



THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

April 23, 2021

The Honorable Roger Wicker
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate
Washington, DC 20510

Dear Ranking Member Wicker:

Please find enclosed the Northeast Corridor Joint Procurement Study, as required by Section 11312(b) of the FAST Act (P.L. 114-94), which directed the Secretary of Transportation to complete, in cooperation with the Northeast Corridor Commission, Amtrak, and commuter rail transportation authorities on the Northeast Corridor, a study of the potential benefits resulting from Amtrak and such authorities undertaking select joint procurements for common materials, assets, and equipment when expending Federal funds for such joint procurements. The enclosed study fulfills that requirement.

A similar response was sent to the Chair of the Senate Committee on Commerce, Science, and Transportation and to the Chair and Ranking Member of the House Committee on Transportation and Infrastructure.

Sincerely,

A handwritten signature in blue ink, appearing to read "Pete Buttigieg", is positioned below the word "Sincerely,".

Pete Buttigieg

Enclosure



THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

April 23, 2021

The Honorable Maria Cantwell
Chair
Committee on Commerce, Science, and Transportation
United States Senate
Washington, DC 20510

Dear Chair Cantwell:

Please find enclosed the Northeast Corridor Joint Procurement Study, as required by Section 11312(b) of the FAST Act (P.L. 114-94), which directed the Secretary of Transportation to complete, in cooperation with the Northeast Corridor Commission, Amtrak, and commuter rail transportation authorities on the Northeast Corridor, a study of the potential benefits resulting from Amtrak and such authorities undertaking select joint procurements for common materials, assets, and equipment when expending Federal funds for such joint procurements. The enclosed study fulfills that requirement.

A similar response was sent to the Ranking Member of the Senate Committee on Commerce, Science, and Transportation and to the Chair and Ranking Member of the House Committee on Transportation and Infrastructure.

Sincerely,

A handwritten signature in blue ink, appearing to read "Pete Buttigieg", is positioned above the printed name.

Pete Buttigieg

Enclosure



THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

April 23, 2021

The Honorable Sam Graves
Ranking Member
Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Ranking Member Graves:

Please find enclosed the Northeast Corridor Joint Procurement Study, as required by Section 11312(b) of the FAST Act (P.L. 114-94), which directed the Secretary of Transportation to complete, in cooperation with the Northeast Corridor Commission, Amtrak, and commuter rail transportation authorities on the Northeast Corridor, a study of the potential benefits resulting from Amtrak and such authorities undertaking select joint procurements for common materials, assets, and equipment when expending Federal funds for such joint procurements. The enclosed study fulfills that requirement.

A similar response was sent to the Chair of the House Committee on Transportation and Infrastructure and to the Chair and Ranking Member of the Senate Committee on Commerce, Science, and Transportation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Pete Buttigieg", is positioned above the printed name.

Pete Buttigieg

Enclosure



THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

April 23, 2021

The Honorable Peter A. DeFazio
Chair
Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Chair DeFazio:

Please find enclosed the Northeast Corridor Joint Procurement Study, as required by Section 11312(b) of the FAST Act (P.L. 114-94), which directed the Secretary of Transportation to complete, in cooperation with the Northeast Corridor Commission, Amtrak, and commuter rail transportation authorities on the Northeast Corridor, a study of the potential benefits resulting from Amtrak and such authorities undertaking select joint procurements for common materials, assets, and equipment when expending Federal funds for such joint procurements. The enclosed study fulfills that requirement.

A similar response was sent to the Ranking Member of the House Committee on Transportation and Infrastructure and to the Chair and Ranking Member of the Senate Committee on Commerce, Science, and Transportation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Pete Buttigieg", is positioned below the word "Sincerely,".

Pete Buttigieg

Enclosure



U.S. Department of Transportation
Federal Railroad Administration

Report to Congress:

Potential for Joint Procurements between
Northeast Corridor Commission
Member Agencies

**P.L. 114-94, Fixing America's Surface Transportation Act
of 2015 (FAST Act), Section 11312(b)**

Contents	<u>Page</u>
Legislative Direction.....	1
Introduction.....	1
Potential Markets and Types of Assets.....	2
Survey Summary.....	2
Survey Findings	4
Potential Benefits of Joint Procurements.....	4
Survey Summary.....	4
Survey Findings	5
Potential Costs of Joint Procurements	6
Survey Summary.....	6
Survey Findings	6
Identified Impediments and Limitations.....	7
Survey Summary.....	8
Survey Findings	9
Potential for Federal Incentives	10
Survey Findings	10
Discussion.....	11
Conclusion	12
Appendix: Joint Procurement Survey Questionnaire.....	13

Abbreviations and Phrases in this Report

CBA	Collective bargaining agreement
Commission	Northeast Corridor Commission
Committee	Next Generation Corridor Equipment Pool Committee
CTDOT	Connecticut Department of Transportation
Department	U.S. Department of Transportation
FAST Act	<i>Fixing America’s Surface Transportation Act of 2015, P.L. 114-94</i>
FHWA	Federal Highway Administration
FRA	Federal Railroad Administration
FTA	Federal Transit Administration

Potential for Joint Procurements between Northeast Corridor Commission Member Agencies

Abbreviations and Phrases in this Report (continued)

LIRR	Long Island Rail Road
MARC	Maryland Area Regional Commuter
MBTA	Massachusetts Bay Transportation Authority
MNR	Metro-North Railroad
MoW	Maintenance-of-way
NEC	Northeast Corridor main line between Boston, Massachusetts, and the District of Columbia, and the Northeast Corridor branch lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York, including the facilities and services used to operate and maintain those lines.
NEC Agencies	Amtrak, CTDOT, LIRR, MARC, MBTA, MNR, NJT, SEPTA, and VRE
NEPA	<i>National Environmental Policy Act</i>
NJT	New Jersey (NJ) Transit
PRIA	<i>Passenger Rail Investment and Improvement Act of 2008</i>
SEPTA	Southeastern Pennsylvania Transportation Authority
VRE	Virginia Railway Express

Legislative Direction

Source: Fixing America’s Surface Transportation Act of 2015 (FAST Act), Section 11312

(b) JOINT PROCUREMENT STUDY

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary, in cooperation with the [NEC] Commission, Amtrak, and commuter rail transportation authorities on the Northeast Corridor, shall complete a study of the potential benefits resulting from Amtrak and such authorities undertaking select joint procurements for common materials, assets, and equipment when expending Federal funds for such joint procurements.

(2) CONTENTS.—In completing the study under paragraph (1), the Secretary shall consider—

(A) the types of materials, assets, and equipment that are regularly purchased by Amtrak and such authorities that are similar and could be jointly procured;

(B) the potential benefits of such joint procurements, including lower procurement costs, better pricing, greater market relevancy, and other efficiencies;

(C) the potential costs of such joint procurements;

(D) any significant impediments to undertaking joint procurements, including any necessary harmonization and reconciliation of Federal and State procurement or safety regulations or standards and other requirements; and

(E) whether to create Federal incentives or requirements relating to considering or carrying out joint procurements when expending Federal funds.

Introduction

The 457-mile Northeast Corridor (NEC) rail network connects eight states¹ and the District of Columbia on infrastructure segments owned by four different entities. Eight rail transportation authorities and Amtrak, referred to in this report as *NEC agencies*,² provide intercity passenger and commuter rail services on the NEC.

The Federal and state governments invest billions of dollars in operating these services and maintaining, replacing, and rehabilitating the supporting infrastructure and rolling stock each year. Congress authorized the Northeast Corridor Commission (Commission) in 2008 to develop a usage-based formula to allocate NEC capital and operating costs, make recommendations to Congress, and facilitate collaborative planning. The Commission has 18 members that represent

¹ Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia.

² Massachusetts Bay Transportation Authority (MBTA), Connecticut Department of Transportation (CTDOT; operators of CTrail Hartford Line and Shore Line East services), Metro-North Railroad (MNR), Long Island Rail Road (LIRR), NJ Transit (NJT), Southeastern Pennsylvania Transportation Authority (SEPTA), Maryland Area Regional Commuter (MARC), and Virginia Railway Express (VRE).

Potential for Joint Procurements between Northeast Corridor Commission Member Agencies

each of the eight NEC states, District of Columbia, Amtrak, and U.S. Department of Transportation (Department). According to the Commission, crucial NEC assets—including aging tunnels, bridges, and signal systems—are prone to failure, disrupt service, and create delays for riders.³

The FAST Act authorized \$305 billion for Fiscal Years 2016 to 2020 for the Department’s surface transportation programs, including highway; public transportation; rail; highway, motor carrier, motor vehicle and hazardous materials safety; and research, technology, and statistics. This document responds to the FAST Act joint procurement study requirement and explores whether NEC stakeholders would benefit if NEC agencies worked together to acquire common materials, assets, and equipment, referred to in this report as *joint procurement*.

To gather information, FRA and the Commission developed a survey with standard questions and follow-up interviews to discuss each respondent’s survey and gather additional input ([Appendix](#)). The survey asked the NEC agencies about their experience with joint procurements, benefits and costs of such contracts, and Federal incentives to reduce barriers and limitations. Only three of the eight respondents⁴ had participated in a joint procurement, so many of the responses address potential costs, benefits, and incentives, rather than first-hand experiences. The survey asked respondents to provide a general picture of joint procurements happening in a contemporary regulatory environment. The survey data and interview responses are the basis of the findings and discussion in this report.

Potential Markets and Types of Assets

To assess the potential market for joint procurements, the study considered the types of materials, assets, and equipment that are common or similar across the NEC agencies, where more than one agency could benefit from the same procurement. The study also considered whether such procurements are routine and regular or occur on an ad hoc or infrequent basis.

Survey Summary

The survey asked about recent major joint procurements, defined as having a value of \$500,000 or more conducted between 2013 and 2018 with another NEC agency or Amtrak. Three respondents answered they conducted such procurements. On a scale of 1 to 5, two of these respondents rated their experiences as 5 and one respondent rated its experience a 3, for an average rating of 4.33. A 5-rating indicated a joint procurement was successful enough to undertake again as it had been conducted.

³ Northeast Corridor Commission website nec-commission.com, accessed November 4, 2020.

⁴ LIRR and MNR submitted a joint response. Thus, each survey question had a maximum of eight respondents.

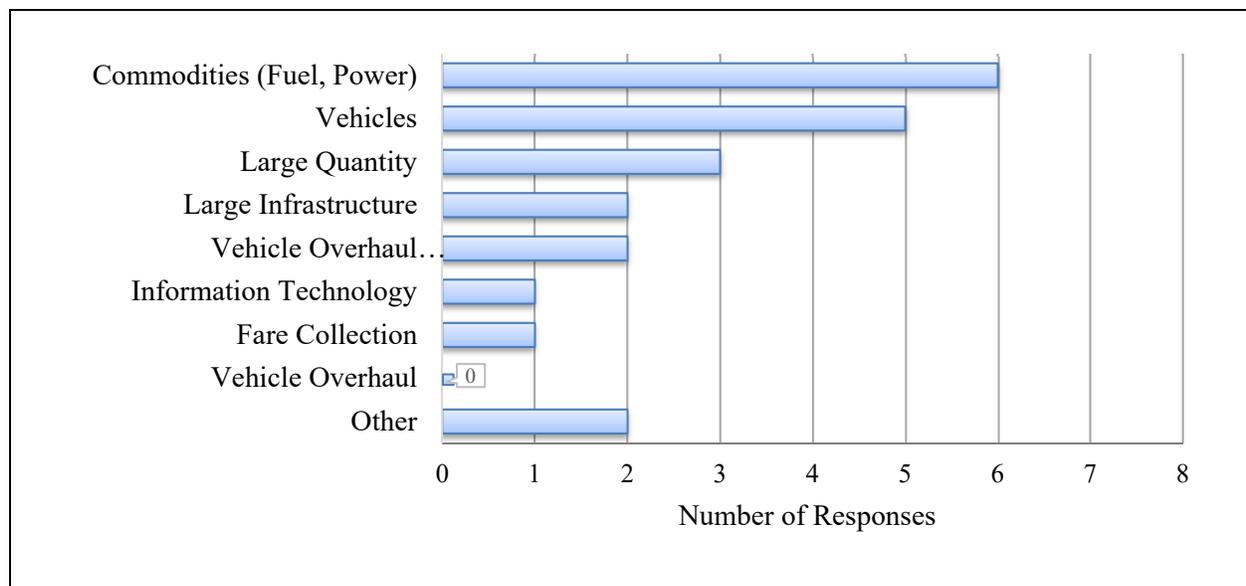
Potential for Joint Procurements between Northeast Corridor Commission Member Agencies

Another respondent listed four previous joint procurements with Amtrak, focusing on infrastructure projects. Two respondents described an ongoing joint procurement to purchase vehicles.

The survey asked NEC agencies which types of procurements might best lend themselves to joint procurement: vehicles, vehicle overhaul, vehicle overhaul components, commodities (e.g., fuel and power), large infrastructure, large quantity, fare collection, information technology, and other. Respondents could select more than one type. Because most respondents had not conducted a recent major joint procurement, their feedback was conceptual, rather than based on direct experience.

Six of the eight respondents (75 percent) selected commodities as an ideal joint procurement, while five respondents selected vehicles (63 percent) (Figure 1). Three respondents indicated a preference for large quantity (38 percent), two for large infrastructure (25 percent), and two for vehicle overhaul components (25 percent). One or no respondent chose the remaining types as an ideal joint procurement. Two respondents selected other and then specified maintenance-of-way (MoW) vehicles. During the follow-up interviews, all respondents mentioned they needed MoW vehicles and agreed such vehicles do not require customized specifications.

Figure 1: Type of Procurement Responses—Generally speaking, which procurements best lend themselves to a joint procurement process? Please check all boxes that apply.



In the follow-up interviews, respondents discussed the potential for revenue rolling stock joint procurements. Little in-depth exploration of this topic among NEC agencies had occurred during Commission discussions. The primary reason was that revenue rolling stock—a large and visible

Potential for Joint Procurements between Northeast Corridor Commission Member Agencies

capital procurement—benefits an individual railroad and is not included in the Commission’s NEC cost allocation policy.

In follow-up interviews about commodities and non-specialty items (e.g., fuel, ballast, computer supplies, furniture, and personal protective equipment), one respondent noted jointly procuring items that do not require organization-specific customization is easier than other item types. Some respondents noted they have access to, or are automatically included in, state and city contracts that provide commodities and non-specialty items, eliminating the need for solo procurements. NEC agencies frequently pursued joint procurements of goods and services with their state, regional, or city agencies, according to the respondents.

Survey Findings

The survey responses indicate commodities have the best potential for joint procurements. Given standardized product types, agencies do not need to configure commodities to their specific needs. Moreover, standardized products such as fuel likely have the easiest procurement process, due to their interchangeability. A broad market of commodities suppliers exists, including utilities and diesel providers.

The survey responses also indicate some potential for other, non-commodity joint procurements, such as rolling stock. A barrier for these other products, however, is that most must be configured or localized to the needs of each NEC agency. For example, passenger rolling stock is usually configured or localized to one agency’s specifications to fit its needs and cannot be easily standardized. Another barrier to joint procurement for non-commodity products is the limited number of suppliers, which are more specialized and subject to regulations, such as safety specifications and Buy America requirements, compared to commodity suppliers.

Two respondents said MoW and non-revenue vehicles present opportunities for joint procurement. Specifications for MoW vehicles like hopper cars and rail carrier cars are more common than specifications for passenger cars and the market is broader because freight railroads procure similar equipment.

Potential Benefits of Joint Procurements

The next study topic was potential benefits of joint procurements. These benefits might include economies of scale—lower one-time procurement costs, better pricing, and greater market relevancy—when agencies consolidate their purchasing power.

Survey Summary

The survey asked the three NEC agencies that had undertaken recent major joint procurements about the benefits they experienced from the process. The survey provided nine options for

Potential for Joint Procurements between Northeast Corridor Commission Member Agencies

elaborating on each respondent's rating of success for the joint procurement process: funding mechanisms, institutional and administrative processes, engineering standards and practices, development of specifications, procurement laws and regulations, insurance requirements, environmental review requirements, and collective bargaining agreements (CBAs). All three respondents who reported undertaking joint procurements chose all the options as reasons for the high success ratings they provided.

The survey also asked the three respondents to provide short descriptions of the joint procurement benefits. One respondent described benefits from its agency leading the procurement while having the partner agency "join as part of an option." This structure allowed the lead agency to drive the process, with the partner agency agreeing to individual steps, according to this respondent. Both participants (as public agencies) were bound by the same procurement, environmental, and insurance requirements and both used the same funding sources—another benefit of the joint procurement process.

Another respondent said the joint procurement process created economies of scale and the increased quantity of the order led to an increase in the agency's negotiating power. This respondent also pointed to efficiencies in turnaround time and savings in engineering costs as major benefits.

Finally, one respondent said joint procurement was the only way to complete the work required in its case, because it involved performing work on track and structures with Amtrak. The respondent indicated that in the case of stations, joint procurement provided both parties benefits such as reduced costs for upgrades that served customers of the regional commuter railroad and Amtrak.

Survey Findings

The respondents that participated in joint procurements did not call out specific aspects of the process that led to success. Instead, these respondents identified benefits across all success factor categories listed in the survey. Other benefits NEC agencies could derive from joint procurement are increased flexibility resulting from better pricing or the ability to structure base orders and options.

By coordinating with each other, NEC agencies can order in larger quantities, which increases both efficiency and negotiating power when dealing with suppliers compared to a solo procurement. Another benefit is avoiding the administrative costs of preparing and releasing agency-specific procurement documents, such as requests for proposals. By modifying an existing joint procurement for additional resources, individual agencies are able to procure desired equipment and reduce administrative burden.

Benefits also vary across the type of asset being procured. For example, joint procurement of commodities (e.g., fuel) might have pricing benefits because of total order quantity, while joint

procurements for more complex items (e.g., vehicles) might deliver benefits through coordination or alignment of technical specifications. The survey responses and limited real-world examples do not yield a comprehensive list of joint procurement benefits.

Potential Costs of Joint Procurements

Joint procurements can introduce additional costs above the costs an agency would incur from a solo procurement. These costs could include agency time and materials to handle the additional complexity involved in managing a joint procurement. Such costs include administrative expenses to develop or maintain purchase agreements across multiple agencies or to define common material or equipment standards between agencies, if they do not already exist. Other costs are additional state and local legal or compliance costs or increased complexity during management, testing, commissioning, and operations. Additional cost risk is particularly acute with regard to joint procurement of equipment. See further discussion on this topic in the [Identified Barriers and Limitations](#) section.

Survey Summary

Regarding additional costs of joint procurements, the survey primarily focused on the direct contract costs of previous joint procurements, not the oversight and management costs of the procurement. For example, the two NEC agencies that engaged in a joint procurement process to acquire bi-level passenger cars estimated the contract costs at more than \$1 billion, without indicating the costs of administering the contract.⁵ The survey respondent that had embarked on four previous joint procurements with Amtrak did not give detailed costs, instead citing a range in the tens of millions of dollars. Thus, the survey responses did not offer insight into oversight and management costs of the procurements and how costs would differ for solo and joint procurements.

Survey Findings

The small number of joint procurements suggests that cost is an inhibiting factor for increased participation from NEC agencies. While conducting a joint procurement might not generate additional direct costs, it could increase indirect costs associated with coordination, such as a longer procurement schedule or approval process. Allocating administrative responsibilities (e.g., vendor solicitation and contract administration) might require more coordination from each agency. Furthermore, misaligned funding cycles, which could extend timelines for the procurement itself, might increase joint procurement costs. Coordinating the project timing,

⁵ Because the contract was not final at the time of the survey, this figure was not final.

Potential for Joint Procurements between Northeast Corridor Commission Member Agencies

geographic needs, and material specifications with each agency's funding availability becomes more difficult with every additional involved party.

The Next Generation Corridor Equipment Pool Committee (Committee) ongoing effort to procure intercity passenger rail equipment provides some relevant experience. Directed by the *Passenger Rail Investment and Improvement Act of 2008* and launched in 2010, the Committee is comprised of FRA, Amtrak, host freight railroad companies, equipment manufacturers, interested states, and other passenger railroad operators. The Committee is developing specifications and procuring standardized next-generation corridor equipment for intercity passenger rail service. The Committee has completed six specifications, covering multiple types of bi-level and single-level cars, single-level trainsets, diesel-electric locomotives, dual-mode locomotives, and diesel multiple units.

After development of these six specifications, the Illinois Department of Transportation embarked on a joint procurement of locomotives with the California and Washington Departments of Transportation. One significant cost of this joint procurement was managing the complexity of different state requirements. For example, Illinois, California, and Washington each has rules for soliciting, reviewing, and awarding contracts. Ensuring the bid and vendor selection processes were mutually agreeable to all three states required extensive coordination. Such coordination continues to be necessary through the award and project delivery processes, increasing staff time and resources to administer the procurement. Total project cost estimates typically do not capture these agency costs, which nevertheless accrue to the involved agencies and must be accounted for when embarking on a joint procurement effort. One potential approach to mitigate these coordination issues is to hire a third party to coordinate work between states.

Different passenger interests and expectations can also increase the coordination burden. Agency needs differ because of the markets served and services offered. Thus, agencies have different preferences for railcar features, such as seating type and capacity, and different on-board amenities, such as food service.

Identified Barriers and Limitations

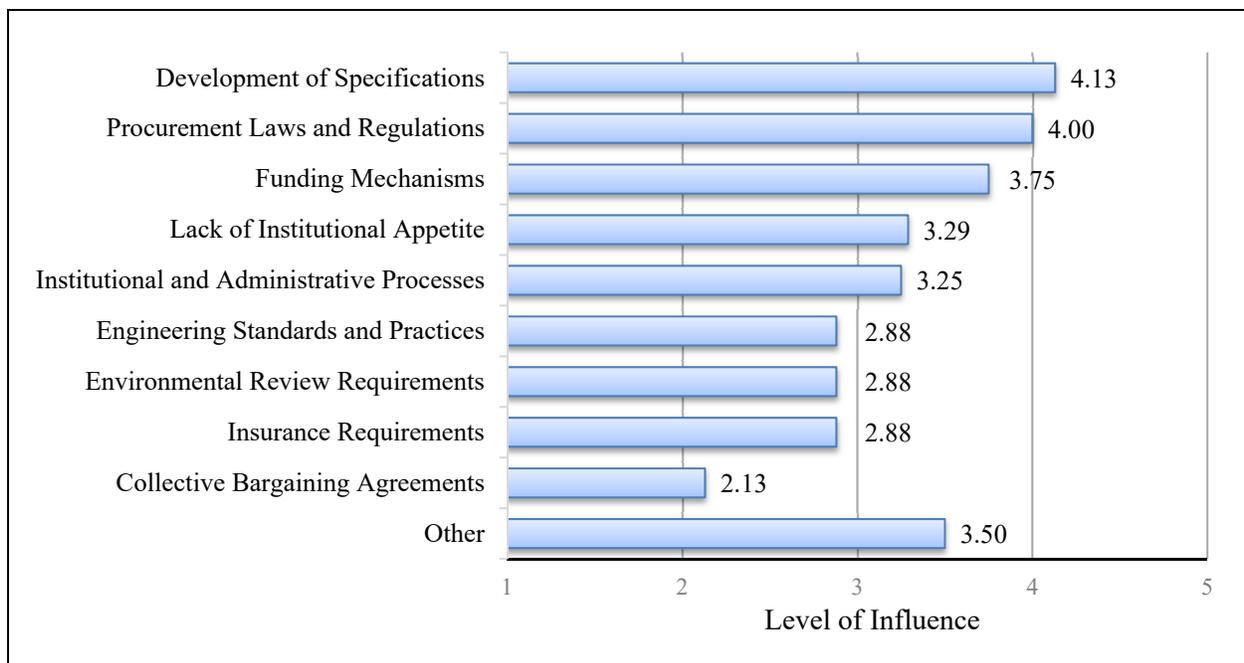
In addition to direct and indirect costs, other factors discourage NEC agencies from initiating joint procurements. The development of specifications for common use, complicated regulatory landscapes, and additional coordination with another agency can reduce the appetite for joint procurements among an agency's leadership.

Survey Summary

The survey asked respondents about barriers to joint procurements among NEC agencies. Specifically, the survey asked respondents to rate on a scale of 1 to 5 the relative influence of nine factors on an agency’s decision to enter a joint procurement. The factors were funding mechanisms, institutional and administrative processes, engineering standards and practices, development of specifications, procurement laws and regulations, insurance requirements, environmental review requirements, CBAs, and lack of institutional appetite. Respondents had the option not to rate every factor and could add other factors that would influence an agency’s decision to enter a joint procurement.

With higher ratings indicating more influence, respondents on average scored development of specifications (4.13) and procurement laws and regulations (4.00) the most influential factors in deciding on a joint procurement (Figure 2). All eight respondents rated these two factors and split evenly on which was more influential. Respondents rated funding mechanisms, lack of institutional appetite, and institutional and administrative processes as the next most influential factors, averaging ratings of 3.75, 3.29, and 3.25, respectively. One respondent said lack of desire or motivation was a major reason its agency had not yet entered a joint procurement.

Figure 2: Average Influence Ratings—*What do you believe are barriers to the success of the joint procurement process?*



Respondents rated engineering standards and practices, environmental review requirements, and insurance requirements equally influential, with a 2.88 average. Although these three factors had

Potential for Joint Procurements between Northeast Corridor Commission Member Agencies

the same average, the ratings varied among respondents. For example, two respondents rated insurance requirements as most influential (5) and one respondent rated engineering standards and practices most influential (5). Half of all respondents gave institutional and administrative processes a 4 rating, with no respondent rating them a 5.

According to the respondents, CBAs had the lowest average level of influence, 2.13. With all respondents rating CBAs, three rated this factor the least influential in their decision making and no agency rated it as the most influential factor.

Four respondents rated other factors as relatively influential, with an average rating of 3.50. These respondents specified such factors as project timing, legacy equipment, geographic needs, management methodology, and scale of procurement. One respondent identified the diversity of vehicle standards as a hindrance, noting every agency has unique standards for operations, vehicle design, and requirements, “especially when legacy equipment is involved.” In the follow-up interviews, project timing and legacy equipment were two of the main issues respondents raised.

In its short answers, one respondent stated each agency’s “different funding cycles and vulnerabilities with respect to funding availability” make joint procurement more difficult. This respondent added that many other factors are critically dependent on the funding availability for each agency, which becomes more complex to coordinate with each additional party involved in the procurement. This respondent further said a large-scale procurement might limit opportunities for smaller, regional vendors, including minority-, women-, and veteran-owned businesses. This respondent indicated its agency scales procurements optimally, meaning it would derive no additional benefit from joint procurement.

Survey Findings

The survey responses demonstrate that a wide range of factors influence decision making around joint procurements. Some respondents indicated agencies might not be interested in making joint procurements. Consequently, there might not be a clear, single solution to make joint procurement easier for all agencies.

The survey responses indicate NEC agencies view development of specifications as a highly influential barrier to joint procurement. Rolling stock–related procurements frequently have strict operating parameters (e.g., clearance and weight) and technical compatibility requirements (e.g., train line) with existing fleet and related assets (e.g., shop clearance, configuration, and tooling). These parameters can restrict an agency’s ability to conduct joint revenue fleet procurements. Even with a common overall structure, a joint procurement would not be cost-effective, if it needed a long list of addendums to modify individual pieces. This scenario could also apply to non-public facing tools or vehicles, because the engineering departments often have strong preferences for manufacturers from whom they are used to ordering.

Potential for Joint Procurements between Northeast Corridor Commission Member Agencies

The survey responses indicate NEC agencies view procurement laws and regulations as highly influential barriers to joint procurement. Agencies might face overlapping or conflicting requirements between Federal and state laws governing their procurement processes, making it more difficult for them to work together.

Funding mechanisms were also a significant concern for survey respondents. NEC agencies are most likely to enter into a joint procurement, if they need the same items at the same time. If they do not need the items at the same time, storage costs could offset savings from bulk buying through a joint procurement. Additionally, joint procurement might be most appropriate for services or materials agencies use on a consistent basis, rather than purchases (such as rolling stock) that are relatively infrequent. Procurements that support regular operations (e.g., fuel and power) or program-oriented capital projects (e.g., ballast, rail, and crossties) usually occur on a consistent basis.

Even when funding is secure, capital projects often involve schedule uncertainty at every phase, including initiation, progress, and completion. If the timing of material orders is fixed due to a joint procurement, major complications could follow.

Agencies can reduce the size or scope of contracts or make awards to multiple vendors to mitigate the concern that a joint procurement's scale could be prohibitive for smaller and regional vendors. In these situations, joint procurements could be counterproductive. Alternatively, a joint procurement process allowing for information sharing and policy-driven decisions about scale could prove useful.

An additional consideration might be maintaining a competitive market for certain materials. Joint procurement could result in sales going to a small pool of vendors, which might push some vendors out of the market entirely. In the worst-case scenario, a sole-source procurement could result, leading to price increases that overwhelm any potential economies of scale.

Potential for Federal Incentives

The U.S. Department of Transportation (Department) has taken steps to investigate possible Federal programs to reduce barriers to joint procurement and harmonize Federal regulations, with the possibility of incentivizing participation in joint procurement. Areas of focus are the contractual flow-down provisions in implementing the National Environmental Policy Act (NEPA), labor protections, certain civil rights, and Buy America requirements.

Survey Findings

An explicit goal of the survey was to gather input from the NEC agencies about how the Federal government could incentivize and remove barriers to joint procurement. The survey asked respondents to provide input on the mechanisms by which Federal incentives of any form would

Potential for Joint Procurements between Northeast Corridor Commission Member Agencies

impact a joint procurement that uses Federal funds. Most respondents indicated Federal incentives would strongly influence their railroad's decision making.

The survey asked respondents to indicate what forms of incentives would be most appealing and to provide the greatest variety of options, ranging from funds for specific procurements to facilitation tools and resources. Six respondents provided short answers about the impact of Federal incentives and the respondents' preferences among the incentives.

Two respondents expressed an interest in a direct financial incentive for designing specifications, drafting procurement guidelines, and addressing other technical aspects of the procurement process. Both respondents identified direct incentives as a way to build interest in joint procurement, reap cost savings, and reduce the level of effort required of any individual agency. Another respondent mentioned increasing the Federal match provided for rolling stock purchased as part of a joint procurement as another way to achieve cost savings.

One respondent indicated that a Federal joint procurement incentive would have to reduce the current risks in the procurement process, which can increase when Federal funds are involved. To have an impact, a joint procurement incentive would need to go beyond making additional funds available, according to this respondent. For example, the respondent said an asset management tool that tracks which items are due for replacement and when would facilitate coordination among NEC agencies. The respondent indicated it would be helpful to have a domestic steel wheel manufacturer.

Another respondent said an incentive program for upgrading maintenance facilities for new assets could be impactful. Any joint vehicle procurement requires compromises that affect an agency's ability to set up facilities to service those vehicles most efficiently. Direct financial incentives to help upgrade maintenance facilities to better maintain assets purchased with Federal funding would benefit the agencies and protect Federal investments, according to this respondent.

Discussion

The survey indicates that direct financial incentives and regulatory clarity are the most impactful ways the Federal government can incentivize joint procurement between NEC agencies. FRA and the Department have initiated efforts to examine and harmonize regulations relevant to the NEC agencies. For example, the final rule published October 29, 2018, harmonizes NEPA regulations and processes among FRA, the Federal Highway Administration (FHWA), and the Federal Transit Administration (FTA). The rule incorporates FRA NEPA procedures into FHWA and FTA NEPA regulations.⁶ The Department also set up a Buy America working group, which considers efforts to align FRA, FTA, and Amtrak requirements. The Department's

⁶ Parts 771 and 774, title 23, Code of Federal Regulations.

Potential for Joint Procurements between Northeast Corridor Commission Member Agencies

regulatory agenda includes a proposed rule to establish a consistent regulatory standard across Department programs for non-availability waivers.

Another Federal harmonization effort involves clarifying which provisions flow-down when Amtrak works on Department-funded projects. Specifically, FRA and FTA worked to clarify that the section 13(c) transit labor provisions of the *Urban Mass Transportation Act*⁷ do not flow-down to Amtrak, which is subject to the *Railway Labor Act*. FTA regional offices indicated flow-down provisions related to labor have not caused issues on FTA projects involving Amtrak. The Department is also reviewing whether certain transit provisions of the *Civil Rights Act of 1964* flow-down to Amtrak work. Stakeholders have indicated this has not been an issue for NEC-related capital projects and is less critical than others.

Conclusion

The FRA and Commission survey of NEC agencies yielded insights on the potential for joint procurements to generate benefits, increase costs, or run into obstacles that Federal incentives could mitigate. Survey respondents indicated that some procurement types, such as commodities including fuel, are better suited to joint efforts than others. The net benefit of joint procurement of other asset types, such as vehicles, depends on the parties' ability to develop common specifications.

The benefits and costs of joint procurements are still uncertain. Joint procurements can create economies of scale and increase agencies' negotiating power. At the same time, these procurements can have higher indirect costs. Coordinating between agencies to align funding timelines and other schedules, develop common specifications, and comply with state and local regulations creates an increased administrative burden on participants. Many respondents cited these factors as primary barriers to joint procurements.

Respondents indicated the Federal government could incentivize joint procurements. Some of the respondents identified direct financial incentives that would be useful for activities such as specification development and drafting shared procurement guidelines. Other respondents focused on removing existing regulatory and funding barriers as a primary method of incentivizing collaboration. Some respondents said a common regulatory environment with which all agencies must comply improved their ability to coordinate. FRA has begun addressing barriers, such as consolidating NEPA procedures with FHWA and FTA, and continues to explore this topic.

⁷ Codified in section 5333(b), title 49, United States Code.

Appendix: Joint Procurement Survey Questionnaire

Procurement Administration
<p>* 1. Please provide any known governing regulatory guidelines and standards you typically use in creating your procurement specification language. (AREMA, APTA, AAR, etc.)</p> <p>Vehicles: <input type="text"/></p> <p>Infrastructure: <input type="text"/></p>
A. Previous Joint Procurement Activity
<p>Please fill out the below page for an individual procurement. This section is also intended to cover attempted joint procurements. Each procurement will have its own evaluation page. Answering "Yes" to the final question will open a new evaluation page for you. Once you have completed the page for your final procurement, answer "No" to the final question to move on to the next section.</p> <p>* 1. Has your Passenger Rail Agency conducted (or tried to conduct) any major procurements with any of the commuter rail agencies (Amtrak, MBTA, CTrail, Metro-North Railroad, Long Island Rail Road, NJ Transit, SEPTA, MARC and VRE) along the Northeast Corridor (NEC) since 2013?</p> <p>(Major procurements include, but are not limited to vehicles, vehicle overhaul, large infrastructure, large quantity, fare collection and Information Technology (IT) with a value greater than \$500,000.)</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> <p>2. If so, how many?</p> <p><input type="text"/></p>
A. Previous Joint Procurement Activity - 1
<p>Please fill out the below page for each individual joint procurement. Each procurement will have its own evaluation page. Answering "Yes" to the final question will open a new evaluation page for you. Once you have completed the page for your final procurement, answer "No" to the final question to move on to the next section.</p> <p>* 1. What was procured?</p> <p><input type="text"/></p> <p>* 2. What was the cost of the procurement?</p> <p><input type="text"/></p> <p>* 3. When did the procurement occur?</p> <p>Start Date <input type="text" value="MM/DD/YYYY"/></p> <p>Finish Date <input type="text" value="MM/DD/YYYY"/></p>

Potential for Joint Procurements between Northeast Corridor Commission Member Agencies

*** 4. On a scale of 1 to 5, please rate the success of the procurement.**

1 (Totally unsatisfactory) 2 3 4 5 (Would undertake again as conducted)



*** 5. Please elaborate on the reasons for your rating by identifying any of the following factors that influenced the process and your rating. Describe, in as much detail as possible, how the factor influenced the process, for better or worse.**
If one of the below factors was not a reason for your rating, please write "N/A."

Funding Mechanism

Institutional/Administrative Process

Engineering Standards/Practices

Development of Specifications

Procurement Laws/Regulations

Insurance Requirements

Environmental Review Requirements

Collective Bargaining Agreements (CBAs)

Other

6. If not already discussed above, please describe what you would change about how the procurement process was conducted to make it more successful.

*** 7. What were the benefits of this joint procurement? (i.e. cost savings, greater negotiating power, shorter turnaround time, etc.)**

*** 8. What were the challenges of this joint procurement? (i.e. inconsistent insurance requirements, procurement laws, collective bargaining agreements, etc.)**

Potential for Joint Procurements between Northeast Corridor Commission Member Agencies

*** 9. Would the challenges/conflicts be resolved if there was improved interagency structure and better guidelines for the process?**

*** 10. Do you have more procurements to evaluation?**

Yes

No

B. Open-Ended Discussion

*** 1. How would you describe the ideal joint procurement process?**

*** 2. Generally speaking, which procurements best lend themselves to a joint procurement process? Please check all the boxes that apply**

Vehicles

Vehicle Overhaul

Vehicle Overhaul Components

Commodities (fuel, power)

Large Infrastructure

Large Quantity

Fare Collection

Information Technology

Other (please specify)

*** 3. What do you believe are barriers to the success of the joint procurement process? On a scale of 1 to 5, with 1 being the least influential and 5 being the greatest, please rate the influence of each factor below:**

	1 (Least Influential)	2	3	4	5 (Most Influential)	N/A
Funding Mechanisms	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Institutional/Administrative Processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Engineering Standards/Practices	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Development of Specifications	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Procurement Laws/Regulations	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Potential for Joint Procurements between Northeast Corridor Commission Member Agencies

Insurance Requirements	<input type="radio"/>					
Environmental Review Requirements	<input checked="" type="radio"/>					
Collective Bargaining Agreements (CBAs)	<input type="radio"/>					
Lack of Institutional Appetite in Joint Procurements	<input checked="" type="radio"/>					
Other	<input type="radio"/>					

4. If you rate "Other" as influential, please elaborate on which other factors you believe influence the success of a joint procurement process.

*** 5. What do you think the impact would be if the Federal government implemented a program of Federal incentives associated with any joint procurement using federal funds? What would be the best form for those incentives to take?**

*** 6. Are there other opportunities for standardization of processes, regulations, specifications, etc., that would be necessary/helpful to the Amtrak/NEC commuter rail agency joint procurement process?**

*** 7. Would the harmonization of federal requirements (Buy America, National Environmental Policy Act (NEPA), Labor Provisions and Disaster Relief Funds) serve to improve the feasibility and implementation of joint procurements?**

8. Are there any other questions, concerns or subject areas regarding the joint procurement process on which you would like to comment?