

**FISCAL YEAR 2015
CONGRESSIONAL BUDGET SUBMISSION**



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EXECUTIVE SUMMARY

The National Mediation (NMB) presents its justification supporting the Fiscal Year (FY) 2015 budget request of \$13,227,000, which is approximately 1 percent above the FY 2014 enacted level. The agency believes this requested level is necessary for the Board to operate efficiently while not impeding the ability to successfully accomplish its statutory mission.

The NMB has undertaken a detailed review of its operations to determine areas that can be further consolidated. With the recent Administration guidance regarding moving information technology processes to the cloud, and reducing the amount of equipment provided to the staff by instituting "bring your own" policies, the NMB has been in the vanguard of agencies moving toward a cloud computing environment. With funding at the requested level, the NMB can and will accomplish these initiatives. The NMB is a small agency (51 FTE) with a mission to deliver critical services to approximately 150 commercial airlines and over 500 railroads. To fulfill our mission, the agency requests \$9,305,000 for personnel compensation and benefits. This level includes full staffing along with a 1 percent cost of living raise. Included in this amount is \$1,270,000 for referees who conduct statutory arbitration of minor disputes in the railroad industry. This level of funding will ensure that the NMB can maintain its obligations for arbitration under the Railway Labor Act, and remain in compliance with prior audit and GAO decisions regarding how we must account for the cost of cases once they are assigned to a referee. The remaining \$3,522,000 includes the funds set aside for Presidential Emergency Boards (\$400,000) and all the remaining object classifications for NMB operations.

During 2013, NMB's Office of Administration transitioned to an Oracle-based financial management system under an inter-agency agreement with the Bureau of Fiscal Services (BFS). In accordance with its Capital Plan, the NMB implemented cloud-based email and data servers, eliminating the majority of on site servers and making agency communication and data accessible to agency staff at any location where NMB work must be done. The NMB also transitioned to BFS's contracting and travel-management system, ensuring NMB compliance with applicable rules and regulations. The NMB transitioned to the Federal Personnel and Payroll system (FPPS) and Personnel Security services under an inter-agency agreement with the Department of Interior's Interior Business Center (IBC).

The Board continues to see an increase in demand for its services, and with the anticipation of continued funding constraints, the agency is striving to find innovations to provide exceptional service to our external and internal customers.

On behalf of the NMB, we thank the Subcommittee for its support of the Board in its unique work in the airline and railroad industries.

Sincerely,



Linda Puchala
Chairman
Attachments

APPROPRIATION LANGUAGE

National Mediation Board

Salaries and Expenses

For expenses necessary to carry out the provisions of the Railway Labor Act, including emergency boards appointed by the President [*\$13,116,000*] *\$13,227,000*. (Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2014).

SALARIES AND EXPENSES

Appropriation History

<u>Year</u>	Budget Estimate to <u>Congress</u> \$	House <u>Allowance</u> \$	Senate <u>Allowance</u> \$	Appro- priation \$
2007	11,749,000	11,749,000	12,500,000	11,595,760 <u>1/</u>
2008	12,242,000	12,992,000	12,992,000	12,685,000 <u>2/</u>
2009	12,432,000	12,992,000	12,992,000	12,992,000 <u>3/</u>
2010	13,434,000	12,992,000	13,934,000	13,463,000 <u>4/</u>
2011	13,772,000	14,972,000	13,772,000	13,436,074 <u>5/</u>
2012	13,961,000	13,436,000	13,436,000	13,410,606 <u>6/</u>
2013	13,530,000	13,411,000	14,411,000	12,709,000 <u>7/</u>
2014	13,347,000		13,384,000	13,116,000 <u>8/</u>
2015	13,227,000			

1/ Pursuant to the Fiscal Year 2007 Continuing Appropriations Resolution, P.L. 110-5.

2/ Pursuant to the Fiscal Year 2008 Continuing Appropriations Resolution, P.L. 110-161.

SALARIES AND EXPENSES

Appropriation History Cont.

- 3/ Pursuant to the Fiscal Year 2009 Omnibus Appropriations Act, P.L. 111-8.
- 4/ Pursuant to the Fiscal Year 2010 Consolidated Appropriations Act, P.L. 111-117.
- 5/ Pursuant to the Fiscal Year 2011 Full-Year Continuing Appropriations Act, P.L. 112-10.
- 6/ Pursuant to the Fiscal Year 2012 Consolidated Appropriations Act, P.L. 112-74.
- 7/ Pursuant to the Fiscal Year 2013 Consolidated Appropriations Act, P.L. 113-6, section 3004(c) dated March 26, 2013, this is the 0.2% across the board reduction
- 8/
32 Pursuant to the Fiscal Year 2014 Consolidated Appropriations Act, P.L. 113-

SUMMARY OVERVIEW

National Mediation Board

The National Mediation Board requests \$13,227,000 for its total program for FY 2015 to continue its efforts to perform the statutory mandate of resolving major and minor labor disputes in the airline and railroad industries. The Board continues its efforts to maintain a highly skilled workforce by recruiting, developing and retaining qualified individuals. This budget provides an overview of the Railway Labor Act (RLA) and the functions of the NMB. It also provides information on the resources needed for the Board to accomplish its strategic and performance goals.

SUMMARY OVERVIEW (FINANCIAL)

Fiscal Year 2014 Enacted Level	\$13,116,000
Compensation and Benefits Increases	86,000
Travel Increase	25,000
Other Current Service Level Changes	(111,000)
Fiscal Year 2015 Request Level	<u>\$13,227,000</u>

Personnel Summary

FY 2013 Actual – FTE <i>(Confidential Assistant and Mediator vacancies)</i>	48
FY 2014 Estimated – FTE <i>(Budget Officer, Deputy, COS, Attorney, Mediator vacancies)</i>	50
FY 2015 Estimated - FTE	51

National Mediation Board
 Program and Financing Schedule
 (In Thousands of Dollars)

Identification Code 95-2400-0-1-505	FY 2013 Actual	FY 2014 Estimated	FY 2015 Estimated
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Obligations by Program Activities:

0001 Mediation Services	6,688	6,569	6,614
0002 Representation Services	2,688	2,649	2,761
0003 Arbitration Services	2,711	3,498	3,452
0004 Emergency Disputes	8	400	400
1000 Total obligations	12,093	13,116	13,227

Budgetary Resources Available for Obligation:

2200 New budget authority (gross)	12,709	13,116	13,227
2395 New obligations	(12,213)	(13,116)	(13,227)
2398 Unobligated balance expiring	(394)	(0)	(0)

New Budget Authority (Gross), Detail:

4000 Appropriation	13,410	13,116	13,227
4033 Appropriation permanently reduced	(701)	0	0
4300 Appropriation (total discretionary)	13,411	13,116	13,227

Change in Obligated Balances:

7240 Obligated balance: start of year	2,130	1,697	1,944
7310 Total new obligations	12,216	13,116	12,279
7320 Total outlays (gross) (-)	(11,981)	(13,116)	(13,227)
7340 Adjustments in expired accounts	0	0	0
7440 Obligated balance: end of year	1,697	1,944	1,948

Net Budget Authority and Outlays:

8900 Budget Authority (net)	12,213	11,172	12,279
9000 Outlays (net)	10,772	13,116	13,227

National Mediation Board
 Personnel Summary

	FY 2013 Actual	FY 2014 Estimated	FY 2015 Estimated
Total Number of Full Time Permanent Positions	51	51	51
Full Time Equivalent			
Full Time Permanent	43	44	45
Other	5	6	6
Total Employment, end of year (FTE)	48	50	51
Average GS Grade	12.68	13.23	12.95
Average GS Salary	\$100,224	\$104,400	\$106,488
Average Salary of Senior Executive Service Positions	\$159,656	\$161,252	\$161,864
Average Salary of Executive Level Positions			
Level 3, Chairman	\$165,300	\$165,300	\$166,953
Level 4, Board Members (2)	\$116,625	\$158,776	\$161,432

National Mediation Board
 Object Classification
 (In Thousands of Dollars)

	FY 2013 Actual	FY 2014 Estimated	FY 2015 Estimated
Personnel Compensation:			
Full-time Permanent	5,678	5,867	5,865
Special personnel services payments	1,200	1,267	1,270
Total Personnel Compensation	6,878	7,134	7,135
Civilian Benefits	2,045	2,160	2,170
Benefits for Former Personnel	0	0	0
Travel & Transportation of Persons	410	436	440
Transportation of Things	50	5	4
Rental Payments to GSA	1,333	1,402	1,418
Communications, Utilities, & Misc. Charges	215	197	246
Printing & Reproduction	7	27	4
Other Services	1, 177	1,200	1,250
Supplies and Materials	63	80	85
Equipment	31	75	75
Subtotal Obligations	12,209	12,716	12,827
PEB Obligations	6	400	400
Total Obligations	12,216	13,116	13,227

**DETAILED EXPLANATION OF CHANGES
BY OBJECT CLASS FOR FISCAL YEAR 2015**

National Mediation Board

Increases and Decreases for Current Services and Request Level

FY '14	FY '15	Net Change
	<u>Personnel Compensation and Benefits</u>	
\$9,294	\$9,305	\$11

The personnel category provides funding for all salaries and benefits of the Federal career staff along with the government's share of the two retirement systems (CSRS, FERS), Medicare, and the Thrift Savings Plan. This category also includes payments for work by the arbitration referees.

NMB's request of \$9,305 funds the three program areas: (1) Mediation, which includes 35 career staff across the offices of the Board, Administration, Mediation/ADR services (\$4,213); (2) Representation, which includes the General Counsel, 6 Attorneys and 3 support staff (\$1,988); and (3) Arbitration, which includes 6 career staff and the salary compensation for the arbitration referees (\$2,989).

DETAILED EXPLANATION OF CHANGES
BY OBJECT CLASS FOR FISCAL YEAR 2014

National Mediation Board
(In Thousands of Dollars)

Increases and Decreases for Current Services and Request Level
Travel and Transportation of Persons

FY '14	FY '15	Net Change
\$436	\$440	\$4

This category will fund the travel expenses of the Board Members, Mediators, Attorneys, Arbitration referees, and local transportation costs for the entire Agency.

Transportation of Things

\$4	\$5	\$1
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The requested amount will cover the cost of commercial courier services by the Board's staff.

Rental Payments to GSA (Rent)

\$1,402	\$1,418	\$16
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This category covers the amount paid to the General Services Administration (GSA) to lease its office space in Washington, D.C. The adjustment is based upon the estimates received by GSA.

Rent, Communications, and Utilities (RCU)

\$197	\$246	\$49
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This category covers funds for the use of commercial, local and long distance telephone services, and payment to GSA for after-hour utilities.

DETAILED EXPLANATION OF CHANGES
BY OBJECT CLASS FOR FISCAL YEAR 2015

National Mediation Board
(In Thousands of Dollars)

Increases for Current Services and Request Level

FY '14	FY '15	Net Change
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Printing and Reproduction

\$27	\$4	(\$23)
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This category covers printing, reproduction, binding and related composition operations of the Board. The decrease is attributable to the NMB making more documents available electronically.

Other Services

\$1,200	\$1,250	\$50
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This category provides funding for a wide range of commercial and government services. These services include maintenance contracts on all general and information management equipment, commercial database access, payments for systems development and support, repairs and/or alterations to existing space, consultants and experts, agency training and conference fees for its staff. This category also provides training for the staff, funding to support services for the agency's accounting, human resources, information technology and records management activities, which are outsourced. In addition, the cost of leasing the office space in Chicago for the National Railroad Adjustment Board is in this category.

DETAILED EXPLANATION OF CHANGES
BY OBJECT CLASS FOR FISCAL YEAR 2015

National Mediation Board
(In Thousands of Dollars)

Increases for Current Services and Request Level

FY '14	FY '15	Net Change
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Supplies and Materials

\$80	\$85		\$5
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This category provides funding to purchase general office supplies, IT supplies, subscriptions, and government publications.

Equipment

\$75	\$75		\$0
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This category provides for the equipment needs of the agency including hardware and software for information technology requirements, telecommunication equipment as well as office furniture purchases.

Presidential Emergency Board

\$400	\$400		\$0
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This category funds the Presidential Emergency Boards (PEB) in which the NMB compensates members appointed by the President to resolve disputes. The object class breakout is determined once the board is enacted. Based upon historical knowledge, funds can be obligated in personnel compensation, travel, rent and communication and other services.

\$13,116 \$13,227 TOTAL FOR ALL OBJECT CLASSES

MISSION STATEMENT

Railway Labor Act and NMB Functions

The National Mediation Board (NMB) is an independent Executive Branch agency established by the Railway Labor Act of 1926, as amended in 1934. The Act was expanded in 1936 to cover the airline industry. The NMB performs a key role in achieving the principal purpose of the Act: "to avoid any interruption in commerce or to the operation of any carrier engaged therein" by assisting the carriers and their employees in their duty under the Act to "exert every reasonable effort" to settle disputes. The Board's principal statutory goals are:

1. To facilitate the resolution of disputes in the negotiation of new or revised collective bargaining agreements;
2. To insure employee rights of self-organization, without interference, when representation disputes exist, and;
3. To provide for the prompt and orderly settlement of disputes growing out of minor disputes or out of the interpretation or application of agreements covering rates of pay, rules, or working conditions.

GENERAL AGENCY GOALS

- To promote the amicable resolution of disputes between carriers and employees by providing quality conflict prevention and resolution services, including both traditional mediation and alternative dispute resolution, while encouraging an atmosphere of harmony that will facilitate future bargaining in the airline and railroad industries.
- To deliver, through the prompt investigation of representation disputes among rail and air employees definitive resolution of employees' representation status for collective bargaining purposes.
- To improve and strengthen the NMB's systems and processes for resolving minor disputes in the air and rail industries.
- To improve the management of our human capital; continue to assess the opportunities to outsource commercial tasks, improve financial performance, and expand e-government applications; and strengthen the linkage between budget planning and agency performance.
- To develop a program of outreach and coordination with entities engaged in dispute resolution, with entities engaged in collective bargaining; and to engage in educational enterprises with other agencies, colleges, and universities.

Mediation and Alternative Dispute Resolution

The RLA requires labor and management to make every reasonable effort to make and maintain collective bargaining agreements. Initially, the parties must give notice to each other of their proposals for new or revised agreements. Direct bargaining between the parties must commence promptly and continue in an effort to conclude a new collective bargaining agreement, or narrow their differences before applying for mediation with the NMB. Should the parties fail to reach agreement during direct negotiations, either party, or the parties jointly, may apply to the Board for mediation. Following receipt of an application, the NMB promptly assigns a mediator to assist the parties in reaching an agreement. The Board is obligated under the Act to use its "best efforts" to bring about a peaceful resolution of the dispute. The NMB mediators apply a variety of dispute resolution techniques, including traditional mediation, interest-based problem solving, and facilitation.

If, after such efforts, the Board determines that mediation will fail to settle the dispute, the NMB may advise the parties and offer interest arbitration as an alternative approach to resolving the remaining issues. If either party rejects this offer of arbitration, the Board may release the parties from formal mediation. This release triggers a thirty-day cooling off period. During this thirty-day period, the Board will continue to work with the parties to achieve a peaceful solution to the dispute. However, if an agreement is not reached by the end of the thirty-day period, the parties are free to exercise lawful self-help. Examples of lawful self-help include carrier-imposed working conditions or a strike by the organization.

Under the RLA, the Board notifies the President of the United States when a dispute, in the Board's opinion, threatens "substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation services." The President may then establish a Presidential Emergency Board (PEB) to investigate and report on the dispute. A PEB may also be requested by any party involved in a dispute affecting a publicly funded and operated commuter railroad. The President appoints the members of the PEB. While either of these emergency board processes is in progress, neither party to the dispute may exercise self-help.

In addition to traditional mediation services, the NMB also provides Alternative Dispute Resolution (ADR) services. ADR services include facilitation, training, and grievance mediation. The purpose of the Board's ADR program is to assist the parties in learning and applying more effective, less confrontational methods for resolving their disputes. Another goal is to help the parties resolve more of their own disputes without outside intervention. The Board believes that, over time, its ADR services will reduce and narrow the disputes which the parties bring to mediation.

Representation

Under the RLA, employees in the airline and railroad industries have the right to select a labor organization or individual to represent them for collective bargaining without "interference, influence or coercion" by the carrier. Employees may also decline representation. The RLA's representation unit is a "craft or class," which consists of the overall grouping of employees performing particular types of related duties and functions. The selection of a collective bargaining representative for employees of a carrier is accomplished on a system-wide basis, which includes all employees in the craft or class anywhere that carrier operates in the United States. When a labor organization or individual files an application with the NMB to represent employees, the Board assigns an investigator to conduct a representation investigation. The investigator assigned to the case has the responsibility to determine if the craft or class the organization seeks to represent is system-wide and otherwise valid. The application must be supported by a showing of interest from not less than 50 percent of the craft or class.

If the showing of interest requirement is met, the NMB continues the investigation, usually with telephone electronic voting and internet voting. Only employees found eligible to vote by the NMB are permitted to participate in the election. In order for a representative to be certified, a majority of the valid votes cast must support representation. The Board is responsible for ensuring that the requirements for a fair election process have been maintained. If the employees vote to be represented, the Board issues a certification of that result which commences the carrier's statutory duty to bargain with the certified representative.

Arbitration

The RLA provides for both grievance and interest arbitration. Access to grievance arbitration, involving the interpretation or application of an existing collective bargaining agreement, is mandatory under the RLA. The Board has significant administrative responsibilities for the three sources of grievance arbitration in the railroad industry. These sources are the National Railroad Adjustment Board established under the RLA, as well as the arbitration panels established directly by the labor-management parties at each railroad (Public Law Boards and Special Boards of Adjustment). Grievance arbitration in the airline industry is accomplished at the various System Boards of Adjustment created jointly by labor and management at the parties' expense. The Board furnishes panels of prospective arbitrators for the parties' selection in both the airline and railroad industries. The NMB has substantial financial responsibilities for railroad arbitration proceedings in that it pays the salaries and travel expenses of the arbitrators. Arbitration decisions under the RLA are final and binding with very limited grounds for judicial review.

Interest arbitration is a process used to establish the terms of a new or modified collective bargaining agreement through arbitration, rather than through negotiations. Although the RLA provides an effective process for interest arbitration, its use is not statutorily required. The NMB offers the parties the opportunity to use interest arbitration when the Board has determined that further mediation efforts will be unsuccessful. In addition, the parties may directly agree to resolve their collective bargaining dispute or portions of their dispute through interest arbitration. The NMB generally provides the parties with panels of potential arbitrators from which they select the individual to resolve the dispute. In some instances, the parties' agreement to arbitrate allows the NMB to directly appoint an arbitrator. The interest arbitration decision is final and binding with very narrow grounds for a judicial appeal.

PROGRAM DESCRIPTION

Office of the Board

Funding (in thousands) and FTE			
FY 2014 Estimate		FY 2015 Estimate	
\$	FTE	\$	FTE
1,561	14	1,646	14

*The amounts listed above reflect personnel compensation. The total cost of this program is included in the Office of Administration budget.

The three Members of the National Mediation Board administer the Railway Labor Act, which governs labor relations in the rail and air industries. The Board Members oversee the mediation of collective bargaining disputes, and by quorum they are responsible for determining whether and when to release the parties so that they may engage in self-help. If the Board determines that a labor dispute potentially threatens interstate commerce, the Members are responsible for notifying the President. The Members also are responsible for certifying the results of representation elections, and are responsible for all representation policy decisions, including, but not limited to, jurisdiction, merger issues, system and craft or class issues, and election interference. The Members also oversee the funding of arbitration of disputes over the interpretation of collective bargaining agreements in the rail industry. The Board Members provide overall leadership and strategic direction for the entire Agency, but the Board has delegated day-to-day oversight and administration to the Chief of Staff and the General Counsel. The Chief of Staff along with the Departmental Directors and General Counsel direct the program areas, which include: Office of Mediation and Alternative Dispute Resolution Services, Office of Legal Affairs, Office of Arbitration Services, and the Office of Administration.

Office of Mediation and ADR Services

Funding (in thousands) and FTE			
FY 2014 Estimate		FY 2015 Estimate	
\$	FTE	\$	FTE
2,469	17	2,599	17

*The amounts listed above reflect personnel compensation. The total cost of this program is included in the Office of Administration budget.

Overview of Mediation for Fiscal Year 2013

The RLA requires labor and management to exert every reasonable effort to make and maintain collective bargaining agreements. Initially, the parties must give notice to each other of their proposals for new or revised agreements. Direct Negotiation between the parties must commence promptly and continue in an effort to conclude a new collective bargaining agreement or to narrow their differences. Should parties fail to reach agreement during Direct Negotiations, either party or the parties jointly may apply to the NMB for Mediation. Following receipt of an application, the NMB promptly assigns a mediator to assist the parties in reaching an agreement. (An application for NMB mediation services may be obtained from the Agency’s web site at www.nmb.gov.)

The NMB is obligated under the Act to use its “best efforts” to bring about a peaceful resolution of the dispute. If such efforts do not settle the dispute, the NMB advises the parties and offers Interest Arbitration (proffers arbitration) as an alternative approach to resolving the remaining issues. If either party rejects this offer of binding arbitration, the NMB releases the parties from formal Mediation. This release triggers a thirty-day Cooling Off period, during which the Agency continues to work with the parties to achieve a consensual solution to the dispute. However, if an agreement is not reached by the end of the thirty-day period and the President of the United States does not establish an Emergency Board, the parties are free to exercise lawful self-help, which includes carrier-imposed working conditions or a strike by the union/organization.

A flow-chart of Mediation procedures can be found in the Mediation section of the NMB website at www.nmb.gov.

Overview of ADR Services for Fiscal Year 2013

In addition to statutory mediation and arbitration services under Sections 6 and 3 of the RLA, the NMB provides voluntary Alternative Dispute Resolution (ADR) services. ADR services include facilitation, training, grievance mediation, and an online dispute resolution (ODR) program, applying technology to the dispute resolution process.

The primary goal of the NMB's ADR program is to assist the parties in learning and applying more-effective, less-confrontational methods for resolving disputes. Another goal is to help the parties resolve more of their own disputes without outside intervention, and to use appropriate ODR technology to increase the efficiency and reduce the cost of dispute resolution efforts for the parties.

The NMB established its ADR Services program with the conviction that use of ADR and ODR methods would result in fewer cases progressing to statutory mediation, reduce and narrow the issues which the parties bring to mediation, and positively affect working relationships among the parties.

A complete description of and an application for ADR services may be found on the Agency's web site.

A chart reflecting the actual case numbers for FY 2012, FY 2013, and the five-year average, FY 2008-2012 follows:

	FY 2012 Actual	FY 2013 Actual	FY 2008 - FY 2012 Five Year Average
Cases Pending Start	114	124	92.2
Cases Docketed	85	78	76
Cases Closed	75	72	71.6
Cases Pending End	124	130	96.6

Highlights of Mediation Fiscal Year 2013

In FY 2013, while mediators continued to face difficult bargaining situations familiar from previous years, settlements became more difficult as legacy air carriers such as United Airlines and American Airlines continued to remake themselves through bankruptcies and mergers. Airline profits continued to be hard-earned, but profits of any size raise employee expectations at the bargaining table.

Carriers and organizations, in both air and rail, remained engaged in battles over higher wages and better benefits versus the ability to pay.

Once again, mediation was increasingly important in assisting the parties to reach Collective Bargaining Agreements, testing the skills of the mediator corps. Mediation cases docketed and closed in FY 2013 can be seen in the Case Reports and Tables.

There were no work stoppages in FY 2013.

Highlights of ADR Services Fiscal Year 2013

Alternative Dispute Resolution (ADR) personnel continued to develop and deliver a wide range of services, including training (T cases), facilitation (F cases), grievance mediation (GM cases), facilitated problem solving (FPS) and Online Dispute Resolution (ODR).

During FY 2013, ADR Services continued to offer special training programs and facilitation efforts outside of traditional grievance mediation and facilitation work. The promotion of the use of ODR tools and training has greatly increased demands for ADR services such as Online Workspaces for the parties, Online Video Conferencing, and programs in conjunction with the Office of Arbitration including online arbitrations and "submissions only" arbitrations. Additionally, a new grievance mediation video made in conjunction with the Airline Pilots Association (ALPA) has been uploaded to the NMB's Lyceum (online training site) accessible through the NMB website at www.nmb.gov.

Specific ADR cases docketed and closed in FY 2013 can be seen in the Case Reports and Tables.

ONLINE ARBITRATION

The NMB continued to develop and use its web-based video conferencing and document sharing capabilities. Virtually all executive sessions during FY 2013 for the NRAB were held using ODR technology.

PARTNERSHIPS

In partnership with Dominican University and Cornell University, the ADR staff designed and delivered a number of trainings and presentations that provided quality training and complemented the employees/students' career development. The partnerships have successfully created a shared value for all participants.

Forecast for FY 2014, FY 2015 and Beyond

In any given year, it is difficult to predict which disputes may require the assistance of the NMB. There are a variety of factors that cause some carriers and unions to agree to contract extensions instead of entering into Section 6 negotiations. Additionally, parties often reach agreement in direct negotiations and never require NMB assistance.

In the airline industry, several key contracts are either currently open for negotiation or will become amendable between now and the end of FY 2014. These contracts include: Federal Express/ALPA, UPS/Independent Pilots Association (IPA) and Southwest/Southwest Airlines Pilots' Association (SWAPA), TWU & IBT, Alaska/ALPA & IAM. In addition to new cases, there is still work to be done wrapping up the legacy carrier cases. We continue to work with United/Continental and the IAM, IBT and AFA on merged collective bargaining agreements. With the completed merger between US Airways and American airlines, our services to assist in the parties negotiating merged agreements has been requested.

On the railroad side, regional railroads, commuter railroads and AMTRAK will continue to be the focus of our efforts.

The following chart reflects the actual case numbers for FY 2013, and the estimated case numbers for FY 2014 and FY 2015:

	FY 2013 Actual	FY 2014 Estimated	FY 2015 Estimated
Cases Pending Start	124	130	120
Cases Docketed	78	78	80
Cases Closed	72	90	80
Cases Pending End	130	120	120

FY 2015 Mediation and ADR Performance Goals

Strategic Plan General Goal 1: Mediation & Alternative Dispute Resolution

Mediation and ADR will continue to foster the prompt and peaceful resolution of collective bargaining disputes in the airline and railroad industries.

I. Continue to develop standard training for mediators to ensure they are kept abreast of the latest trends in mediation and gain additional industry and technical knowledge in both air and rail.

FY 2013 Accomplishment: Through the use of Individual Development plans each mediator participated in training and development that met their individual needs. In addition, training covering industry specific topics was conducted during the bi-monthly mediator meetings. Partnerships with universities such as Dominican University and Cornell provided valuable and specialized training for NMB employees.

II. Improved processes to track the history of cases.

- Work with Arbitration and Representation to revise and improve the agency case management system.

FY 2013 Accomplishment: We continued to fine tune the capabilities of and information tracked in the case management system. New specialty reports to help in workload planning and historical research were developed and used. Revising the case management system and software is well underway and continues to be a high priority project.

III. Expand current ADR capabilities to address the changing labor environment in the airline and railroad industries and provide more varied assistance in dispute resolution both between and during contract negotiations.

- Continue to utilize partnerships with institutions of higher learning to improve, integrate and expand ADR process development and training.

FY 2013 Accomplishments: ADR continued to engage in outreach and promotion efforts with parties in the airline and railroad industries. The result of these efforts was a continued case-load requiring special dispute resolution efforts, and ADR/ODR presentations to carriers, organizations, and professional associations as well as to intra-government agencies. Again, the university partnerships listed above continued to provide positive and cost effective training opportunities.

- Review ADR services for potential deletions, additions, or changes.

FY 2013 Accomplishments: Each year ADR Services reviews its programs, assessing existing training and service delivery. The NMB expanded the Lyceum, an online learning resource that helps reduce travel costs for GM training. Working with Arbitration, ADR staff increased its promotion of expedited arbitration coupled with grievance mediation as an option for the parties. ADR also completed a video project in collaboration with the Air Line Pilots Association (ALPA) that provides a simulation of grievance mediation. The video is shown at face-to-face trainings and is accessible on the NMB Lyceum, linked from www.nmb.gov.

IV. Pursue interagency projects, including personnel exchange programs, to enhance labor-management relations throughout the airline and railroad industries.

FY 2013 Accomplishment: ADR Services continued to actively participate in the Interagency ADR Working Group to promote ADR in government. As a part of this effort, ADR Services collaborated with and provided training to other government agencies such as the DOT's Federal Railroad Administration.

V. Engage in outreach and education programs to ensure that the NMB is seen as a world leader in airline and railroad labor-management issues.

- Submit proposals for presentations at dispute resolution conferences.

FY 2013 Accomplishment: ADR staff members were involved in presentations to: the Association for Conflict Resolution, the Dispute Resolution Section of the American Bar Association, the Interagency Dispute Resolution Working Group Steering Committee, American Law Institute and Continuing Legal Education (ALI-CLE formerly ALI-ABA), the International Online Dispute Resolution Forum, and numerous other dispute resolution and legal organizations.

Presidential Emergency Boards

Overview of Fiscal Year 2013

Section 159A (Section 9A) of the Railway Labor Act (RLA) provides special, multi-step emergency procedures for unresolved collective-bargaining disputes affecting employees on publicly funded and operated commuter railroads. Section 160 (Section 10) of the RLA covers all other railroads and airlines.

When the National Mediation Board determines that a collective-bargaining dispute cannot be resolved in mediation, the agency proffers Interest Arbitration to the parties. Either labor or management may refuse the proffer and, after a 30-day cooling-off period, engage in a strike, implement new contract terms, or engage in other types of economic self help, unless a Presidential Emergency Board is established.

If the NMB determines, pursuant to Section 160 of the RLA, that a dispute threatens substantially to interrupt interstate commerce to a degree that will deprive any section of the country of essential transportation service, the NMB notifies the President. The President may, at his discretion, establish a PEB to investigate and report respecting such dispute.

Status-quo conditions must be maintained throughout the period that the PEB is impaneled and for 30 days following the PEB report to the President. If no agreement is reached, and there is no intervention by Congress, the parties are free to engage in self-help 30 days after the PEB report to the President.

Apart from the emergency board procedures provided by Section 160 of the RLA, Section 159A (Section 9a) provides special, multi-step emergency procedures for unresolved disputes affecting employees on publicly funded and operated commuter railroads. If the Mediation procedures are exhausted, the parties to the dispute or the Governor of any state where the railroad operates may request that the President establish a PEB. The President is required to establish such a board if requested. If no settlement is reached within 60 days following the creation of the PEB, the NMB is required to conduct a public hearing on the dispute. If there is no settlement within 120 days after the creation of the PEB, any party or the Governor of any affected state, may request a second, final-offer PEB. No Self-Help is permitted pending the exhaustion of these emergency procedures.

A chart reflecting the actual case numbers for FY 2012, FY 2013 and the five-year average, FY 2008-2012 follows:

	FY 2013 Actual	FY 2014 Actual	FY 2008- FY 2012 Five Year Average
Emergency Board Sec. 160	0	1	.5
Emergency Board Sec. 159A	0	1	0

Highlights of Fiscal Year 2013

No Presidential Emergency Boards were established during fiscal year 2013.

Forecast for FY 2014, FY 2015, and Beyond

The NMB cannot predict precisely the number of PEBs that may be created during a given fiscal year. Estimates are based, among other factors, upon prior experience and knowledge of the contentiousness of the parties in the bargaining process and mediation, the number of cases, and the degree of impact of any dispute. For example, the release of the Massachusetts Bay Commuter Railroad (MBCR) parties created a high probability of 2 PEB’s during FY 2011, for which the agency appropriately prepared. In the end, the parties reached agreements during the cooling off period, with no PEB being created. In FY 2012, there was a PEB involving NCCC and multiple unions. Activity leading up to a release and the creation of a PEB for Long Island Railroad and multiple unions occurred in FY 2013, but the PEB was established in FY 2014.

The following chart reflects the actual case numbers for FY 2013 and estimated case numbers for FY 2014 and FY 2015:

	FY 2013 Actual	FY 2014 Estimated	FY 2015 Estimated
Emergency Board Sec. 160	0	1	1
Emergency Board Sec. 159A	0	1	1

Office of Legal Affairs/Representation

Funding (in thousands) and FTE			
FY 2014 Estimate		FY 2015 Estimate	
\$	FTE	\$	FTE
2,708	10	2,788	10

Overview of Fiscal Year 2013

Under the Railway Labor Act (RLA), employees in the airline and railroad industries have the right to select a labor organization or individual to represent them for collective bargaining. Employees may also decline representation. An RLA representational unit is "craft or class," which consists of the overall grouping of employees performing particular types of related duties and functions. The selection of a collective bargaining representative is accomplished on a system-wide basis, which includes all employees in the craft or class anywhere the carrier operates in the United States. Due to this requirement and the employment patterns in the airline and railroad industries, the Agency's representation cases frequently involve numerous operating stations across the nation. [An application for a representation investigation may be obtained from the Agency's web site at www.nmb.gov.]

If a showing-of-interest requirement is met, the NMB continues the investigation, usually with a secret Telephone/Internet election. Only employees found to be eligible to vote by the NMB are permitted to participate in elections. The NMB is responsible for determining RLA jurisdiction, carrier status in mergers, and for ensuring that the requirements for a fair election process have been maintained without "interference, influence or coercion" by the carrier. If the employees vote to be represented, the NMB issues a certification of that result which commences the carrier's statutory duty to bargain with the certified representative.

In many instances, labor and management raise substantial issues relating to the composition of the electorate, jurisdictional challenges, allegations of election interference, and other complex matters which require careful investigations and ruling by the NMB.

The following chart reflects the actual case numbers for FY 2013, FY 2012, and the five-year average:

	FY 2012 Actual	FY 2013 Actual	FY 2008 - FY 2012 Five-Year Average
Cases Pending at Start	2	7	5
Cases Docketed	42	35	42.8
Cases Closed	37	35	42.2
Cases Pending at End	7	7	5.6

Highlights during Fiscal Year 2013

The NMB Office of Legal Affairs (OLA) continues to operate at a high level of quality and efficiency. As a review of customer service and performance standards will attest, the Agency's Representation program consistently achieves its performance goals, delivering outstanding services to the parties and the public.

The OLA staff closed 35 cases and also docketed 35 cases during the year. With the Agency resources requested for 2014 and 2015, it is estimated that 53 representation cases will be investigated and resolved in each year.

NMB PROCEDURES AND VOTING INSTRUCTIONS

On March 11, 2013, the Board issued a Notice regarding changes to the NMB's procedures as reflected by its May 15, 2012 NPRM and December 21, 2012 Final Rule. The Board stated that in response to amendments to the RLA it had amended its regulations pertaining to representation elections and run-off elections. NMB Rule 1206.2 changed the showing of interest requirements to 50 percent for all applicants. This change was also reflected in the NMB's Representation Manual (Manual) Sections 3.601 and 19.601. Manual Section 19.601 was also amended to provide that organizations have additional time to submit evidence of or to supplement the showing of interest.

NMB Rule 1206.1 changed procedure in run-off elections to provide that in the event a run-off election is authorized by the Board, the names of the two options which received the highest number of votes cast in the first election shall be placed on the run-off ballot and there will be no write-in option. The changes to the run-off election procedure were reflected in Manual Section 16.0. The Notice also clarified the Board's preponderance policy in Manual Section 9.212 to clarify that the Investigator will perform a preponderance check, will specify the time period for the check, and will inform the participants of the specific documentation required for consideration of whether employees who perform work in more than one craft or class are eligible to vote. Manual Section 2.4 was amended to require a carrier attestation of the accuracy of the List of Potential Eligible Voters.

Finally, the Notice stated that effective March 25, 2013, the Board's voting system for representation elections would be modified so that voters cast their vote using one confidential randomly generated twelve digit Access Code, instead of a Voter Identification Number (VIN) and a Personal Identification Number (PIN). This change was made to simplify the voting process while maintaining the highest levels of confidentiality and security.

CASE SUMMARIES

Representation disputes involving large numbers of employees generally are more publicly visible than cases involving a small number of employees. However, all cases require and receive neutral and professional investigations by the Agency. The NMB ensures that the employees' choices regarding representation are made without interference, influence or coercion. The case summaries that follow are examples of the varied representation matters which were investigated and resolved by the NMB during FY 2013.

AMERICAN AIRLINES/CWA

This representation dispute began in FY 2012 but was not resolved through a representation election until FY 2013. As discussed, the case presented issues involving the impact of the Federal Aviation Administration Modernization and Reform Act of 2012 amendments on pending representation cases. On December 7, 2011, the Communications Workers of America (CWA) filed an application seeking to represent the craft or class of Passenger Service Employees on American Airlines (American). At the time the application was filed, the employees in the craft or class were unrepresented. The application was filed prior to the passage of the Federal Aviation Administration Modernization and Reform Act of 2012 and the requirement of a 50 percent showing of interest to authorize an election. The election, however, was not authorized until after the 50 percent showing of interest became law. Following a lengthy challenge and objection period, on April 19, 2012, the Board authorized an election among the Passenger Service Employees on American. On April 23, 2012, American filed a Motion for Reconsideration of the Board's April 19, 2012 decision to authorize an election among American's Passenger Service Employees. American Airlines, Inc., 39 NMB 341 (2012). American asserted that the Board was required to impose the 50 percent showing of interest requirement to the CWA's application. On May 3, 2012, the Board held that American's Motion failed to demonstrate a material error of law or fact or circumstances on which the Board's exercise of discretion to modify the decision was important to the public interest. Specifically, the Board stated that both CWA and American relied on the 35 percent showing of interest requirement in place at the time of application, as dictated by the Board's Rules, Manual, and over 60 years of case law, and the Board's decision to apply the 35 percent showing of interest requirement was based on the authorization cards submitted by the cut-off date.

The Board declined to grant American's request that the Board seek the advice of the Attorney General of the United States, finding that such action would unnecessarily delay the representation election. Finally, the Board denied American's request to suspend the election.

On May 2, 2012, American filed a complaint in the United States District Court for the Northern District of Texas, seeking a declaratory judgment that the NMB erred in applying the 35 percent showing of interest standard to the CWA's application and stated that American intended to defer compliance with the Board's request that it submit mailing labels pending resolution of the court action.

On May 15, 2012, the CWA filed mailing labels for the Board's use in conducting the election. The CWA also requested that the Board require American to post any instructions regarding the voting process at all job locations and that the Board extend the voting period. The Carrier responded on May 22, 2012, stating that the NMB should reject the CWA's mailing labels and not proceed with an election until after the Court ruled. Both the CWA and the Carrier filed additional responses.

On May 17, 2012, the NMB filed a motion to dismiss for lack of subject matter jurisdiction, stressing the well-established rule that the Board's actions in representation disputes under the RLA are subject to judicial review only in the rarest of circumstances. *Leedom v. Kyne*, 358 U.S. 184, 188-90 (1958).

On June 6, 2012, the Board set new election dates and stated its policy to resolve representation disputes expeditiously unless the Board finds it necessary to delay due to unusual or complex issues or is barred by Court order. The Board also noted that the mere filing of a motion seeking declaratory judgment does not halt the Board's proceedings. The Board stated that since American did not request a stay, nor did the Court issue a stay, the Board did not find it necessary to further delay the election. Furthermore, the Board exercised its authority pursuant to 45 U.S.C. § 152, Ninth, to "utilize any appropriate method" and stated that it would proceed with the election using the mailing labels provided by the CWA.

On June 11, 2012, American sought a temporary restraining order and a preliminary injunction. On June 13, 2012, the United States District Court for the Northern District of Texas denied the Board's motion to dismiss the complaint, granted American's motion for a temporary restraining order, and calendared a consolidated hearing on American's motion for a preliminary injunction and a trial on the merits for June 21, 2012.

The District Court held the hearing on American's request for declaratory and injunctive relief on June 21, 2012. On June 22, 2012, the District Court issued an Opinion and Order granting American both declaratory relief and a permanent injunction barring the NMB from applying the 35 percent showing of interest standard in the instant case. On that same date, the court issued a corresponding final judgment and order denying the NMB's request for a stay pending appeal.

The NMB appealed the Order and on July 13, 2012, the United States Court of Appeals for the Fifth Circuit granted the NMB's motion to expedite the appeal. On October 3, 2013, almost immediately following oral argument, the Fifth Circuit held that the district court had erred in exercising jurisdiction since the *Leedom v. Kyne* exception is not applicable "on the facts of this case." Accordingly, the court vacated the district court's judgment in its entirety and remanded the case to be dismissed for lack of subject matter jurisdiction.

Following the Fifth Circuit's decision, an election was conducted among the employees in the craft or class of Passenger Service Employees at American. The tally showed that a majority of valid votes were cast for no representation and the Board issued a dismissal on January 16, 2013. *American Airlines, 40 NMB 112 (2013)*.

UNITED AIRLINES/TWU/IBT

On May 31, 2012, the Transport Workers Union (TWU) filed an application requesting that the NMB investigate whether United Air Lines (United), Continental Airlines (Continental), and Continental Micronesia (CMI) are operating as a single transportation for the craft or class of Flight Simulator Technicians. At the time the application was filed, these employees were represented by TWU at pre-merger Continental and by the International Brotherhood of Teamsters at pre-merger United. The functions of Flight Simulator Technicians at CMI were performed by Continental employees. On January 15, 2013, the Board found in *United Air Lines/Continental Airlines, 40 NMB 93 (2013)* that United, Continental and CMI comprised a single transportation system for the craft or class of Flight Simulator Technicians based on its investigation, including the submissions from the participants.

On September 13, 2012, IBT filed an application in a single transportation system case involving the craft or class of Mechanics and Related Employees at United, Continental, and CMI. IBT represented the employees in the craft or class at both pre-merger United and pre-merger Continental.

On May 15, 2013, the NMB found a single transportation system for the craft or class of Mechanics and Related at United, Continental, and CMI. *United Air Lines/Continental Airlines, 40 NMB 205 (2013)*. In that decision, the Board also addressed craft or class issues and noted that Flight Simulator Technicians part of the Mechanics and Related Employees craft or class at pre-merger United are properly part of the Flight Simulator Technicians craft or class at the merged United. *United Air Lines/Continental Airlines, 40 NMB 93, 106 (2013)*.

On June 18, 2013, the Board notified IBT, TWU and United that unusual circumstances warranted waiving the time limits for supplementing the showing of interest and intervening following the single carrier determination in the Flight Simulator Technician case. United Air Lines/Continental Airlines, 40 NMB 226 (2013). After noting that it had not received an application supported by a 50 percent showing of interest, that confusion may have resulted from the rule change and the fact that this was among the first cases filed following the amendments to the RLA and the Board’s rulemaking, the Board stated that it would accept an application supported by the requisite showing of interest for 30 days from the date of this determination. This waiver would in the Board’s view fulfill its obligation to determine the representative of the Flight Simulator Technicians. The Board also stated that “[t]his determination serves as a reminder that the Board is unable to authorize an election following a merger unless it receives an application supported by a 50 percent showing of interest. If the initial applicant has an insufficient showing of interest, the Board will dismiss the application unless an incumbent or intervener files an application.” 40 NMB at 226.

On June 20, 2013, the IBT filed an application. On August 1, 2013, the Board authorized an election among Flight Simulator Technicians at the merged carrier. Since TWU, the incumbent organization at pre-merger Continental did not meet the showing of interest requirements; TWU would not appear on the ballot.

The following chart reflects the actual case numbers for FY 2013, and the estimated case numbers for FY 2014 and FY 2015:

	FY 2013 Actual	FY 2014 Estimated	FY 2015 Estimated
Cases Pending Start	2	1	2
Cases Docketed	34	36	39
Cases Closed	35	37	41
Cases Pending End	1	2	2

FY 2015 Representation Performance Goals

Strategic Plan General Goal 2: Representation

The Office of Legal Affairs (OLA) will promptly investigate representation disputes and definitively resolve representation status for collective bargaining purposes, using the most efficient and client-friendly methods available.

I. Expand the use of electronic systems to further streamline and reduce cost.

- Continue to integrate Representation data into the agency Corporate Memory.
- Work with ICT to develop electronic system for Freedom of Information Act (FOIA) requests.

FY 2013 Accomplishments: OLA primarily accepts electronic submissions in representation cases. OLA started accepting jurisdictional referrals from the National Labor Relations Board electronically. OLA implemented an electronic system for FOIA requests.

II. Develop outreach opportunities in the legal, labor relations and alternative dispute resolution communities.

- Submit proposals for participation in American Bar Association (ABA) - sponsored conferences.
- Develop appropriate CLE and other training opportunities for RLA practitioners.

FY 2013 Accomplishments: OLA continued its outreach to the legal, labor relations and alternative dispute resolution communities. OLA attorneys helped plan the agenda for the ABA Railroad and Airline Labor Law Section's Mid-winter meeting; participated in a panel at the National Academy of Arbitrators Annual Meeting; planned and participated in the ABA's Labor and Employment Section's Annual CLE Meeting; planned and participated in the Association of Labor Relation Agencies' Annual Conference and Advocate's Day; and contributed to a three-day Continuing Legal Education seminar on the Railway Labor Act sponsored by ALI-CLE.

III. Implement and maintain concise, relevant reference materials and make them readily available to the public, thereby reducing the number of work-hours used to research and respond to inquiries.

- Update and improve the material available on the NMB web site.
- Revise NMB's Representation Manual.

FY 2013 Accomplishments: OLA Attorneys completed work on a "pocket part" supplement updating the 3rd Edition of the authoritative treatise on Railway Labor Act Law published by the Bureau of National Affairs. OLA attorneys updated the NMB's Representation Manual and website as a result of changes to the Board's voting process and changes to the Board's procedures.

IV. Maintain continuous industry and agency communication at a level that provides early preparation for Presidential Emergency Board management.

- Coordinate efforts with the Office of Mediation Services to identify potential disruptions which may lead to a Presidential Emergency Board.

FY 2012 Accomplishment: The Office of Legal Affairs continually coordinates with the Office of Mediation and ADR Services to evaluate potential disruptions in the industry. OLA attorneys served as counsel to PEB 243.

Office of Arbitration Services

Funding (in thousands) and FTE			
FY 2012 Estimate		FY 2014 Estimate	
\$	FTE	\$	FTE
3,797	6	3,572	6

Overview of Arbitration for Fiscal Year 2013

GRIEVANCE ARBITRATION

Grievance Arbitration is a process for resolving disputes regarding the interpretation or application of an existing collective bargaining agreement. Grievances, known as “minor disputes” under the RLA, must be handled through Grievance Arbitration if not otherwise resolved, and cannot be used by the parties to trigger self-help actions.

The NMB has significant administrative responsibilities for the three types of grievance arbitration in the railroad industry. These types include those of the National Railroad Adjustment Board as well as arbitration panels established directly by the labor-management parties at each railroad: Public Law Boards and Special Boards of Adjustment. Grievance Arbitration in the airline industry is accomplished at the various System Boards of Adjustment created jointly by labor and management at the parties’ expense.

The NMB furnishes panels of prospective arbitrators for the parties’ selection in both the airline and railroad industries. [A request to be placed on the NMB Roster of Arbitrators may be obtained from the Board’s web site at www.nmb.gov. See Forms on the Documents page.] The NMB also has substantial financial responsibilities for railroad arbitration proceedings in that it pays the fees and travel expenses of the arbitrators. Grievance Arbitration decisions under the RLA are final and binding with very limited grounds for judicial review.

INTEREST ARBITRATION

Interest Arbitration is a process to establish the terms of a new or modified collective bargaining agreement through arbitration, rather than through negotiations. Although the RLA provides an effective process for Interest Arbitration, its use is not statutorily required.

The NMB offers the parties the opportunity to use binding Interest Arbitration when the Agency has determined that further Mediation efforts will not be successful. In addition, the parties may directly agree to resolve their collective bargaining dispute or portions of their dispute through Interest Arbitration.

The NMB generally provides the parties with panels of potential arbitrators from which they select an individual to resolve their dispute; in some instances however, the parties agree to allow the NMB to directly appoint an arbitrator. Interest Arbitration decisions are final and binding with very narrow grounds for judicial appeal.

A chart reflecting the actual case numbers for FY 2012, FY 2013, and the five-year average, FY 2008-2012 follows:

	FY 2012 Actual	FY 2013 Actual	FY 2008 - FY 2012 Five year Average
Cases Pending at Start	2,384	2,084	4,190.8
Cases Docketed	3,569	5,230	4,566.8
Cases Closed	3,869	3,737	5,255.8
Cases Pending at End	2,084	3,357	3,501.8

Highlights of Arbitration during Fiscal Year 2013

The Office of Arbitration Services directed its attention to promoting a more efficient Section III process, thereby fostering faster resolution of minor disputes (grievances). The NMB made a well-received move in this regard during FY 2013 by targeting the backlog of grievance arbitration cases for resolution and increasing the number of arbitrators available to hear and decide cases and introducing more technology to the administrative processing of cases with its arbitrators. The estimated 4,328 cases pending at the end of FY 2013 is 2,244 more than cases pending at the end of FY 2012. The increase is attributed to the recently concluded national round of bargaining among the Class I freight railroads which has caused the filing of more grievances concerning the applicability of certain provisions of the agreement.

The NMB Arbitration program continued its efforts to modernize the processing of minor disputes. The agency improved its already successful program of using the NMB website as a source for many of the forms and documents needed by arbitrators and the parties.

In January 2013, the NMB reviewed the Arbitrators Workspace, which has been in operation for a year. The Arbitrators Workspace is a web based information system which gives arbitrators online access to their case information. This system is used by the arbitrators to request work and submit requests for compensation for work. The Arbitrators Workspace replaced numerous hard-copy forms.

The level of grievance activity handled through the NMB Arbitration program increased as compared to the activity in FY 2012. During FY 2013, the parties brought 6,576 cases to arbitration compared to 3,569 cases in FY 2012. In FY 2013, 4,332 cases were closed compared to 3,869 in FY 2012, leaving 4,328 cases pending at the end of FY 2013.

On several occasions during the fiscal year, the Agency met with representatives from the labor organizations and carriers to review its caseload. Carriers included Canadian National Railroad, Norfolk Southern Corporation, Union Pacific Railroad, Burlington Northern Santa Fe, Kansas City Southern Railway and CSX Transportation. The Office of Arbitration Services met with all of the labor organizations representing employees in the railroad industry. NMB efforts have been directed to facilitating a more efficient Section III process under the RLA, thereby reducing the backlog and furthering the RLA objective of prompt resolution of minor disputes.

The NMB continued its efforts designed to improve the arbitration of grievances under Section III of the Railway Labor Act. The Board had five ambitious goals for this transformation: (1) to ensure that the parties receive timely and outstanding arbitration services from the Board's staff and its contract arbitrators; (2) to ensure that the Board uses e-business capabilities to the maximum extent possible; (3) to ensure that Board procedures are improved through a rulemaking process involving public input; (4) to ensure that arbitrators schedule, hear, and decide cases in a timely manner; and (5) to ensure that NMB resources are used wisely and in accordance with Federal regulations and sound accounting practices.

ANNUAL CASE AUDIT

In March 2013, the NMB conducted an intensive audit of all cases pending before the NRAB. The results of the audit allowed the NMB to update the status of its cases pending at the NRAB.

In June 2013, the NMB conducted an intensive audit of all cases pending cases before Public Law boards and Special Boards of Adjustment. The Agency provided the Class-I freight railroads, commuter railroads, regional railroads and all labor organizations representing railroad employees with a list of cases pending on these boards. The feedback from the audit enhanced the accuracy of the NMB case management system.

ALTERNATIVE DISPUTE RESOLUTION IN THE RAILROAD INDUSTRY

The NMB actively promoted grievance mediation as an alternative means of dealing with grievances in the railroad industry by reaching out to the largest Class-I freight carriers and the labor organizations. During FY 2013, Arbitration Services made presentations at a meeting of Class-I freight railroads and the labor organizations. The NMB anticipates continuing this initiative during FY 2014.

ARBITRATOR PRODUCTIVITY

The NMB continued its efforts to increase arbitrator productivity as a result of changing the six-month rule to a three month rule. Arbitrators who have not issued a decision within three months of a hearing are contacted monthly and encouraged to issue those decisions.

The Agency improved its already successful program of using the NMB website as a source for many of the forms and documents needed by arbitrators and the parties. The NMB used the website to keep the parties and the public informed regarding Section III activities. Arbitrators, parties, and the public use the website to obtain information and forms instantaneously. In FY 2014, the agency will post an improved Arbitrators Caseload Report on the NMB website. The report shows by arbitrator, grievance cases of railroad employees the parties have chosen to pursue. It also indicates whether a case is late (i.e., a decision has not been rendered within 3 months of when a case was heard by the arbitrator). The Arbitrator Caseload Report is real-time in that it has a direct link to an NMB database reflecting updates as they are made by Arbitration Services staff. The availability of information on the website reduces the staff time which ordinarily would be required to respond to questions and requests. The NMB has also placed an NMB NRAB Open Case Report on the website. This report lists all of the open cases at the NRAB. With this report and the Arbitrators Caseload Report, the NMB's entire Section III caseload is on the NMB website (www.nmb.gov).

AGED CASES

In March 2013, the Board commenced a review of all open cases on Public Law Boards and Special Boards of Adjustment which were two years and older. In previous years, the NMB reviewed cases three years and older. The Board worked with the parties to obtain the status of the cases and to encourage the parties to either settle the cases or schedule the cases for hearing. As a result, the Board was able to close the overwhelming majority of these cases and have the remaining few scheduled for hearings. With the exception of the few scheduled for hearings, the Board was able to clear its records of all cases over two years.

The Board contacted the NRAB to obtain the status of their cases over three years. This project is ongoing and will lead to the reduction of the old cases at the NRAB in fiscal year 2014.

PAY PER-CASE PROJECT

The NMB expanded a project in which arbitrators were paid on a per-case basis, instead of the normal per-day compensation. The National Mediation Board continued its efforts to further reduce the backlog of cases. The NMB now defines the administrative backlog as all cases over two years. At the end of FY 2013, approximately 96 percent of the pending cases on public law boards and special boards of adjustment were less than two years old.

KNOWLEDGE STORE

The NMB further expanded its use of technology at the NRAB. All NRAB awards are entered into the Knowledge Store at the same time that they are distributed to the parties. Parties have been trained to and now enter awards into the Knowledge Store. In some instances, valid awards are entered within 24 hours of completion.

Forecast for FY 2014, FY 2015, and Beyond

The NMB projects that the number of cases pending at the end of FY 2013 and FY 2014 will increase. This projection is driven by two assumptions: that the number of newly docketed cases will be 4,659 which is the five year average for new cases; and, that the number of closed cases will be 3,821, the average number of cases closed for the last two fiscal years.

The following chart reflects the actual case numbers for FY 2013 and estimated case numbers for FY 2014 and FY 2015:

	FY 2013 Actual	FY 2014 Estimated	FY 2015 Estimated
Cases Pending at Start	2,084	3,577	4,161
Cases Docketed	5,230	4,387	4,387
Cases Closed	3,737	3,803	3,803
Cases Pending at End	3,357	4,161	4,745

FY 2015 Arbitration Performance Goals

Strategic Plan General Goal 3: Arbitration

Arbitration will promote the prompt and orderly resolution of grievance disputes in the railroad and industries.

I. Modernize and update procedures related to NRAB cases (Section 3) and other arbitral forums (public law boards and system boards of adjustment).

- Conduct a business process review of NRAB case handling.

FY 2013 Accomplishment: An audit was conducted of the NRAB administrative caseload processes, and procedures governing public law boards and system boards of adjustments, were reviewed with the goal of streamlining procedures. Grievance mediation was introduced to successfully resolve several aged cases at the NRAB.

II. Foster a "best practices" approach to managing the contract arbitrator roster.

- Move arbitrator roster information to a new case management system.
- Improve the guidelines for accepting applicants to the roster and retaining competent arbitrators.

FY 2013 Accomplishment: The NMB instituted a project to improve the Roster of Arbitrators. An NMB Arbitrators' Caseload Report was modified for FY 2014 on the NMB website, along with the official Roster of Arbitrators.

III. Foster a "best practices" approach to managing arbitrator billing and payment.

- Investigate and develop a more equitable and efficient arbitrator billing process.

FY 2013 Accomplishment: The NMB initiated and implemented several special compensation projects, establishing more boards in which arbitrators were paid on a per-case basis with an increase in compensation for online arbitration. These projects will be evaluated in FY 2014. NMB also implemented the Arbitrators' Workspace which improved the billing and payment process.

IV. Integrate current technology into the arbitration process.

- Continue to integrate Arbitration business processes into the NMB Corporate Memory program.
- Cooperate with Mediation, ADR, and Representation to improve the agency case management system.
- Continue to encourage the parties to use the agency's web-based video-conferencing system to reduce costs for arbitration hearings and adoption conferences

FY 2013 Accomplishment: The NMB trained several arbitrators, railroad management officials and labor officials in the use of Online Video Conferencing, and several hearings were conducted using OVC during Fiscal Year 2013.

Office of Administration

Funding (in thousands) and FTE			
FY 2014 Estimate		FY 2015 Estimate	
\$	FTE	\$	FTE
6,566	7	6,614	7

*The amounts listed above includes the total cost for the Office of the Board, Office of Mediation/ADR Services and Office of Administration.

Overview of Administration for Fiscal Year 2013

The Office of Administration (OA) provides operational management, leadership and support for the entire agency. These services include: strategic planning and budgeting; accounting and finance; human resources management; procurement and contracting; information technology management and telecommunications; property and space management; and office support.

Highlights of Administration during Fiscal Year 2013

HUMAN CAPITAL

As the NMB moves to take advantage of online services in the personnel arena, the agency is increasing efficiency and effectiveness, the results of which can be seen in the agency hiring process. For internal posting, the NMB routinely completes the hiring process within 30 days. In cases involving delegated examining positions, the NMB continues to show movement toward the 80 day standard.

The NMB continues to use the E-verify system to ensure that all new appointees are eligible to work. In addition, we conduct three individual surveys for all new hires to assess their intake experience. The results help to improve the training and orientation process for not only the new hires but also as a refresher for our current staff.

Succession planning continues to be challenging for the NMB. The agency size (51 employees when fully staffed) dictates that most of the staff are in "single incumbent" positions: i.e., each employee is the primary provider of a specific service or skill. To address succession planning in this environment, the NMB has adopted three strategies. First, the agency engages in cross-training for all positions, so that vacancies or temporary vacancies can be filled by other NMB staff.

Second, the training plans, both through the IDP's and the department training plans, stress career development, including details and shadow assignments, as a way to broaden skills and prepare for job transitions. Third, the agency uses internal details when possible to broaden skills and give staff exposure to a range of work possibilities within the agency.

The NMB is working with the Office of Personnel Management and the Department of Interior to improve its human capital operations and payroll. This will continue the NMB's objective of providing all its services electronically.

INFORMATION TECHNOLOGY

In accordance with the NMB's Capital Planning Plan, the NMB reviewed options for its information technology equipment while taking steps to move into cloud computing. The NMB has implemented Google Mail, Google Drive and Google Calendar, eliminating the majority of on-site servers. The NMB is in the process of moving the NMB's Corporate Memory and Knowledge Store to a cloud platform consistent with government requirements.

CONTINUITY OF OPERATIONS

The NMB participated in the Eagle Horizon 2013 National Level Exercise which included a tabletop exercise to test readiness to exercise objectives related to alert and notification, communications, devolution of control and authority, and reconstitution. Eagle Horizon 2013 is an internally evaluated exercise focusing on reviewing basic continuity procedures, as well as improving understanding of devolution, extended operations, and reconstitution concepts. As part of this exercise, the NMB identified program strengths and areas for improvement.

FINANCIAL PERFORMANCE

In May 2013, the NMB transitioned from the GLOWS accounting system to an Oracle financial management system under an interagency agreement with the Bureau of Public Debt (BPD). The NMB has entered into an agreement with the BPD to improve our financial reporting and processing by moving to a newer and more robust online platform, managed for the NMB under contract by BPD. This agreement will place at our fingertips up-to-date financial information that can be used to make efficient financial decisions.

The Office of Administration provides budget planning, budget development, and oversight of budget execution. In addition, OA is responsible for the maintenance of the Agency's core accounting system; financial reporting to the Office of Management and Budget (OMB) and Treasury; payments to vendors for goods and services received; issuing bills; and the preparation of the Agency's financial statements which are audited on an annual basis.

The NMB continues to work with an outside firm to audit its financial statements. For the sixteenth consecutive year, Allmond & Company reported that the financial statements were presented fairly, in all material respects, and in conformity with U.S. generally accepted accounting principles (GAAP) for Federal agencies. With the lapse in funding, the deadline for the audited financial statements was revised. Once completed, the FY 2013 audit report will be included in the NMB Performance and Accountability Report which will be posted on the agency's website at www.nmb.gov. A material weakness initially identified in the FY 2011 report was reduced to a significant deficiency, and with the implementation of new processes and procedures in arbitration, this deficiency has been eliminated.

PROCUREMENT

With the new partnership with the BPD, in May 2013 the NMB began utilizing PRISM to electronically create requisitions, purchase orders, and inter-agency agreements. This system along with new processes and procedures is ensuring that the NMB complies with the applicable rules and regulations governing contracting.

TRAVEL

In July 2013, the NMB transitioned to Concur Government Edition (CGE) Travel Services. CGE is an electronic online system which will reduce the per ticket cost for travelers. This system provides an electronic process for authorization, vouchers, and reimbursement.

ELECTRONIC GOVERNMENT

The NMB provides electronic access to all its policies, and the agency continues to use the NMB website to provide information to its internal and external customers. The website provides access to our internal customers by allowing them to access NMB internal forms, the Knowledge Store (providing current and historical information to the public and our external customers), and the NMB Lyceum.

NMB CORPORATE MEMORY

In FY 2013, the NMB continued to refine its records and document management program, improving the search engine and further integrating the records database with the agency case management system.

NMB KNOWLEDGE STORE

NMB staff continued to build and improve the public archive of information available through the NMB Knowledge Store. Currently, the NMB Knowledge Store contains over 100,000 documents in an easily searchable format, including arbitration awards, representation decisions, annual reports, PEB reports, and collective bargaining contracts. During FY 2013, the NMB completed development of a new Knowledge Store interface that speeds recovery of documents and frees the data to reside in the new cloud environment being created by the agency.

SUSTAINABILITY

The National Mediation Board is committed to reducing greenhouse gases in accordance with Executive Order 13514 (E.O.). During this year, 63 percent of the NMB employees regularly used public transportation. The Agency provides Alternative Work Schedules (AWS) and Telework programs to its employees to reduce the number of commuters. Currently, 37 out of 49 employees participate in the Smart Benefits program for public transportation. We also purchased new environmentally efficient copiers that generate 90 percent less waste than traditional copiers.

FY 2015 Administration Performance Goals

Strategic Plan General Goal 4: Administration

Provide efficient and responsible stewardship of the NMB's fiscal and human

I. Recruit, retain and develop a highly skilled, motivated and diverse workforce that advances NMB's mission and embraces its core values; increase staff development and training; and increase outreach activities to recruit a diverse candidate pool.

FY 2013 Accomplishment: The NMB centralized the training fund, which has increased the number of training opportunities while reducing total cost. The Chief of Staff approves all training requests. With the centralization, we are able to see all training being requested, monitor compliance with IDP's and department training plans, and ensure that training goals are being met in the most cost effective way. The NMB continues to offer training courses for our employees through the small agency council partnership. The agency also built relationships with major universities (such as Dominican University) where free and discounted training courses for our employees are offered. We will continue to look for innovative ways to offer training to our employees to help them develop the necessary skills for them to remain successful in their fields.

II. Embrace prudent outsourcing to enhance capabilities in human resources, budget, and finance.

FY 2013 Accomplishment: The NMB completed its migration to the Bureau of Public debt to handle the agency's financial management system and integrated PRISM (a web based procurement system) into its procurement process. During the next fiscal year, the NMB will investigate transitioning its human resources processing to a cross servicing agency, which will allow for total electronic processing.

III. Embrace cloud options for agency ICT functions, including e-mail and agency records and documents.

FY 2013 Accomplishment: The NMB completed its transition into the cloud environment for e-mail, calendars, contacts, and records. With this change, the NMB eliminated the majority of its in-house servers and made possible a revision and reduction in price of its network support contract.