settlement-amtrak>.

company almost entirely subsidized by United States taxpayers, has failed, or refused to follow the *ADA*.¹⁶

The *Infrastructure Investment and Jobs Act (IIJA)* recently gave Amtrak significant amounts of funding to bolster its infrastructure improvements.¹⁷ The OIG issued a report on March 31, 2022, on areas for Amtrak management to focus on regarding *IIJA*.¹⁸ It is concerning that the identified issues and suggestions appear substantially similar to those made throughout the lifetime of the Amtrak *ADA* program. In the OIG's 2011 *ADA* audit, the OIG recommended changes to fix fragmented management, lack of accountability, weaknesses in cost estimates, and gaps in the compliance plan.¹⁹ In 2014, the OIG recommended changes to improve the effectiveness of the *ADA* program's management.²⁰ Finally, while the 2021 OIG audit noted the progress Amtrak made in implementing prior recommendations, it also noted a lack of requisite planning to meet the timeline.²¹

Given these concerns, please provide the Committee with written answers and all relevant materials to the following, no later than Tuesday, November 1, 2022:

1. Why did it take such a significant amount of time for Amtrak to begin making progress on its *ADA* obligations prior to its settlement with the DOJ, given it had notice from two separate OIG reports?
2. How has Amtrak augmented its plans for becoming *ADA* compliant considering the settlement agreement with the DOJ? Please provide a copy of the agreement and any relevant memorandums of understanding being Amtrak and DOJ.
3. In Mr. Dennis Newman's responses to a question for the record from the March 8, 2022, Subcommittee on Railroads, Pipelines, and Hazardous Materials hearing titled "*Stakeholder Views on Surface Transportation Board Reauthorization*", he stated that the settlement "agreement does not establish a specific deadline for completing all stations compliance work."²² However, DOJ has stated that this agreement requires Amtrak to take certain actions within a nine-year period.²³ Does Amtrak interpret the agreement differently than the DOJ? If so, please explain how.

¹⁶ AMTRAK, FY2021 PROFILE 2 (2021), available at <https://www.amtrak.com/content/dam/projects/dotcom/english/public/documents/corporate/nationalfactsheets/Amtrak-Company-Profile-FY2021-030922.pdf>.

¹⁷ *IIJA*, Pub. L. No. 117-58, 135 Stat. 429.

¹⁸ AMTRAK OIG, OIG-SP-2022-008, AMTRAK: AREAS FOR MANAGEMENT FOCUS IN ADVANCE OF INFRASTRUCTURE INVESTMENT AND JOBS ACT FUNDING (2022), available at <https://amtrakoig.gov/sites/default/files/reports/OIG-SP-2022-008.pdf>.

¹⁹ 2011 OIG REPORT *supra*, note 5 at 16-17.

²⁰ 2014 OIG REPORT *supra*, note 9 at 20.

²¹ 2021 OIG REPORT *supra*, note 1 at 2-3.

²² *Stakeholder Views on Surface Transportation Board Reauthorization: Hearing before the Subcomm. on Railroads, Pipelines, & Hazardous Materials*, 117th Cong. (2022) (Mr. Dennis Newman responses to questions for the record).

²³ DOJ Press Release *supra*, note 15.

4. Does Amtrak have performance benchmarks set for the completion of the changes required by the settlement agreement? If so, please provide a timeline of these benchmarks and if they have been achieved.
5. Does Amtrak assess itself on its own or with the assistance of outside auditors to identify *ADA* deficiencies? If so, please provide a copy of the methodology, explain the methodology that Amtrak uses, and provide the results of any audits or assessments.
6. Is Amtrak putting in place plans for longer term projects that will be funded by *IIJA*? Please provide any documents or plans on how Amtrak will ensure accountability for these projects over time.
7. Regarding *IIJA* funds, is Amtrak prioritizing existing needs or requirements over new programs? Please provide a list of all projects both active and under consideration that are eligible for *IIJA* funds along with a brief description of each.
8. Amtrak recently created a new “Capital Delivery” department to manage planning and implementation of major programs and projects as well as an enterprise-wide program management office.²⁴ Please provide any manuals or guidance that these offices have prepared related to the management or deployment of *IIJA* funds.
9. Given the OIG’s 2022 report on areas for management focus in light of *IIJA*, how does Amtrak intend to pursue the areas of focus outlined in the report? Please provide any planning or guidance materials explaining how Amtrak is:
 - a. demonstrating fiscal responsibility, including transparently and accurately accounting for *IIJA* funds;
 - b. building a skilled workforce to plan and execute *IIJA* projects;
 - c. working collaboratively with partners to achieve common *IIJA* goals; and
 - d. improving program and project management for *IIJA* endeavors.

Thank you for your attention to this matter. If you have any questions, please contact Drew Feeley, Republican Staff Director, Subcommittee on Railroads, Pipelines, and Hazardous Materials, at (202) 225-9446.

Sincerely,



Eric A. “Rick” Crawford
Ranking Member
Subcommittee on Railroads,
Pipelines, and Hazardous Materials

²⁴ Press Release, OIG Identifies Challenges Amtrak May Face Implementing Infrastructure Act Spending and Requirements (Apr. 05, 2022), available at <https://amtrakoig.gov/news/audits-press-release/oig-identifies-challenges-amtrak-may-face-implementing-infrastructure-act>.