

# SECTION 305 NGEC Executive Board Meeting

MINUTES

SEPTEMBER 26, 2013

COLUMBUS, OHIO

<b>FACILITATOR</b>	<i>Bill Bronte, Chair, S305 NGEC Executive Board</i>
<b>ATTENDEES</b>	<b>Executive Board Members:</b> Bill Bronte, Mario Bergeron, Darrell Smith as proxy for Dan Black, Paul Nissenbaum, Ron Pate, Eric Curtit, Eric also as proxy for Tim Hoeffner and Ray Hessinger, LeAnna Wall, LeAnna also as proxy for John Oimoen, Kevin Lawson, Phil Meraz as proxy for Tammy Nicholson, Paul Worley <b>Support:</b> Arun Rao, Shayne Gill, Steve Hewitt, Chad Edison, Nico Lindenau, Dave Warner, Vincent Brotski, Brian Beeler II, Dale Engelhardt, Patrick Centolanzi (Via conf call) Larry Salci(via conference call), Kevin Kesler (via conference call) Mike Jenkins (via conference call) <b>Industry participant:</b> Steve Morrison
<b>ABSENTEES</b>	<b>Board Members:</b> John Oimoen, Tammy Nicholson, Tim Hoeffner, Ray Hessinger, Dan Black (each represented by proxy), Johnson Bridgewater <b>Support,</b> John Tunna, Jeff Gordon, Melissa Shurland, Martin Schroeder, David Ewing, Jason Biggs, Allan Paul, Ashok Sundararajan, Sara Sarkhill,

## WELCOME/ROLL CALL/ACTION ITEMS REVIEW

### Opening – Bill Bronte-chair:

Chairman Bronte opened this face to face meeting of the S305 NGEC Executive Board and welcomed all those in attendance. After calling for self-introductions of those in the room and on the phone (attending via conference call) Bill asked Steve Hewitt to call the roll of all voting members present or represented by proxy in order to establish the presence of a quorum.

Steve called the roll and confirmed that a quorum was present with all members represented except Oklahoma DOT.

### 4.

#### Welcome and Opening Remarks – Bill Bronte:

Chairman Bronte, once again, welcomed those in attendance, and “set the table” for this meeting of the executive Board. He noted that the 305 Committee continues to move forward and is “intersecting with 209” Today’s meeting will provide opportunity for brainstorming on 305/209 and on the future of the NGEC going forward.

Bill also noted that the AASHTO Standing Committee on Rail Transportation’s (SCORT) chair, Illinois DOT Secretary Schneider “has been actively engaged, along with her team in the locomotive procurement” and, as the NGEC looks to its future and establishes whatever type of entity is determined to be the right one for going forward, one key advantage will be that it will be able to help in moving future procurements forward in a positive way.

### 5.

#### Action Item Review –Steve Hewitt:

#### Review of Open Action Items as of 9-26-13

The locomotive procurement remains as a standing agenda item to keep the Board updated as to its progress. **IDOT** is responsible for providing bi-weekly updates. **Status: As of the last call (9-4-13): The RFP is out, a pre-proposal conference call was held on August 22, 2013. September 12, 2013 was the last day for questions to be submitted. Offers are due on October 3<sup>rd</sup>, 2013. A brief update on the two procurements – Bi-Level cars and D-E locomotives is on the agenda for this afternoon.**

Jeff Gordon will continue to provide the AASHTO, Amtrak and FRA public affairs officers with email notifications of NGEC activities. (ongoing)

The Future of the NGEC and the DRAFT concept paper will be a key topic at the September 26, 2013 face-to-face meeting. Members are asked to re-read all material related to the concept and to be prepared to discuss the topic thoroughly. Steve Hewitt will adjust the agenda to devote more time to this discussion. **Status: Today’s agenda will cover this topic at length with nearly 3 hours devoted to it.**

Darrell Smith will present a full Treasurer's report at the September 26, 2013 Executive Board meeting. AASHTO was to provide Darrell Smith with its latest invoice by COB August 30, 2013, which would help in the preparation of the report. On the last Executive Board call, AASHTO reported that it anticipated having about \$160,000 remaining in its support services budget at the end of the current budget period – March 31, 2014. **Status: The Treasurer's report will be provided today, as will a full discussion on the topic of steps needed to continue beyond March 31, 2014.**

FRA was to continue to "look under rocks" to see if there is some flexibility in other programs which may provide additional funds for the NGEC, but stated that they will need to have a clear picture of expenses, burn rate, and anticipated funds remaining before they can pursue any further. **Status: With today's Treasurer's report – budget and forecast, and discussion, it is hoped that a clear picture will be provided which will enable the FRA to look further "under rocks" for additional funds.**

The Technical subcommittee has approved the draft recommendations for new accommodations for Accessibility requirements and has passed it on to the APG. Steve Hewitt is working with Bill Bronte to schedule an APG call to review and consider approval of the recommendations. The intent is to have the Board send a letter to the Access Board as it begins its update in early October, 2013. **Status: The APG met, via conference call on September 17<sup>th</sup>. Chairman Bronte will provide an update on the status of this effort this afternoon.**

Intellectual Property will be an agenda topic in Columbus on September, 2013. **Status: Vincent Brotski, Amtrak legal, will address this topic this afternoon.**

In regard to the status of the Section 6/deployment project: Task 1 was submitted by the contractor and has been reviewed thoroughly by a core team and by the full SFTF membership. Many comments have been submitted and a task force comprised of Eric Curtit, Chad Edison, Ron Pate and Darrell Smith compiled the comments, sent them to the contractor and is holding weekly conference calls with them. The intent is to get a useful product out of task 1. **Status: Eric Curtit will provide a brief update this afternoon.**

Requests for copies of the updated Backgrounder or the new one pager (both having gone to AASHTO publications) should be submitted to Steve Hewitt along with the number requested and an address to send them to. **Status: A new version of the Backgrounder – one pager - has been provided to you in your meeting packets today. This is a DRAFT for review and comment - only a few were printed so that the Board would be able to advise if any changes are needed before AASHTO goes to print. There is also an updated version being developed of the original backgrounder. This will reflect recent changes to Board membership, etc.**

Review of Trainset specification Rev A: Status: The ATF met on Friday August 30, 2013 and approved the contract for Larry Salci to review Trainset specification Revision A. AASHTO, as contracting agent, has notified Mr. Salci that the contract has been approved, and work can begin. No further action is needed by the Board in accordance with the revised NGEC procedures. **Status: Mr. Salci was on the phone for today's meeting, and reported that he is nearly finished with his review and will be contacting Steve Hewitt over the next day or so to schedule a call for the Review Panel to meet.**

Prior to the September 4, 2013 Executive Board conference call, Tim Hoeffner, Michigan DOT, accepted the invitation to become a member of the NGEC Executive Board. This fills the vacancy left by the resignation of Al Ware, Georgia and brings the Board back into compliance with the NGEC by-laws of having 9 or 11 state members. **Task Complete**

Bill Bronte has asked for a member state to volunteer to serve as Secretary of the NGEC whose primary responsibility is to chair the Administrative task force. It is hoped that this vacancy will be resolved in Columbus. **Status: It is anticipated that a discussion will take place at the end of the day in regard to the Secretary position.**

Recruiting additional state members for the NGEC:

Ray Hessinger, NYSDOT, will reach out to Pennsylvania and Connecticut to see of their interest.

Ron Pate, Washington State DOT, will reach out to Oregon.

Shayne Gill, AASHTO, will talk to all of the states during SCORT and will ask IDOT Secretary Schneider, new chair of SCORT, to make a personal pitch during the conference for membership in the NGEC.

**Status: Ron Pate has reached out to Oregon State DOT and Mike Jenkins has been named as the Oregon representative to the NGEC.**

**Shayne Gill reported that Secretary Schneider talked about the NGEC during the SCORT meeting this week and encouraged state participation.**

At this point, a discussion took place in regard to NGEC membership, and whether or not there is a limit to the number of states that can be participants. Steve Hewitt clarified that there is no limit on the number of states that can become members of the NGEC. In fact, states are encouraged to join the NGEC and become involved. "The more the better." The only limitation established in the by-laws is that there are to be 9 or 11 state members on the Executive Board. The Board, as noted above, is currently fully constituted with its 11 state members. This does not preclude states from joining the NGEC and participating in any of the subcommittees, task forces or working groups. Nor does it preclude states from actively participating in Executive Board calls or meetings. It simply precludes those NGEC members from taking part in Executive Board votes.

Steve explained that the NGEC is set up similar to a corporation with a governing body – the Executive Board – comprised of 9 or 11 states, Amtrak and FRA. The Board has established a number of subcommittees, task forces, and working groups each having a chair, voting members, and voting procedures. Their voting procedures are similar to the Board. Membership on subcommittees, task forces, and/or working groups is open to states who are not members of the Board. Currently the Technical subcommittee has a number of state members who are not also on the Executive Board, and the Structure and Finance task force has had a non-board member as its co-vice chair since its inception.

The NGEC holds an annual meeting in February or March each year and, at that time, all NGEC members are encouraged to attend and participate and, in some ways, this annual meeting is similar to a Board of Directors reporting to its stockholders. At the annual meeting the state voting members of the Board are elected to two year terms. They can only serve two consecutive two year terms. Thus, additional states are encouraged to get involved in the work of the NGEC, and be willing to serve as Board members in the future.

Steve, again, emphasized, there is no limit to states getting involved with the NGEC and, in fact, the Committee is actively recruiting additional states. He also noted that the subcommittees and task forces are in need of an influx of new state members as their rosters are very thin.

Asked if Passenger Rail Authorities such as NNEPRA can be an NGEC member, Steve responded yes, and NNEPRA currently is considered a member of the NGEC, and is invited to all Board calls as "a friend of the Committee", similar to APTA and the FTA.

When asked if NNEPRA could become a voting member representing Maine, if Maine DOT made such a request, Steve responded that the current Board slate is filled (11 state members), but if an opening occurred, it is possible that the Board could accept NNEPRA as Maine's representative (if so requested), but the by-laws would likely need to be "tweaked" to make that clear. A NNEPRA representative could certainly become involved in task forces and/or subcommittees as Maine's representative if the state designates that individual in that capacity. The Technical subcommittee has two voting members who are state contractors, but are designated by a state to represent it on the subcommittee (IDOT and Connecticut).


**5. Approval of the minutes from September 4, 2013 – Bill Bronte:**

On a motion by Eric Curtit, Missouri DOT, and a second by Paul Nissenbaum, FRA, the minutes from the September 4, 2013 Executive Board conference call were approved without objection or exception.

**6. Treasurer's Report (budget, forecast) – Darrell Smith:**

Darrell Smith, Amtrak Finance, provided a presentation of the Treasurer's report (budget and forecast). The report included an explanation of the total amount granted to the NGEC since its inception (\$4 million) as well as the expenses invoiced to date. He also provided an estimate of the current burn (or run) rate per month to give Board members a sense of what can be anticipated to have been spent at the end of the current grant agreement – 3-31-

2014.

In his presentation Darrell also pointed out what has yet to be programmed from the initial funds and what funds may make sense to re-program as part of a revised Statement of Work (SOW) for an extension of the current grant agreement.

Over the last few months the Board has recognized that there will likely be no new funding from the federal government in this fiscal year's appropriation, and has been looking at establishing an austerity budget to continue its work beyond the current grant agreement period. In that regard, the Board asked Amtrak to provide Board members with a sense of what has been spent, what is expected to be spent, and what may remain available to maintain the NGEAC activities through an as yet undetermined extension period.

Darrell provided the following information:

**Total Grant Budget:**

	Executive Board	Technical Sub-committee	Finance Sub-committee	Administrative Task Force	Joint Procurement Task Force	Structure and Finance Task Force	AASHTO Support Services	TOTAL
Labor		\$588,978		\$267,000			\$450,988	<b>\$1,306,966</b>
Meetings							\$84,821	<b>\$84,821</b>
Travel				\$28,000			\$291,267	<b>\$319,267</b>
Professional Services	\$171,042	\$210,466					\$1,340,003	<b>\$1,721,512</b>
Financial Review			\$100,000					<b>\$100,000</b>
Conference Calls							\$5,097	<b>\$5,097</b>
Webinar							\$43,000	<b>\$43,000</b>
Contingency	\$290,850							<b>\$290,850</b>
Web Site							\$7,200	<b>\$7,200</b>
<b>TOTAL</b>	<b>\$461,892</b>	<b>\$799,444</b>	<b>\$100,000</b>	<b>\$295,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,222,376</b>	<b>\$3,878,712</b>

- Total grant is \$4 million
- Actuals through 3/31/2012 left \$121,288 un-programed

**Amtrak Invoiced to FRA through 7/2/2013**

01/01/10 - 09/30/10	\$132,112.00
10/01/10 - 12/31/10	19,125.00
01/01/11 - 03/31/11	0.00
12/01/10 - 06/30/11	193,914.85
07/01/11 - 09/30/11	115,539.89
10/01/11 - 12/31/11	38,456.65
01/01/12 - 03/31/12	168,098.46
04/01/12 - 06/30/12	49,891.26
7/1/12 - 9/30/12	329,318.20
10/1/12 - 12/31/12	236,625.48
1/1/13 - 3/31/13	92,297.65
4/1/13 - 6/30/13	200,736.32

**Amtrak Invoiced to Date \$1,576,115.76**

**Expenses to be Invoiced**

AASHTO (4/1-6/30/2013)	\$301,746.43
Amtrak Labor (7/1-8/31/2013)	21,080.86

**Sub-Total Expenses to be Invoiced \$322,827.29**

**Pending/Obligated Expenses:**

**Pending/Obligated Expenses**

Amtrak OIG Audit	\$50,000.00
Remainder of EOMM Consultant (PB)	205,086.35
AASHTO Staff (remainder)	164,823.38
AASHTO Mgr/Policy Consultants (remæ	144,545.00
AASHTO Travel (remainder)	187,463.41
AASHTO Meetings (remainder)	42,497.83
Specification Consultant	2,737.50
Face-2-Face Consultant	5,050.00
Amtrak Labor	337,925.77
Amtrak Travel	25,141.71
Technical Specification Consultant	47,685.00
ATF Webinars (RR101)	21,421.00

**Sub-Total Pending / Obligated \$1,234,376.95**

**Contingency / On Hold / Dormant:****Contingency / On Hold / Dormant**

Contingency	\$290,850.00
Executive Board Consultant	171,042.00
Finance Sub Consultant	100,000.00
SFTF Consultant	100,000.00
ATF Additional Webinars (RR201)	21,500.00
AASHTO Conference Calls	4,800.00
Section 305 NGECC web site	7,200.00
Audit 2	50,000.00

**Sub-Total Contingency / On Hold \$745,392.00**

**Suggested Areas to Review:**

\$290,850 Contingency

121,288 Un-Programed

171,042 Exec. Board Prof. Services

200,000 Finance & SFTF Professional Services.

**\$783,180 Re-program?**

**Basic Monthly Run Rate:**

\$ 7,000 AASHTO Labor

14,500 AASHTO Program Mgr., Policy

2,000 Travel

1,500 Meetings

15,000 Amtrak Labor

**\$40,000 Monthly Expense**

At the conclusion of the Treasurer's report, it was apparent that, while some clarification is still needed, the NGECC, at its current run rate of approximately \$40,000 per month, should have enough of a fund balance to request a 12 to 18 month extension of the grant agreement. To do so, the Board will need to develop a new SOW and budget along with a request of Amtrak to ask for a grant agreement extension from FRA for a specific period of time beyond the current end date of 3-31-2014.

**7.****Discussion:**

It was generally agreed that, as Chairman Bronte noted, "panic is not where we need to be, but caution is needed." There is ongoing and future work that needs to be undertaken by the NGEC. An additional specification is planned for development -Dual Mode Locomotive. The prototype equipment from the current bi-level car procurement will be out in March, 2014, and the NGEC will need to be involved. Document management is an ongoing process that must continue as specifications will change through the course of time and the NGEC, or an entity of some kind, will need to be in place to continue this process. The Committee is currently looking at potential structure options of an entity that would carry out the process of managing, procuring, maintaining next generation equipment, and creating an equipment pool. This effort is ongoing and will need to be continued beyond the March 31, 2014 end date.

This effort is ongoing and will need to be continued beyond the March 31, 2014 end date. A draft proposal of a possible entity structure and its functions has been put forth for discussion by the working group established for that purpose; however, the Board recognizes that much more work needs to be done to get to the point where such an entity would be created. Continuing this effort is critical, and will take a period of time beyond 3-31-2014 to be resolved and ultimately implemented.

Board members discussed potential future sources of funding such as PRIIA reauthorization. Paul Nissenbaum, FRA, pointed out that "the perception on the Hill is that we have been a productive and low cost Committee" which bodes well for being considered in reauthorization, but the timeframe for getting new authorization is unknown – it could be January or even March, 2015 or beyond. It was suggested that, due to this reality, the Board will need to request an extension of the current agreement for at least a year beyond the current end date, and that it appears from today's report that there is enough money remaining to develop a new SOW and request such an extension.

The steps that need to be taken to extend the agreement include: developing a new budget and a revised statement of work, determine the length of the extension to be requested, and have the Executive Board approve these items and formally request that Amtrak ask FRA for an extension of the current grant agreement.

It was agreed that additional information/clarification was still needed to take the steps as described.

**Actions agreed to:**

Darrell Smith agreed to provide the Board with "what the dates are for what we need, and when we need it". He will provide this information on the October 15<sup>th</sup> Executive Board conference call.

Darrell Smith will work with Dave Warner and others at Amtrak, as appropriate, to determine what has yet to be done, and to get a clearer picture of the current run rate as well as potential savings against the current budget.

Darrell will also work with Shayne Gill and Strat Cavros, AASHTO, to get a clearer picture on AASHTO's run rate and actual costs for the current budget period, as well as a clearer picture of expected cost savings.

It was also agreed that the next scheduled call of the Board – October 1, 2013, would be canceled. The Board will next meet on October 15, 2013. Steve Hewitt will send a cancellation notice to all member calendars in regard to October 1<sup>st</sup>.

**8. Report/Discussion – NGEC Future Working Group – Eric Curtit/Bill Bronte:**

Eric Curtit gave a presentation which provided an overview of the NGEC Future Working Group's activities to date. In opening the discussion Eric described the history of the formation of the working group and its tasks.

He noted that the proposed concept that the group ultimately developed was not something that any of the members would have anticipated, but after a thorough look at functions and a look at options for a structure to carry out those functions, the proposal of creating an Amtrak subsidiary came to the forefront. Clearly it is not a done deal, there are a lot of challenges that still need to be addressed and there may well be other options that the working group did not think of. Still it is a place to start.

Eric stated that for this meeting, it is his hope that the Board can determine if the right functions have been identified. "We would like the Board to decide today if the functions described by the working group are the right ones...were we correct?"

Bill Bronte added that as it came up with the draft concept for the NGEC of the future, "we talked to stakeholders about the NGEC being a subsidiary of Amtrak, and we heard concerns...we talked to states about the concept and heard concerns." He also noted that he is aware that Amtrak – at the upper level – also expressed concerns. He continued, "we looked at this concept as a way to get started and move forward quickly." Bill emphasized that creating an entity with states is "complex and may take too much time...we need to move quickly, and it is not about money, it's about logistics."

We have equipment coming on line that needs a place.” He noted that fleet management and as-built plans need to have a repository. “Where is the repository for that information?” He also noted that prototype cars will be showing up soon.

Bill also commented that states concerns with 209 have an impact on their thinking when looking at the idea of the NGEC becoming an Amtrak subsidiary.

**Objectives of Today’s Presentation and Discussion:**

1. Inform the NGEC Executive Board about the Future Working Group’s results and thought progress in greater detail
2. Engage the NGEC Executive Board in a discussion about their thoughts and ideas concerning next steps and goals/guiding principles

Introduction of the “Equipment Lifecycle” – a broader perspective on rolling stock:

**Generic Equipment Lifecycle:**

Funding and Financing:

Market Research & National Fleet Planning

- Planning
- Forecasting
- Market Analysis
- Requirements Analysis
- Deployment

Vehicle Engineering

- Specifications
- Processes and Standards
- Configuration Management
- Systems and Tools
- R&D
- Maintenance Strategies and Standards
- Maintenance Procedures

Acquisition

- Procurement regulations and procedures
- Buying
- Testing
- Delivery
- Disposition

Asset Management and Maintenance

- Inventory (asset register)
- Maintenance execution
- Life Cycle Cost model
- Rehabs/overhauls/modifications
- Operations
- Disposal at end of life

**NGEC performed an outstanding job develop-ping equipment specs and related activities**

- *Our approach thus far has been effective.* Committee based model with Federal funding has been a success and key to NGEC’s accomplishments.
- *Changes needed in the future:* Executing our Vision will require embracing more responsibilities. Executing these responsibilities will require a different model.

**Why do we need to change in the future?**

Several signals in the industry point to the need for a New Entity. NGEC is uniquely positioned to play a key role.

- ***Current system by default and not by design*** - Current system on state corridor equipment ownership, management, and maintenance is by default and not by design. There is a ***lack of transparency, accountability, and control.***
- ***Challenging experience with current procurements*** - Recent procurement initiatives for bi-level and locomotives, despite a success, was complicated and challenging due to the need to navigate through

- complex state procurement laws and practices.
- **PRIIA 209 is a game changer**– States now have an opportunity to take greater control over the management of their corridor services, which we have been asking for a very long time.
- **Need exists at the State level** – Individual States acting independently will lead to inefficiencies. States need “an entity” that can coordinate the procurement, management, maintenance, and deployment of equipment that maximizes equipment utilization and minimizes costs.

*A future 305 "New Entity" can play a significant role...*

### **Moving forward, NGECC's "New Entity" plans to significantly broaden its scope**

New Entity could own equipment and lease to operators/states

Scope could be expanded to other market segments

### **Future New Entity embracing additional responsibilities [1]**

New Entity's Potential Scope of Responsibilities

Focus: National or regional:

#### **Funding and Financing**

- Requirements Analysis
- Fund/finance equipment
- Leasing to operators/states
- Pricing
- Cost Allocation standard
- Insurance

Resources: Own Staff

#### **Market Research and National Fleet Planning**

- Planning
- Forecasting
- Market Analysis
- Requirements Analysis
- Deployment

Resources: Small staff; Contract support

#### **Vehicle Engineering**

- Specifications
- Processes and Standards
- Configuration Management
- Systems and Tools
- Maintenance Strategies, Standards, and Procedures
- R&D

Resources: Small staff; Industry and Contract support

### **Future New Entity embracing additional responsibilities [2]**

New Entity's Potential Scope of Responsibilities

#### **Acquisition**

- Procurement regulations and procedures
- Procurement of equipment
- Procurement of maintenance contracts
- Testing
- Delivery
- Disposition

Resources: Own staff

#### **Asset Management and Maintenance**

- Inventory (asset register)
- Life Cycle Cost model
- Disposal at end of life
- Rehabs/overhauls/ modifications standards
- Inventory (asset register)



- Maintenance contract oversight
- Rehabs/overhauls/ modifications oversight
- Operations

Resources: Small Staff – primarily contract support

### **Several key arguments were made that make the “Amtrak-Subsidiary” a preferred choice**

#### **Some key arguments discussed:**

- Relative ease of implementation – may not require Congressional action, but will require Amtrak management and Board agreement
- Resources - access to technical, procurement, legal, and other resources within Amtrak
- Cost-effective – will allow New Entity to operate with small staff and not duplicate resources with other entities
- Legal platform to own equipment
- Starting point for the future – relative ease to advance to future models if needed

#### **Guiding principles for any institutional model:**

1. Cost recovery – Financial sustainable model, no pro-bono work
2. Stakeholder Representation – Appropriate representation of all key stakeholders
3. Independence and Non-Discriminatory – Independent from Amtrak offering expertise and services to all customers in a non-discriminatory way

Transparency and Accountability – Transparent operations, services, and cost structures; reliable, responsible, and customer-oriented partner.

### **“Issues and Concerns” with the suggested New Entity model as Amtrak Subsidiary**

What are the issues and concerns with the New Entity as a Amtrak subsidiary from key stakeholder perspective

Outcome – Understand the issues and concerns of the stakeholders so that the NGEC Working Group can consider them as part of next steps

### **Based on “Issues and Concerns, what are the new “Guiding Principles”? What did we miss?**

#### **Guiding principles:**

1. Cost recovery – Financial sustainable model, no pro-bono work
2. Stakeholder Representation – Appropriate representation of all key stakeholders
3. Independence and Non-Discriminatory – Independent from Amtrak offering expertise and services to all customers in a non-discriminatory way
4. Transparency and Accountability – Transparent operations, services, and cost structures; reliable, responsible, and customer-oriented partner

**Outcome** – Get an agreement on key guiding principles that NGEC Working Group will keep in mind as they work through the next steps.

Discussion:

Paul Nissenbaum, FRA, commenting on the working group’s efforts stated “we went through the functions – who does what today...looking at - is the status quo a good way to go...” With the concerns having been expressed from all sides Paul suggested, “let’s step back for this group (the Board), the subsidiary was a proposal to get the thinking started”, it did not mean the working group was set on it as the final solution. Paul suggested that the Board needs to look at “what are the challenges near term and long term” that need to be addressed as the NGEC moves into the future.

Dale Engelhardt, Amtrak suggested that to solve “complex problems, you need a transition plan...with a goal of where you want to wind up – you can’t get there tomorrow – so you need to create a transition plan...one that makes progress toward the goal. This is an extremely complex problem, and getting from here to there in one step – I don’t see it.”

Bill Bronte weighed in “Ask the question – why 305? Why does it exist? Someone looked at the state of passenger rail and recognized something was broken.” PRIIA tried to address passenger rail to fix what was broken and 305 was to resolve issues of equipment. “If you as a state want control – you pay for it, if you want equipment – you own it.” We need to look at “where does Amtrak fit and where do the states fit in the big picture.”

Darrell Smith, Amtrak, commented on the fact that the Amtrak fleet is very old. “age runs up costs and we are seeing that today.”

Mario Bergeron, Amtrak commented “we have looked at the status quo this morning, but now we look at turning paper into steel (with the coming on line of two equipment procurements) the babies are coming, how do we take care of the babies.” He continued, “we have an asset to maintain, how do we do it? The expertise is there in Amtrak...the reality is

as we (the NGE) evolve it does become more complex. Within Amtrak, we have invested 4 years into this and no one wants to mess up at this point. How do we maintain and grow and evolve, and care for the asset-the baby?"

Mario continued by noting that the current PRIIA equipment coming on line is a relatively small number of approximately 165 vehicles. Mario also noted that "shared resources need to be there when required...Amtrak cannot guarantee a rapid turnaround of time and staff as needed."

Bill Bronte commented "I am not satisfied with 165 cars and locomotives...PRIIA established a partnership to grow intercity passenger rail. It created a federal partner to grow throughout the country...we need more trains..." He went on to say that PRIIA looked to "a re-birthing of the passenger rail equipment and supply industry – for too long it has been boom, bust, boom, bust...this makes it very hard for the industry to come into a market for 165 vehicles."

He noted that the market needs to grow. There needs to be funding and financing on a consistent basis. He suggested one tool "to build the market is the use of RRIF". He added that legislation should be crafted "to allow PRIIA to be a recipient of RRIF loans and for grant money as well."

Continuing, Bill commented "the entity vision is to rebuild an industry –rebuild passenger rail in the US. We need something that survives and that builds the economy, enhances the environment and provides good jobs."

Dale Engelhardt added that one issue is that when you look at passenger rail you have an owner, operator and a maintainer - "historically Amtrak has been all 3". He continued "in today's world that doesn't have to be true". The way of the future may be that the owner is a state, the operator is Amtrak and the maintainer is a company like Talgo. As we look at the future of the NGE "we need to think in these terms."

The conversation turned back to the entity - the concerns with the proposal for the NGE becoming an Amtrak subsidiary – as well as the states concerns with 209 and the need to have a voice or a "seat at the table" in whatever entity the NGE becomes. The issue of a 305-209 merge also entered into the discussion.

Paul Nissenbaum noted "one of the things we want to create in an entity is a greater role for states in the governance". He continued "from Amtrak we hear about the pull and tug on resources and providing those resources free...we need to help folks to be made whole...it can't always be pro bono from Amtrak."

Paul Worley, NCDOT, raised the issue of transparency as a key. "The more money we get, the more involved our legislators get, understanding costs is critical...we need transparency. With the 209 issue we have fiscal research guys coming in..."

Ron Pate, Washington State DOT, agreed "we do also...we need to get it all on the table."

Paul Nissenbaum added "equipment doesn't stay within state lines either. It may be more efficiently shared in a pool across states...this would be an optimal way to run the service...if states procure, control, and maintain their own equipment, you would need double the number of cars."

"The reason 305 was set up (the way it was set up) was it must be a collaborative process – the entity could be national and/or regional in scope...and more optimal in a business standpoint...it cannot be done state by state, it needs to be done in an integrated way."

Dale Engelhardt commented that "this is what freight railroads determined they needed to do – exchange equipment to optimize its use." This is why you see a CSX train with a mix of cars from NS or whatever. "it was done in order to be more efficient and profitable."

Ron Pate noted that while he agreed asset management is important and so is a national system, but with state legislators in the mix it does become difficult. Especially if state money purchased the equipment.

Dale Engelhardt turned back to the fact that "PRIIA standardizing requirements was an advantage...better for the builders and more universally interchangeable – nationally it helps a lot."

Darrell Smith noted that "in the future we need to be ready to address modifications to cars – states may want to make specific modifications to their cars."

Bill Bronte emphasized "we need to get to building a national, standardized fleet" and he pointed out that we (the Board) are "beginning to get into the weeds" in our discussion in talking about "one-offs" He continued, "we need to build a fleet, build a program that ensures costs are transparent, and ensures value for procurement dollars, and what is the entity that does that?"

Dave Warner, Amtrak, commented 90-100% of the money spent on equipment is from the federal government. "How do we maintain the asset to get it to its useful life so that grant money is well spent, and the equipment is well maintained

and looked after?" He asked "what is the FRA's view? How is the investment honored?"

Paul Nissenbaum responded "right now that's why Section 6 is required – because equipment is to be allocated – having individual states own it is inefficient."

Dave Warner noted "the entity should make sure equipment is maintained in a state of good repair (SOGGR)."

Paul Nissenbaum noted "if we had an entity in place, Section 6 wouldn't have been required."

Eric Curtit returned to the earlier discussion about the number of vehicles (165) "we (the NGEF future working group) looked at this as more than just the 165 vehicles, we looked at the economies of scale, and that the entity would be over all of the corridors and its equipment and maybe even long distance trains in the long term." Eric continued "the entity could manage beyond the baby fleet of new cars and current corridor service."

Paul Nissenbaum commented "The FRA believes that, in addition to new cars and locomotives, potentially including existing corridor fleet" which also "needs to be maintained".

Eric agreed noting "Yes, look at all the equipment it takes to deploy the service especially in the mid-west...the conversation could be about the whole fleet not just the new stuff coming in."

Mario Bergeron commented "I see difficulty in disassociating the two discussions...I can see it evolving that way, but it means we use the entity as a stepping board for communication – explaining this to legislators."

Eric added "if states are a part of the solution then they can't complain about decisions that are made – not if we are involved in those decisions."

Mario added "it is complex, having investment with an entity is well spent."

Shayne Gill, AASHTO offered his observation on what he sees as keys to the issue of resolving some of the issues associated with creating an entity:

1. *Having states as a part of the process is a key – through a governing board or whatever.*
2. *The future, as Dale mentioned, may see multiple operators, owners and maintainers – and determining how the entity would deal with the multiple players is another key.*

Bill Bronte noted "in California there are many changes taking place with very little state role in rail. Private vendors for maintenance say "we can do it cheaper than Amtrak by 25% – we have the facilities. He continued "with new cars coming on board, who makes sure the equipment is maintained over 20 years – properly? No longer will you have the state of California – someone has to do it...other states may get there soon as well." He added "this is what we are looking at – this is why the entity needs to be created – pooling equipment equals efficiency...with so many small entities coming on board... it is more important than ever to have standardization and be able to purchase equipment in bulk. We need to get this on the radar and make sure we squeeze the maximum dollars out of what you get." Bill emphasized the importance it is critical that "we are making efficient decisions for spending transportation dollars."

LeAnna Wall, Wisconsin DOT asked "is there an optimum size for pooling? In the mid-west I can see it, but how do we pool with California?"

Bill Bronte responded "it's more about benefits of mass ordering and spare parts...rather than pooling with California which pools itself having 3 corridors."

Le Anna asked "What is the entity – is it above the mid-west and California?"

Bill replied "yes."

Paul Nissenbaum explained that "some functions will work well nationally and some functions will work well regionally...the slides show what functions seem to work better nationally versus regionally and describes the potential scope of responsibilities. The concept is not a one size fits all. It could be a national entity with regional branches or a national entity that just deals with national functions."

Darrell Smith cautioned Board members "be careful about what functions are done by who". He cited the example of VIA Rail which contracted its overhaul with a private company –"that company is now bankrupt." He continued, "in history things happened by default – we need to plan to be sure that the facilities for maintenance are protected as well."

Mario Bergeron noted that often the result of "cheaper maintenance" has been "failures".

Bill Bronte raised the issue of political impacts. He noted that "it is not easy to run a railroad, but there are many (in the political world) who think it is." The "305 entity must oversee maintenance in light of protecting the grant investment."

Paul Nissenbaum added "creating an entity is an opportunity to help provide independent shopping for the best, most efficient maintenance they can get, be it Amtrak or whatever."

Dale Engelhardt reminded Board members once again "remember, whatever it is, it takes time and there needs to be a transition. If PRIIA comes up with a plan – timing has to be a key part of it. We will need to set the requirements and a reasonable amount of time."

At this point, Chairman Bronte asked members of the Board "Where are we? We have philosophized and pontificated, but have we moved? What is the transition plan and to what?"

Brian Beeler II, NNEPRA commented "it can't work, if we can't move equipment all over the place. Everyone must be at the table. States want a seat at that table, but you still need Amtrak equipment and its expertise." He suggested that "we put Amtrak, the states, passenger rail authorities at the table without losing Amtrak's experience. The end game is that the entity has the entire fleet...how else can it work?"

Bill Bronte noted that a part of the transition is that the 305 Committee has a role in the 209 process in the aspect of validation of the capital asset charges.

Kevin Lawson noted that "politically this is hard because it (the costs) will be taken out of the states. Legislatively this is tough." He asked "who will re-create us (the NGECE entity) Congress?"

Paul Nissenbaum noted "if Congress sees value, they will keep us going. There is good support for the entity on the Hill – we (NGECE) are seen as a low cost, high productivity group."

Dale Engelhardt, commenting on the various issues of 305 and 209 and maintenance costs etc. stated "states want to be empowered because they don't know the costs. We need to get that cleared up and settled...dissatisfaction has been a topic here, determine what is lacking and get it recognized. Once you get there you will know where you want to go – transition."

Paul Nissenbaum agreed "you can't open a new entity without some sort of a transition... DJ (Stadtler) and Joe (Boardman) recognized the need to re-establish trust because of the 209 process."

Bill Bronte added "we need transparency...take baby steps first and establish the trust of the states. Bill went on to also state in regard to equipment "if a state buys it with state dollars, it owns it, and it doesn't move out of the state".

Paul Nissenbaum noted that "there are other models where the entity owns the equipment and states lease it." TTX is one such example.

Paul continued, "status quo doesn't need to be the long term goal unless it is optimal."

As the time for a lunch break was approaching Bill Bronte summarized the discussions in regard to the working group's concept:

"Over the course of this discussion, the needs haven't changed from what we have in the presentation – how to get there has been the focus of the discussion." He continued "we came to the subsidiary concept, but maybe now we need to step back and look at what is the best organization to do those things that we have identified as key functions." He added, "Ideally, I would like it to be an independent entity which would be a resource to the states, Amtrak, commuter railroads in accomplishing the tasks identified."

Paul Nissenbaum stated that "by the end of this session we need to accomplish something...establish a goal...next steps for a working group to go back and re-think or develop a transition plan."

Bill asked – "Should we re-constitute the working group?"

Darrell Smith noted "I see the role for the next year is to develop a SOW."

Bill agreed and added we need to develop an action plan.

The discussion was tabled until after lunch and it was agreed that the next item for discussion would be the 305-209 Capital Access Charge effort.

(See item #12 for continued discussion)

**9.  
NGEC Support for 209 States – Bill Bronte:**

Chairman Bronte introduced the subject of NGEC support for the 209 states. "Lots of issues have been raised by the states over 209 – APT is still a black box...states need clarification on a number of things: How were the numbers developed? What things are above the line? What are the differences – how much is overlap?"

Bill continued, "there has been a loss of trust between Amtrak and the states" which transparency and a clear understanding of the numbers would help.

Brian Beeler II interjected, "the next step may be to re-build the trust" suggesting "assign a smaller group here (305) to understand what goes into it...get an understanding of those numbers and then we can figure out how we go forward with the big entity (NGEC entity)...this would be a small transition point" to get to establishing the entity.

Discussion continued to focus on the states desire to know and understand the allocation methodology. The sense of the room was that a working group should be assembled (managed by NGEC) to work with Amtrak (Mario Bergeron and his staff) to begin to better understand what is entailed.

Bill Bronte noted that Ron Pate, Washington State DOT, "has agreed to lead a working group" within the 305 NGEC to take on this assignment.

Darrell Smith asked "are you re-opening the methodology?"

Ron Pate responded "no, we just want to understand it better...we need clear information" on cost allocation. Ron continued, "there is a 90 day commitment to get to a capital plan" so there is a timeline crunch. States for Passenger Rail (S4PRC) has also had this discussion and individual states are interested in "how did you (Amtrak) come up with my number?"

Paul Nissenbaum, FRA, noted that it may be a good thing to give everyone in the room today a basic background on the issue. Most may know about it, but some may need context.

Bill Bronte agreed, and asked Paul to provide the background.

Paul described the issue. "The equipment capital access charge is under the 209 policy. 209 states must pay ...that policy includes the development of a 5 year capital plan for equipment...it hasn't happened yet, but states are concerned that the number has moved from \$42 million to \$58 million nationally...the states won't sign until this is resolved (clarification of the number and why it has changed)".

Paul continued, "the FRA has suggested that we lock in the original estimates nationwide as a baseline (\$42 million) and, through a collaborative process develop an equipment plan. If the number is higher, the see how it translates into a future plan."

Paul added, "given the fact that the fleet moves around and is on different overhaul cycles, states don't see their share in direct benefit but they ought to be able to see it...need clarity on how that pool works." He continued to note that this "must be done transparently...they need to understand how the fleet is deployed...all of the information needs to be available along with a plan so that states can see what they are signing up for."

He noted "we need a core group established, and FRA has suggested using the 305 process" which has proven to be successful, and have the core group "report back to the 305 Executive Board. Then the individual states can go back and say that 305 did this and has validated it."

Paul clarified that the deadline is actually 120 days – January 31, 2014. "We need to start the process and get as close as possible to a comfort level."

After additional discussion it was agreed that Chairman Bronte would convene a working group with Ron Pate as the chair. It will be set up as a working group reporting to the NGEC Executive Board. The group will develop a work plan focusing on high priority areas and make a bi-weekly status report to the Board on its regular conference calls. This update will be a standing agenda item. The first step will be to get members assigned to the group, and Ron Pate will draft the group's charge.

Darrell Smith asked about budget impacts and what he should include in the revised SOW to be developed. It was agreed that there should be a plan for several field trips by the group to Amtrak maintenance facilities. The group

will meet with Mario Bergeron and members of his rolling stock staff. Mario believes that he and his team can provide the clarity that is needed.

Paul Nissenbaum noted that as the budget and SOW is developed this effort would be high on the list of priorities for FRA. Paul offered to contribute FRA time and money, if available, for potential assistance.

It was also suggested that an outreach be done to 209 states (through S4PRC) that are not associated with 305 to be sure there is no duplication of effort.

Chad Edison, FRA, commented "this will help us in getting to the entity", it will clarify costs and may need to be staffed professionally in the future. He suggested it start with volunteers, but advised "this won't be a one-time deal."

Paul Nissenbaum agreed "this may be the place to build sustained professional services."

Mario Bergeron added "there is a need for additional information for the mechanical plan for equipment...a translation of the Amtrak plan and formula for the states"

Mario went on to explain that the translation of the mechanical plan should show "why we do what it is we do, and what is the scope of work. Why do we have the cycles we have and why do we do the things we do in the way we do them."

He agreed that the group should come to Beech Grove or other facilities and "identify what we do, but also you should come to Chicago within the terminals to see another aspect, another dimension."

Mario continued, "from fleet planning – how do we allocate – how do we get to deliver service the way we do" these are all questions that need to be answered.

He also noted that "we will need a non-disclosure agreement signed by the working group members because Dale (Engelhardt) will need to go into detail and we can't compromise the ability of Amtrak to bid to maintain your fleets."

Paul Nissenbaum agreed "while 305 is a public process, we may need a different wall for this".

Steve Hewitt noted that this could be handled similarly to the Joint Procurement Task Force (JPTF) process which also required confidentiality agreements to be signed by all task force members. Those agreements were developed strictly for the procurement effort by procuring states lawyers. This non-disclosure agreement would need to be specific to this effort. Clearly, though, we have a process that worked with the JPTF and can be used for this working group.

Vincent Brotski, Amtrak Legal, agreed to draft the non-disclosure agreement and send it to Steve Hewitt who will provide it to Ron Pate.

The discussion continued around what is entailed in the Amtrak maintenance cycles – why the maintenance cycle is what it is, and what impacts occur when there are changes in uses of equipment (during holidays – deployment will change temporarily etc.).

Bill Bronte emphasized "we need to simplify this...we want to know what went into the capital access plan which is based on the 5 year capital plan. States need an explanation that is clear and concise and rebuilds the trust,"

Mario Bergeron replied "moving the way we just talked about should satisfy those needs."

Bill agreed.

Ultimately, after some continued discussion, it was agreed that the working group would be established, that Ron Pate would chair it and develop the charge.

The initial members of the working group as established today are:

Ron Pate, Washington State DOT – Chair  
Eric Curtit, Missouri DOT  
Allan Paul, NCDOT (Curtis McDowell as his alternate)  
Brian Beeler II, NNEPRA  
LeAnna Wall, Wisconsin DOT  
Mike Jenkins, Oregon DOT

Vince Brotski, Amtrak, will develop the non-disclosure agreement and Dale Engelhardt, Amtrak will arrange the tours.

It was also agreed that this 305/209 effort will be included as part of the grant agreement amended SOW. The budget plan will include at least two trips for the working group and some consultant/administrative support.

Steve Hewitt will not be asked to provide the direct administrative support to this working group, but will remain informed as a conduit to the Executive Board.

Ron Pate agreed to keep Steve informed as he develops the work plan and charge, and agreed to have a conversation with Bill Bronte at the earliest convenience following today's meeting.

**10.**

**Update: Procurements – bi-level cars and diesel-electric locomotives – Bill Bronte:**

Bill Bronte gave a brief update on the two PRIIA multi-state equipment procurements currently underway.

The bi-level cars are in the process of preliminary design review. One change that is occurring now is that "there is a fuller involvement with FRA Safety...over the shoulder oversight" is taking place. "FRA Safety needs to be involved early on to keep moving within the procurement timelines." Thus far "we are still looking at 2015."

On the diesel-electric locomotive procurement:

August 8, 2013 – the RFP was released

October 3, 2013- draft bids are due

November 27, 2013 – Final proposals are due

December 16, 2013 = Evaluation and winner announced.

December 16-January, 2014 - Buy America pre-award review

February, 2014 - Notice to Proceed

**11.**

**Update: Structure and Finance task force (SFTF) – Eric Curtit:**

Eric Curtit reported on the status of the Section 6/deployment project. Task 1 was submitted by the contractor and has been reviewed thoroughly by a core team and by the full SFTF membership. Many comments have been submitted and a small working group comprised of Eric Curtit, Chad Edison, Ron Pate, Darrell Smith and FRA consultants Nico Lindenau and Ashok Sundararajan compiled the comments, and sent them to the contractor.

The working group is holding weekly conference calls with the contractor team to work through a variety of issues. The end date for task 1 is "three weeks from yesterday (9-25-13)".

Eric will continue to keep the Executive Board apprised of progress made.

**12.**

**NGEC Future Discussion continued....**

At this point the chair returned to the broader entity discussion to try to come to some conclusion on next steps moving forward.

Bill summarized "There have clearly been concerns raised about the concept of the NGEK being a subsidiary of Amtrak from both sides. I suggest we re-constitute the NGEK future working group and re-think it, and get a work plan put together to move it forward."

He added that the group may wish to look at other options for structure and governance such as cooperatives; a TTX model etc.

Paul Nissenbaum reiterated "no one is entrenched in a position...generally concerns identify the need to better define the problem and then identify a plan to address it. This option (the subsidiary) is not off the table, but it needs better clarity as to what it is to accomplish."

Paul suggested that “we consider near term requirements such as Section 6 and look at immediate needs first and then we think about the longer term.” He added “the working group should re-assess the effort and maybe not include all of the same people”. Paul noted that the 209 capital plan is urgent and needs to get underway right away emphasizing that “it will provide lessons learned” for establishing the future entity.

Bill Bronte agreed and suggested that the 209 effort go forward with the NGEF future working group “lagging behind a little”.

Ultimately it was agreed that the NGEF Future working group would be re-constituted after the first of the year and would then resume its work.

It was also agreed that the revised SOW for the grant agreement would include tasks related to the development of a plan for creating an entity moving forward. Bill Bronte agreed to “pull out a list of tasks and add budget to it” and will send it to Darrell Smith to help facilitate the SOW. The list will include an initial cut of short term vs long term activities. This task will be completed in time for a report to the Board on its call of October 29, 2013. Bill Bronte will copy Steve Hewitt on what he sends to Darrell.

**13.**

**Update: Administrative Task Force Activities – Darrell Smith:**

Darrell Smith, vice chair of the Administrative task force provided an overview of its activities to this point in 2013:

**Two Major Accomplishments in 2013!**

- RR 101 Webinar Series
- Updated the Establishing Contracted Support Procedure

**RR 101 Webinar Series:**

- Held 5 Webinars between Oct. and June
- Up to 60 attendees representing 30 states
- Topics included:
  - Workforce Development and Best Practices for Establishing a State Rail Office
  - State Rail Planning
  - Equipment
  - Revenue Modeling and Demand Forecasting
  - Grants Management

**Establishing Contracted Support Procedures:**

- Adopted by the NGEF Board on August 6, 2013.
- Updated to streamline the process and meet the recommendations of the NGEF/Amtrak OIG Audit.

Action Requiring Approval	Approved By
Large New Contracts, Procurements, and Task Orders over \$25,000.00	<ul style="list-style-type: none"> <li>• Administrative Task Force</li> <li>OR Full Sponsoring Subcommittee and Designated Project Manager</li> <li>• Full Executive Board</li> </ul>
Small New Contracts, Procurements, and Task Orders \$25,000.00 and below	<ul style="list-style-type: none"> <li>• Administrative Task Force</li> <li>OR Full Sponsoring Subcommittee and Designated Project Manager</li> <li>• Report Required to Exec. Board (no formal acceptance necessary)</li> </ul>
Most invoices	<ul style="list-style-type: none"> <li>• Support Services</li> <li>• Amtrak Program Manager</li> </ul>



Invoices for specific-purpose contracts

- Support Services
- Amtrak Program Manager
- Project Manager
- Sponsoring Chair or Chair's Designee

• **NOTE:**

- For ALL new contracts, no contractor/proposer can begin any work until the contract is fully approved and executed.
- For all change orders and contract modification, no work may begin until it is fully approved and executed.

**What's Next:**

- Need to continue to recruit new members across the NGEC
- Will be helped with the **new energy** brought by a new permanent ATF Chair appointed by the Executive Board

**Reminder:**

- Please be certain that you are using the current Non-Staff Travel Reimbursement Request.
- It has this box for your initials:

*\* If declaring a per diem rate for meals rather than providing receipts, please initial the following: "I am using the federal Government Services Administration (GSA) per diem rate for meal expenses for this trip, and I understand that the rate is limited to 75% of the full amount on my day of departure and day of return. \_\_\_\_\_ (Initials) I certify that the above claim is correct and proper, that the amount for reimbursement therefore has not been received, that the expenses were incurred by me exclusively upon official business of AASHTO and that these expenses are within the rates permitted by the GSA unless prior justification & authorization was received as enclosed.*

At the close of the presentation, Darrell emphasized the need for a Board member to be appointed as the ATF chair to fill the vacancy left by Al Ware's resignation from state service.

Bill Bronte took this opportunity to announce that Eric Curtit, Missouri Dot, has agreed to fill the NGEC Secretary slot vacated by Al Ware's resignation, and to take on the primary responsibility of the secretary which is the chairmanship of the ATF. Eric will fill out the remainder of Al's term which will end with the election of officers at the NGEC annual meeting to be held in DC in February, 2014.

Eric is currently the chair of the Structure and Finance task force, and has agreed to continue serving in that capacity as well until the annual meeting.

**14.**

**Update: Accessibility Policy Group – Accessibility Accommodations and Recommendations - Bill Bronte:**

Bill Bronte provided a brief overview of the recent activities of the Accessibility Policy Group (APG):

The APG met on September 17, 2013, via conference call, and reviewed the Accessibility Accommodations and Recommendations Presentation that has been prepared for submission to the Access Board. The APG had previously sent the presentation to the Technical subcommittee to review it for technical feasibility. The subcommittee's Interior and Structural working groups reviewed the document and had minimal comments.

During the September 17<sup>th</sup> call, the APG recommended additional changes to the presentation and asked Melissa Shurland, FRA, to incorporate those changes and send the presentation, as revised, to Steve Hewitt for distribution to the APG for its review and approval.

With time being constrained (the Access Board RVCC meets October 15-16, 2013) the APG agreed to conduct an electronic vote on the revised presentation. Following APG approval, the Executive Board will be asked to vote electronically as well. The Board will be asked to approve the presentation for submittal to the Access Board as it begins its update effort.

Following today's Board meeting, Steve Hewitt will contact Melissa Shurland to get an update on the status of the revised

presentation.

**15.**

**Discussion: Intellectual Property – Vincent Brotski:**

Vincent Brotski, Amtrak Legal, provided the following presentation on Intellectual Property as it relates to the NGEC. The Executive Board had asked Vincent to look into this issue as it has come up a number of times over the years. Vincent briefed the Board on a previous conference call and agreed to provide a more detailed presentation at this face to face meeting of the Board.

**NGEC Intellectual Property Discussion:**

**NGEC IP – What is it?**

- For the moment, the NGEC's intellectual property consists of copyrighted materials. The NGEC has filed no patents. The NGEC can seek trademark protection for its name and logo.
- A copyright is a form of protection provided by the laws of the United States (Title 17 USC) to authors of "original works of authorship." Material not protected by copyright is available for use by anyone without the author's consent. Note that copyright holders may choose not to enforce their copyright protections.
- Examples of NGEC materials that are copyright protected include:
  - Backgrounders
  - Board minutes
  - Board reports
  - Task Force minutes
  - Task Force reports
  - Presentations
- The moment these materials are reduced to tangible form they are copyright protected.

**Protecting NGEC Copyrightable Material:**

- NGEC backgrounders, Board minutes, task force minutes, working group reports, presentations and reports are copyright protected when reduced to tangible form.
- Adding a copyright legend on the bottom of the material advises readers that the material is copyrighted.
- For example, the legend could read:
  - © 2013 Next Generation Equipment Committee.

**Materials Not Copyright Protected by the NGEC:**

- Materials on the AASHTO website that are copyrighted by AASHTO.
- Specifications developed by the States that are copyrighted by the States (i.e. Caltrans).
- Specifications developed by Amtrak that are copyrighted by Amtrak.
- Copyrighted materials developed by third parties for the NGEC (where ownership has been specifically retained by a third party).

**NGEC IP – The Way Forward:**

- If the NGEC organizes itself as an independent entity, its intellectual property will follow it regardless of its organizational structure.
- The NGEC, the States, AASHTO and Amtrak shall retain ownership to their copyrighted materials.

**16.**

**Review: Next Steps/Action Items – Bill Bronte/Steve Hewitt:**

Bill Bronte and Steve Hewitt gave a summary of decisions and action items from today's meeting. Those items are captured in the Decisions/Action items section of these minutes – below.


**The next Executive Board conference call is October 15 2013**

---

The locomotive procurement remains as a standing agenda item to keep the Board updated as to its progress. **IDOT** is responsible for providing bi-weekly updates. The RFP has been released (August 8, 2013), a pre-proposal conference call was held on August 22, 2013. September 12, 2013 was the last day for questions to be submitted. Offers are due on October 3<sup>rd</sup>, 2013; November 27, 2013 – Final proposals are due and on December 16, 2013 - Evaluation and winner will be announced. During the period from December 16, 2013 through January, 2014 Buy America pre-award review will be conducted. A Notice to Proceed (NTP) is anticipated for February, 2014.

Jeff Gordon will continue to provide the AASHTO, Amtrak and FRA public affairs officers with email notifications of NGEC activities. (ongoing)

The Future of the NGEC working group efforts: The NGEC Future working group will be re-constituted and re-convened after the first of the year (January, 2014) and will then resume its work. Until then it will lag behind the 209 capital plan working group's efforts, as it is expected that those efforts will serve as an early example of the need for the "new" entity.

It was also agreed that the revised SOW for the grant agreement would include tasks related to the development of a plan for creating an entity moving forward. Bill Bronte agreed to "pull out a list of tasks and add budget to it" and will send it to Darrell Smith to help facilitate the SOW. The list of tasks will include an initial cut of short term vs long term NGEC activities. The list will be provided to Darrell in advance of the October 29, 2013 Board call. Bill will copy Steve Hewitt on what he sends to Darrell.

Darrell Smith presented a full Treasurer's report at the September 26, 2013 Executive Board meeting. At the conclusion of the report, it was agreed that Darrell will present the Board with a timeline of what needs to happen when to advance a revised SOW and a request for a grant extension.

It was agreed, that based on the anticipated funds that will remain at the end of the current agreement, the Board will request that Amtrak ask FRA to extend the grant agreement through June 30, 2015.

Darrell Smith will meet with Amtrak staff and with AASHTO staff to get a clearer picture of what their actual expenses and pending obligate expenses will be over the rest of the current agreement and what, if any, anticipated savings will be. Once this information is gathered, Darrell will present the Board with a clear picture of what will be available for the extended agreement and develop a budget and SOW for Board consideration.

It is anticipated that the executive Board will need to approve the new SOW in December, 2013 at a regular conference call meeting of the Board in order to allow time for a grant extension agreement to be approved by FRA.

Budget and the revised SOW status updates will be a standing agenda item on all Board calls until the final approval.

The first update will be provided by Darrell Smith to the Board on October 15, 2013.

In regard to the status of the Section 6/deployment project: Task 1 was submitted by the contractor and has been reviewed thoroughly by a core team and by the full SFTF membership. Many comments have been submitted and a task force comprised of Eric Curtit, Chad Edison, Ron Pate and Darrell Smith compiled the comments, sent them to the contractor and is holding weekly conference calls with them. Eric will continue to update the Board as progress is made.

Bill Bronte appointed Eric Curtit, Missouri DOT, to serve as Secretary of the NGEC whose primary responsibility is to chair the Administrative task force. Eric will serve in this capacity through the Annual Meeting and office elections scheduled for February, 2015. Eric will also remain as the chair of the SFTF during this time.

Recruiting additional state members for the NGEC:

Ray Hessinger, NYSDOT, will reach out to Pennsylvania and Connecticut to see of their interest.

Ron Pate, Washington State DOT, has reached out to Oregon DOT and Mike Jenkins has been named as ODOT's representative to the NGEC. Mike will also serve on the newly established 305 - 209 working group.

Secretary Schneider, IDOT, and chair of SCORT made a personal pitch during SCORT, for membership in the NGEC.

Review of Trainset specification Rev A: Status: Larry Salci has just about completed his review and draft report, and will contact Steve Hewitt to make arrangements for a review panel conference call.

Requests for copies of the updated Backgrounder or the new one pager should be submitted to Steve Hewitt along with the number requested and an address to send them to. The new document is under review by Board members and once comments are received (if there are any) the document will be finalized and sent to print.

Vincent Brotski provided an overview of issues related to Intellectual property to the Executive Board. This presentation will be posted on line along with other presentations from today's meeting. Questions or comments on this topic should be sent to Vincent.

The Board established a 209 Capital Access Plan working Group and appointed Ron Pate, Washington State DOT, as its chair.

Ron will develop the charge for the group and a work plan. The charge will be sent to members of the working group in advance of the first call. The group will make several on-site visits to Amtrak facilities and work closely with Amtrak CMO Mario Bergeron, and Dale Engelhardt and the Amtrak Rolling Stock team.

The working group will hold regularly scheduled conference calls and provide bi-weekly updates to the executive Board as a standing agenda item on Board conference calls.

All members of the working group will be required to sign non-disclosure agreements. Vincent Brotski will develop the nondisclosure agreement and send it to Steve Hewitt for distribution to Ron Pate and the working group.

The APG will hold an electronic vote the week of September 30, 2013 to approve the Accessibility Accommodations and Recommendations presentation, as revised during their September 17<sup>th</sup> conference call. Following the APG vote (if approved) Steve Hewitt will send the presentation to the Executive Board voting members with a request that they vote on approval to send the presentation to the Access Board as it begins its update.

The October 1, 2013 conference call of the Executive Board is canceled. The next call will take place on October 15, 2013. (Note: Chairman Bronte will be absent for the October 15 call and Vice Chair Mario Bergeron has agreed to chair the call).

#### ATTACHMENTS



### **S305 NGEC Executive Board Meeting -Columbus, Ohio September 26, 2013**

**8:30 AM – 4:30 PM Eastern**

**Call in information: 866 299 7945 passcode: 1601544#**

### **Agenda - FINAL**

8:00 - 8:30	Registration	
8:30 - 8:40	Open the Meeting - self introductions	Bill Bronte
8:40 – 8:45	Roll Call - establishing a quorum	Steve Hewitt

---

8:45 – 9:00	Welcome and Opening Remarks	Bill Bronte
9:00 – 9:05	Review of Action items	Steve Hewitt
9:05 - 9:10	Approval of Minutes from September 4, 2013 conference call	Bill Bronte
9:10 – 9:30	Treasurer’s Report (budget, forecast)	Darrell Smith
9:30 – 10:00	Discussion: NGEC after March 31, 2014 1. Assessing the financial status and developing an austerity budget 2. Setting timeframes – requesting a grant agreement extension 3. Identifying potential funding sources	Bill Bronte
10:00 – 10:15	Break	
10:15 – 12:15	Report/Discussion - NGEC Future Working Group 1. Report on Work Performed to date 2. Engage the NGEC Board in discussion about: next steps; goals; concerns; and guiding principles	Eric Curtit/Bill Bronte
12:15 – 1:15	Lunch	
1:15 – 2:30	Discussion - NGEC Future Working Group (continued)	Eric Curtit/Bill Bronte
2:30 – 2:55	NGEC support for 209 States	Paul Nissenbaum/Bill Bronte
2:55 – 3:00	Update: Procurements – bi-level cars and d-e locomotives	Bill Bronte/IDOT
3:00 – 3:15	Break	
3:15 – 3:25	Update: Structure and Finance Task Force – Section 6 project	Eric Curtit
3:25 – 3:40	Update: Administrative task force activities	Darrell Smith
3:40 – 3:55	Update: Accessibility Policy Group – ADAAG recommendations	Bill Bronte
3:55 – 4:15	Discussion: Intellectual Property	Vincent Brotski
4:15 – 4:30	Review: Next Steps/Action Items	Bill Bronte