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## CHAIRMAN'S LETTER

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**January 6, 2005**

Throughout FY 2004 the National Mediation Board continued to maintain an exceptional level of service delivery to parties in the Airline and Railroad industries, and to the citizens of the United States. The Board's programs in Mediation, Representation, Arbitration, and Alternative Dispute Resolution served as models of efficient, effective public service. The public information and administrative functions of the Board continued as models of sound financial and information management.

For the first time this year the National Mediation Board is combining in its Annual Report the narrative of agency achievements and all required agency reports, including the NMB Performance Report, the NMB Financial Report, and the NMB Internal Control Report.

The NMB Performance Report includes a comprehensive set of performance goals and results for each of the agency's mission areas. In each mission area the FY 2004 reports show outstanding performance. For example, Mediation assisted parties in reaching agreement in contract negotiations within 45 days or fewer in 92% of mediation cases. Representation and Alternative Dispute Resolution were highly successful in meeting their performance goals. In Arbitration, the Board radically improved both the delivery of Arbitration services and the efficiency of its administrative procedures within Arbitration.

The NMB Financial Report presents another in a seven-year string of unqualified opinions from financial auditors. An unqualified opinion is the highest rating an agency can receive from its auditors.

The NMB Internal Control Report shows no pending non-conformance or material weakness issues in any of NMB's departments.

All of the reports within this Annual Performance and Accountability Report, and the descriptions of agency activity that compliment the reports, indicate that the National Mediation Board has adopted and supported the President's Management Agenda in all of the government-wide initiatives: Strategic Management of Human Capital, Competitive Sourcing, Financial Performance, Electronic Government, and Budget and Performance Integration.



**Harry R. Hoglander**  
*Chairman*

# NMB MISSION STATEMENT

The National Mediation Board (NMB), established by the 1934 amendments to the Railway Labor Act (RLA) of 1926, is an independent agency performing a central role in facilitating harmonious labor-management relations within two of the nation's key transportation sectors: the railroads and airlines. Pursuant to the RLA, NMB programs provide an integrated dispute resolution process that effectively meets the NMB's statutory mandate to minimize work stoppages in the railroad and airline industries by securing voluntary agreements. The NMB's integrated processes are designed to promote three goals:

ASSOCIATION  
HEASTAIRL  
PAKISTANINTE  
LINES/MIDWESTEXP  
ATLANTICCOASTAIRLINES/  
NTILLEANAIRLINES/NORTH  
IRWAYS/BWIAINTERNAT  
N/TCU-AMER  
ALWORKERS  
OOKRAILRO  
CCAIRPILOT  
ASSOCIATIO  
N/PROFES  
TEMSAVIATIC  
IANA HARBO  
IRCARGO/N  
OUTH CAROL  
LANDENER  
OCIATIONOF  
VMITTEE/CO  
DERPATROL  
ANA&DELTA  
AINDISPATC  
TRANSPORT  
EXECUTIV  
YSEXPRESS  
ION/SOUTHCENTRALFLORIDAEXPRESS/ATA  
/DENVERRIOGRANDE&WESTERN/COLI  
ASTRAILWAY/ATLANTIC&GULF/GEORGIA&FLC  
IEN/STEELTON&HIGHSPIRE/RAILROAD/F

The resolution of disputes arising out of the negotiation of new or revised collective bargaining agreements;

ERTWORKLW  
ASSOCIATION/TRADEWIND  
OUTHEASTAIRLINES/BIGSKY  
ES/PAKISTANINTERNATIONALAIRLIN  
ES/MIDWESTEXPRESSAIRLINES/A  
TICCOASTAIR  
EANAIRLINE  
JAYS/BWIA  
CORFUNG  
AIRWAYS/V  
LWAYANDAIF  
ON/HOTELE  
IC&ARTICRA  
CIATION/FEDE  
IONALPILOTAS  
ONALFLIGHT  
NGROUP/JETLIN  
ORBELTRAILROA  
GO/NORTHERNAI  
CAROLINACENTR  
ANDENERGYWORK  
OCIATIONOFCOMM  
COMMITTEE/COM  
ABORDERPATRO  
S/LOUISIANA&DEI  
IDWESTTRAINDI  
TIONA&GCTR  
MAYLABORE&EXECUTIVESASSOCIATION/R  
R/USAIRWAYEXPRESS/GRANDAIREEXPRESS  
SOUTHCENTRALFLORIDAEXPRESS/ATA/COMMI  
VVERRIOGRANDE&WESTERN/COLUMBU  
AILWAY/ATLANTIC&GULF/GEORGIA&FLORIDAF

The effectuation of employee rights of self-organization where a representation dispute exists; and

VERYWORLDWID  
ASSOCIATION/TRADEWIND  
SOUTHEASTAIRLINES/BIGSKYAI  
NES/PAKISTANINTERNATIONALAIRLINE  
ES/MIDWESTEXPRESSAIRLINES/AI  
COASTAIR  
LIN  
OASTAIRLIN  
NAIRLINES/  
IRWAYS/VI  
LWAYANDAIF  
ON/HOTELE  
IC&ARTICR  
ASSOCIATION/FE  
OCIATION/NATIONALPIL  
ROFESSIOANALFL  
ISAVIATIONGROUP/JETLIN  
AHARBORBELTRAILROAD/A  
NORTHERNAIRCARG  
NTRALRAILRO  
RSINTUFLOK  
RAILEMPLO  
CORPDBAA  
APITALCARG  
CUSTOMERS  
BAMASTATEC  
EMPLOYEES/DOI  
AIRWAYEXPRESS/GRANDAIREEXPRES  
CENTRALFLORIDAEXPRESS/ATA/CO  
GRANDE&WESTERN/CO  
P&GULF/GEOR

The resolution of disputes over the interpretation or application of existing agreements.

## Annual Performance and Accountability Report

FY 2004

<b>CONTENTS</b>	<b>01</b>	Chairman's Letter
	<b>02</b>	Mission Statement
	<b>03</b>	Table of Contents
		<b>Management Discussion and Analysis</b>
	<b>05</b>	Members and Staff
	<b>09</b>	Highlights
	<b>10</b>	The Railway Labor Act and NMB Functions
	<b>14</b>	Mediation and Alternative Dispute Resolution (ADR)
	<b>20</b>	Representation
	<b>26</b>	Arbitration Services
	<b>30</b>	Presidential Emergency Boards
	<b>32</b>	Management and Support
	<b>37</b>	<b>Performance Plan and Results (GPRA)</b>
		<b>Financial Reports (FFMIA)</b>
	<b>42</b>	Audit Reports
	<b>47</b>	Financial Statements
	<b>51</b>	Summary, Accounting Policies
	<b>52</b>	Notes, Accounting Statements
	<b>57</b>	<b>Internal Controls Evaluation (FMFIA)</b>
		<b>Appendices</b>
	<b>65</b>	1. National Railroad Adjustment Board
	<b>67</b>	2. Section 3 Tribunals and Arbitrators Selected
	<b>70</b>	3. Mediation, ADR, and Representation Tables
	<b>78</b>	4. Mediation, ADR, and Representation Case Record
	<b>89</b>	5. Registry of Board Members
	<b>90</b>	6. Glossary/Acronyms

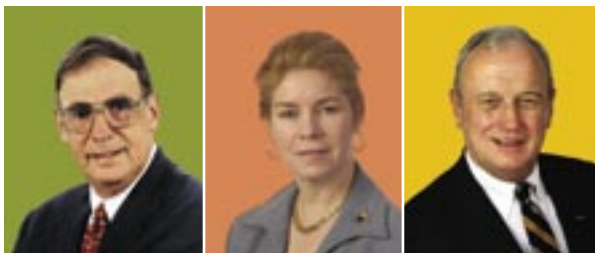




**FY 2004**

# **MANAGEMENT DISCUSSION AND ANALYSIS**





**HARRY R. HOGLANDER**  
*Chairman*

**READ VAN DE WATER**  
*Member*

**EDWARD J. FITZMAURICE, JR.**  
*Member*

## BOARD MEMBERS

### **HARRY R. HOGLANDER, *Chairman***

Harry R. Hoglander became Chairman of the National Mediation Board, effective July 1, 2004. Chairman Hoglander was sworn in as a Board Member on August 6th, 2002, after being nominated by President George Bush on July 1st, 2002, and unanimously confirmed by the United States Senate on August 1st, 2002.

Prior to joining the Board, Chairman Hoglander served as a Legislative Specialist in the office of Congressman John Tierney of Massachusetts. His responsibilities were: Transportation issues including aviation, rail and maritime, Labor, Defense and Veterans Affairs.

Chairman Hoglander has an extensive background in the aviation industry. He flew as a Captain for Trans World Airline (TWA) and was rated to fly Boeing 707, 727, and 747's in his 28 year career with TWA. Additionally, while with TWA, he was elected Master Chairman of TWA's Master Executive Council. He was also elected Executive Vice-President of the Air Line Pilots Association. After leaving TWA, Chairman Hoglander was named Aviation Labor Representative to the United States Bi-Lateral Negotiating Team by then Secretary of State James Baker.

Chairman Hoglander is a decorated, retired member of the United States Air Force. He enlisted in the Air Force and served as a gunner in a B-29 in the Korean War. Upon his return, with help from the GI bill, he earned his undergraduate degree and a commission in the US Air Force. He served with distinction in multiple active duty assignments. After leaving the Air Force, Chairman Hoglander joined the Massachusetts Air National Guard and qualified to fly Jet Fighters. He retired as a Lieutenant Colonel.

Chairman Hoglander graduated from Suffolk University Law School, became a member of the Florida Bar, and serves his community in a variety of volunteer positions.

Chairman Hoglander and his wife Judith reside in Magnolia, Massachusetts. They have six grown children and twelve grandchildren.

### **READ VAN DE WATER, *Member***

Read Van de Water, of Warrenton, Virginia, was nominated by President George W. Bush in September and unanimously confirmed on December 9, 2003, by the United States Senate to serve as a Member of the National Mediation Board. She was sworn into office on December 11, 2003.

Member Van de Water served from 2001-2003 as the Assistant Secretary for Aviation and International Affairs at the U.S. Department of Transportation. Previously she served as the legislative counsel for international trade and investment with The Business Roundtable and as legislative counsel and director of government affairs for Northwest Airlines. She also was employed on Capitol Hill as an appropriations associate and legislative assistant to Congressman Tom DeLay (Texas) from 1987-1991.

A native of Charlotte, North Carolina, Member Van de Water graduated from the University of the South (Sewanee) in 1986. She received a master's degree from The George

Washington University and her J.D. from The Georgetown University Law Center.

Ms. Van de Water is married to Mark Van de Water. They have three children and reside in Warrenton, Virginia.

**EDWARD J. FITZMAURICE, JR., *Member***

Edward J. Fitzmaurice, Jr., a Member of the National Mediation Board since August 2, 2002, also served as Chairman from July 1, 2003, through June 30, 2004. He was nominated to the NMB by President Bush on November 9, 2001, and confirmed by the United States Senate on August 2, 2002.

After graduating from Villanova University, Member Fitzmaurice served four and a half years as an Officer of Marines. He was designated a Naval Aviator, and served in the Dominican Republic and Vietnam as a Captain and Aircraft Commander, receiving several decorations including the Armed Forces Expeditionary Medal, 11 strike/flight Air Medals, the Presidential Unit Citation and Navy Unit Commendation.

Upon release from active duty, Member Fitzmaurice became a pilot for Braniff International and served as a domestic and international Captain, Co-Pilot, and Flight Engineer.

Simultaneously with piloting for Braniff, he attended the Southern Methodist University School of Law and was licensed by the State Bar of Texas in 1971. He was an associate with the firm of Kern, Wooley and Maloney representing Underwriters at Lloyd's in aviation-related matters and was Of Counsel to the labor law firm of James L. Hicks and Associates, both in Dallas, Texas.

Mr. Fitzmaurice and his wife Marcia have two grown children; daughter Carey is a Senior Policy Analyst with the Environmental Protection Agency in Washington, D.C., and son Evan is an associate with the law firm of Kirkpatrick & Lockhart LLP in Dallas, Texas.

**OFFICE OF THE CHIEF OF STAFF**

**BENETTA MANSFIELD, *Chief of Staff***

Benetta M. Mansfield assumed the office of NMB Chief of Staff on March 10, 2002. She joined the Board as a Senior Hearing Officer in March, 1999, and was selected as Deputy Chief of Staff in May, 2000. She was named Transportation

Lawyer of the Year by the Federal Bar Association in 2001. As Chief of Staff, Ms. Mansfield is the top career-management official responsible for NMB's integrated labor-management dispute resolution process under the RLA. She is responsible for delivering to the parties through a work force of fifty managerial, professional and support employees, Agency services involving (1) mediation of collective bargaining disputes; (2) determination of the choice of employee bargaining representatives through elections; and (3) the administration of arbitration of employee grievances.

For the four years preceding her employment at the Board, Ms. Mansfield served in various capacities at the Office of the Election Officer for the International Brotherhood of Teamsters. This office oversaw the election of International officers pursuant to a 1989 Consent Order. In 1997, she was appointed to serve as Interim Election Officer and then Deputy Election Officer by the United States District Court for the Southern District of New York. In that capacity, she supervised a large staff of attorneys and labor experts throughout the United States and Canada.

She earned her J.D. (Doctor of Law) degree from the Northeastern University School of Law in 1978, was a Ford Foundation Fellow in Political Science at the University of Minnesota, and graduated Phi Beta Kappa from Johns Hopkins University in 1974. Ms. Mansfield is admitted to the United States Supreme Court, District of Columbia and Wisconsin bars, and is a member of the American Bar Association and the Industrial Relations Research Association. Ms. Mansfield resides in Arlington, Virginia, with her two children.

**LARRY GIBBONS, *Deputy Chief of Staff—Mediation***

Larry Gibbons joined the Board in September, 1997, as a Senior Mediator. In April, 2002, Mr. Gibbons was named Deputy Chief of Staff for Mediation and has overall responsibility for the administration and management of mediation cases in the airline and railroad industries.

Mr. Gibbons brought to the Board 25 years of experience in personnel and labor relations, practicing under both the NLRA and RLA. Immediately prior to joining the NMB, he headed Human Resources and Labor Relations with ABX Air, Inc. (Airborne Express) for 12 years and for two years was an independent labor relations consultant. He is a past President and Member of the AIRCON Executive Board. Mr. Gibbons was also actively involved in community activities

including serving on a Board of Directors for the United Way and an Adult Rehabilitation Workshop.

Mr. Gibbons earned a Bachelor of Science degree in Journalism from Ohio University, and he served as an officer in the United States Army.

**DANIEL RAINEY, Deputy Chief of Staff–  
ADR Development & Technology**

Daniel Rainey was named Deputy Chief of Staff for ADR Development and Technology in April, 2002.

He manages the development of the Board's Alternative Dispute Resolution (ADR) program, including its Interest Based Bargaining (IBB) and Grievance Mediation (GM) training and facilitation for parties in the airline and railroad industries. Working with the DCOS-Mediation, and the Senior Mediator-ADR, he works to develop and extend the Agency's alternative dispute resolution program by reviewing and improving current programs and extending the ADR program into new areas. As part of his ADR responsibilities, he serves as the agency's Ombudsman.

He has administrative responsibility for the NMB staff development and program development functions, research program, and public information/public affairs program. At the Chief of Staff's direction, he works with all of the Board's mission areas to enhance development efforts for individuals and programs. Working with the NMB's CIO and the IT contractor, he has responsibility for the application of technology to the NMB mission areas and for the day to day supervision of IT employees providing IT support.

He is a member of the Association for Conflict Resolution (ACR - formerly SPIDR), the Virginia Association for Conflict Resolution (VA-ACR, formerly the Virginia Society of Professionals in Dispute Resolution), and the Industrial Relations Research Association (IRRA). He is also co-Chair of the Association of Labor Relations Agencies (ALRA) Technology Committee.

**OFFICE OF LEGAL AFFAIRS**

**MARY JOHNSON, General Counsel**

Mary L. Johnson is General Counsel of the National Mediation Board. As General Counsel, she serves as the Chief Legal Officer of the agency and manages the Board's representation program and a legal program which includes litigation.

In this role, Ms. Johnson provides legal advice to the Board Members and agency staff. In addition, she ensures compliance with the Freedom of Information Act, Government in the Sunshine Act, and other statutes.

Several months prior to her becoming General Counsel on December 15, 2002, Ms. Johnson was appointed Acting Director of the NMB Office of Legal Affairs. She had served as the Board's Litigation Counsel since March, 2000. She had also been the agency's Designated Ethics Official since November 2002, and prior to that, Alternate Designated Ethics Official from 1996. Ms. Johnson joined the National Mediation Board as a Hearing Officer in December 1980, and became a Senior Hearing Officer in 1989.

Ms. Johnson received her Juris Doctor from the University of Connecticut School of Law and A.B. from Barnard College. She is a member of the Connecticut Bar. She is on the Executive Board of the Association of Labor Relations Agencies, a consortium of federal, state, and Canadian labor relations agencies. Ms. Johnson is also public co-chair of the Railroad and Airline Labor Committee of the Labor and Employment Law Section of the American Bar Association.

**OFFICE OF ARBITRATION SERVICES**

**ROLAND WATKINS, Director**

Roland Watkins joined the National Mediation Board in February, 1980. During his career at the Board, he has been a Senior Hearing Officer and legal counsel. He has served as counsel/special assistant to numerous presidential emergency boards and congressional advisory boards. Currently, he serves as the Director of the Arbitration Department, where he is responsible for all aspects of grievance and interest arbitration in the airline and railroad industries. These responsibilities include administering public law boards, special boards of adjustment and arbitration boards in the railroad industry. He serves as the Administrator for the National Railroad Adjustment Board, which is located in Chicago, Illinois.

Mr. Watkins received his B.A. degree in Economics from Lafayette College located in Easton, Pennsylvania, and his Juris Doctor from Cornell Law School in Ithaca, New York. He is a member of the Railroad and Airline Labor Committee of the Labor and Employment Law Section of the American Bar Association.



## FINANCE AND ADMINISTRATION

**JUNE KING**, *Chief Financial Officer/  
Chief Information Officer*

June D.W. King joined the National Mediation Board in 1995. As Chief Financial Officer, Mrs. King has responsibility for the Board's administrative management functions, which include strategic planning and budgeting; accounting and finance; human resources management; procurement and contracting; and internal audit and evaluation. She also serves as the agency's Chief Information Officer with direct authority for the policies and practices of the Board's Information Technology program.

Prior to joining the NMB, Mrs. King served as a Budget Analyst and Acting Director of White House Administration, Executive Office of The President, where she was directly responsible for all administrative functions at the White House. She is the agency's principal official to all the Small Agency Councils in the areas of administration and human resources. She is also a member of the Chief Information Officers' Advisory Committee.

Mrs. King earned a Bachelor of Science degree in Business Administration with a concentration in Accounting from the University of the District of Columbia.

## NMB STAFF

### NMB BOARD

**Harry R. Hoglander**,  
**Chairman**

John Looney,  
Confidential Assistant

**Read Van de Water**,  
**Member**

Barbara Casey,  
Confidential Assistant

**Edward J. Fitzmaurice, Jr.**,  
**Member**

Anne Woodson,  
Confidential Assistant

### OFFICE OF CHIEF OF STAFF

**Benetta Mansfield**,  
**Chief of Staff**

### OFFICE OF LEGAL AFFAIRS

**Mary Johnson**,  
**General Counsel**

**Maria-Kate Dowling**,  
**Associate  
General Counsel**

Cristina Bonaca,  
Counsel

Susanna Fisher,  
Counsel

Eileen Hennessey,  
Counsel  
Michael Wolf,  
Counsel  
Libby Angelopoulos,  
Paralegal Specialist  
Joyce Blackwell,  
Legal Assistant

Judy Femi,  
Freedom of  
Information Officer  
Robin Stein,  
Paralegal Specialist  
Kendrah Davis,  
Legal Intern

### MEDIATION

**Larry Gibbons**,  
**Deputy Chief of Staff**

Eric Weems,  
Paralegal Specialist  
Valeta Hill-Rawls,  
Mediation Assistant

**Les Parmelee**,  
**Senior Mediator**

Terri Brown  
Samuel Cognata  
R.A. "Dick" Hanusz  
Zachery Jones  
Jack Kane

**Patricia Sims**,  
**Senior Mediator**

Rich Frey  
Denise Hedges  
Brad Laslett  
Fred Leif  
John Livingood

### ARBITRATION SERVICES

**Roland Watkins**,  
**Director**

Carol Conrad,  
Lead Program Assistant  
Linda Gaithings,  
Arbitration Assistant  
Carolyn Washington,  
Administrative Assistant  
Kimberly Ybanez,  
Arbitration Assistant  
Sabrina Allen,  
Student Trainee

### ADR DEVELOPMENT AND TECHNOLOGY

**Daniel Rainey**,  
**Deputy Chief of Staff**

**Linda Puchala**,  
**Senior Mediator (ADR)**

Donald West,  
Public Information  
Officer

Rachel Barbour,  
Conflict Resolution  
Specialist  
Anita Bonds,  
D&T Specialist

### FINANCE AND ADMINISTRATION

**June King**,  
**Chief Financial Officer/  
Chief Information Officer**

Denise Murdock,  
Supervisory Financial  
Administrative Specialist  
Grace Ann Leach,  
Senior Project Manager  
Cynthia Carver,  
Accountant  
Florine Kellogg,  
Administrative Support  
Assistant

Sharon Matthews,  
Travel and  
Accounting Assistant  
Shawn Fogleman,  
IT Contractor

# HIGHLIGHTS

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## NMB SPONSORED CONFERENCES

The National Mediation Board fulfills its role as an unbiased third party in many ways. During FY 2004, the Board continued help create opportunities for labor, management, and third parties to come together, away from the pressures of bargaining, to discuss issues and trends affecting everyone associated with the industries. In September, 2003, just as FY 2003 was ending, the NMB co-hosted a Passenger Railroad Conference in Atlantic City, New Jersey. In June, 2004, the Board co-hosted a Regional Airline Conference in Atlanta, Georgia. The Board, with the support of the parties, plans to continue offering a series of industry conferences focused on important timely issues.

## CONTINUING LEGAL EDUCATION

Practice under the Railway Labor Act is very specialized. To meet the needs of the attorneys who represent labor and management in the airlines and railroads, the NMB has begun what will be an ongoing series of continuing legal education (CLE) courses, targeted to the special needs of RLA practitioners. In November, 2003, the Board partnered with the Usery Center in Atlanta to offer a CLE geared toward practice in the airline industry. In September, 2004, the Board offered a second CLE in Chicago, geared toward practice in the railroad industry. During FY 2005, the Board plans to partner with Courtroom 21 at the College of William and Mary to offer a groundbreaking CLE focused on the use of digital information in arbitration and mediation.

## USERY CENTER PARTNERSHIP

In addition to an airline CLE course and online dispute resolution training for the NMB's mediators, the Board and the Usery Center continue to seek ways to collaborate that benefit airline and railroad labor and management. In FY 2005, the Board plans to offer basic negotiation training to parties in conjunction with the Usery Center.

## U MASS/NSF PARTNERSHIP

The NMB joined with the University of Massachusetts at Amherst (UMass) to produce a proposal for the National Science Foundation. The proposal focused on the development of a research project that would map the mediation process, develop online tools, and test the usefulness of online dispute resolution (ODR) technology. The grant was accepted by the NSF in November, 2004. For the next three years UMass will lead the research effort, and the NMB will participate as partner in the research. The result of the three year effort should be the first comprehensive research study of the impact of online tools on mediation.

## ONLINE DISPUTE RESOLUTION

In addition to the UMass partnership, the Board continues to add ODR technology to its array of services for the parties. FY 2004 saw the first use of ODR technology in contract bargaining: American Eagle and the Air Line Pilots Association used the technology during their bargaining, which resulted in a ratified agreement.

## VIDEO TELECONFERENCING

The NMB continues to offer video conference and document sharing technology to the parties for bargaining, drafting agreements, arbitration hearings, and award conferences. The memorandum of understanding that the Board developed with the National Labor Relations Board (NLRB) during FY 2004 will extend into FY 2005, and will be enhanced by a pilot program allowing party access to the extensive video conference system maintained by NLRB. In addition, the Board has added access to WebEx, a web-based video conference and document sharing program. The system has already been used to conduct conferences between the Board's DC and Chicago offices, and it has been used to conduct conferences involving parties in multiple locations, including drafting final contract language after a bargaining round.

## RULEMAKING

During FY 2004, the NMB published anticipated changes to the grievance arbitration process under the Railway Labor Act. During the year, a public hearing was held and comments were solicited from the parties and the public. Another public hearing is scheduled for January, 2005.

## PAPERLESS ARBITRATION PROCESSES

At the National Association of Railroad Referees (NARR) meeting in September, 2004, the Board announced that, effective January 1, 2005, all submissions to the NMB from arbitrators and parties would have to be paperless. The NMB ran a pilot project with volunteer arbitrators during the year to ensure the accuracy and simplicity of the system.

## DOCUMENT AND RECORDS MANAGEMENT

During FY 2004 the NMB continued with implementation of its precedent-setting document and records management system. The system, when fully implemented, will allow easy remote access to agency records for agency employees, and will automate the records retention process for the entire agency. The system is fully operational in two of the agency's departments and will be fully functional across the agency before the end of FY 2005.

## 70 Years of Service



# THE RAILWAY LABOR ACT AND NMB FUNCTIONS

The Railway Labor Act provides a comprehensive statutory framework for the resolution of labor-management disputes in the airline and railroad industries. Enacted in 1926 as a collaborative effort of labor and management, the RLA succeeded several previous federal statutes dating back to 1888. The 1926 Act provided for mandatory mediation and voluntary arbitration of railroad disputes in contract negotiations, as well as for Presidential Emergency Boards to enhance dispute resolution. Key amendments to the Act in 1934 established the current three-member National Mediation Board and authorized the resolution of employee representation disputes by the NMB. In 1936, the jurisdiction of the RLA was expanded to include the airline industry. The 1981 amendment to the Act permitted the creation of specialized Presidential Emergency Boards for collective bargaining disputes at certain commuter railroads.

## MEDIATION AND ADR

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. Should the parties fail to reach agreement during direct negotiations, either party, or the parties jointly, may apply to the NMB for mediation. (An application for the NMB's mediation services may be obtained from the Agency's web site at [www.nmb.gov](http://www.nmb.gov).) Following receipt of an application, the NMB promptly assigns a mediator to assist the parties in reaching an agreement. The NMB 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 such efforts do not settle the dispute, the NMB advises the parties and offers interest arbitration as an alternative approach to resolve the remaining issues. If either party rejects this offer of binding arbitration, the NMB promptly releases the parties from formal mediation. This release triggers a thirty-day cooling off period. During this thirty-day period, the Agency 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. Lawful self-help includes carrier-imposed working conditions or a strike by the union.

The RLA also permits the NMB to recommend to the President of the United States the establishment of a Presidential Emergency Board (PEB) to investigate and report on the dispute if, in the Agency's opinion, the dispute threatens "substantially to interrupt interstate commerce to a degree



such as to deprive any section of the country of essential transportation services.” A PEB also may be requested by any party involved in a dispute affecting a publicly funded and operated commuter railroad. The President appoints the members of a PEB. While emergency board processes are 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 NMB believes that over time its ADR services will reduce the quantity and narrow the scope of 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 is accomplished on a system-wide basis, which includes all employees in the craft or class anywhere the carrier operates in the United States.

When a labor organization or individual files an application with the NMB to represent employees, the Agency assigns an investigator to conduct a representation investigation. (An application for a representation investigation may be obtained from the Agency’s web site at [www.nmb.gov](http://www.nmb.gov).) 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 NMB’s election procedures require that the application must be supported by a sufficient employee showing of interest to warrant continuing the investigation. If the employees are not represented for collective bargaining purposes, a thirty-five percent showing is required. If the craft or class covered by the application already is represented and a collective bargaining agreement is in effect, the showing of interest requirement is a majority of the craft or class.

If the showing of interest requirement is met, the NMB continues the investigation, usually with a secret telephone electronic election. 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 eligible voters must cast valid votes in support of representation. The NMB is responsible for ensuring that the requirements for a fair election process have been maintained. 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.

### **ARBITRATION**

The RLA provides for both grievance and interest arbitration. Grievance arbitration, involving the interpretation or application of an existing collective bargaining agreement, is mandatory under the RLA. The NMB 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 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's Roster of Arbitrators may be obtained from the Board's web site at [www.nmb.gov](http://www.nmb.gov).) The NMB also has substantial financial responsibilities for railroad arbitration proceedings in that it pays the salary 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 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 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 the individual to resolve the dispute. (In some instances, the parties' agree to arbitrate which allows the NMB to directly appoint an arbitrator.) An interest arbitration decision is final and binding with very narrow grounds for a judicial appeal.

## 70 Years of Agreements



# MEDIATION AND ALTERNATIVE DISPUTE RESOLUTION SERVICES (ADR)

**In FY 2004, the NMB's mediation staff continued to deliver outstanding service to the airline and rail-road industries, and to the public. In a year in which the airline industry continued to suffer economic losses, NMB's mediators again were challenged to a high degree to assist the parties in reaching settlements that addressed the respective constituents' varied interests. As the customer service and performance standards show, FY 2004 was another very successful year in meeting Agency goals. More importantly, the Board's overall performance reinforced the stability of the mediation process and the reliability of its multi-faceted approach to labor-management disputes.**

## **OVERVIEW OF FISCAL YEAR 2004**

To achieve the NMB's overriding responsibility to manage mediation cases effectively, the Agency's performance under its customer service goals may vary during the fiscal year. In order to attain voluntary agreements without work stoppages, the Agency does not blindly adhere to the constraints of its customer service goals. The NMB may vary these goals in cases where parties' tactics are inconsistent with the RLA's direction to make all reasonable efforts to make and maintain agreements or where the complexity of a case may dictate relaxing specific time lines. For example, the NMB may delay making a determination on releasing a case from mediation after 365 calendar days if one of the parties entered mediation with an excessive number of open proposals and was slow to make changes in the proposals and move toward a compromise; or the NMB may temporarily recess mediation of a case to give the parties an opportunity to re-evaluate their positions.

Cases docketed for FY 2004 were the same as those of FY 2003 and below the five-year average (1999-2003) by 23 percent. The five-year average of new cases docketed is 106. In FY 2004, the Board docketed 82 new cases. ADR had a major impact on these statistics as more Carriers and Unions, especially in the airline industry, are using Interest Based Bargaining (IBB) and Grievance Mediation Services (GM). In FY 2004, case closures were 25 percent above FY 2003. The overall outlook for case activity in the coming fiscal years is an increase in cases based upon known contract amendable dates.

During FY 2004, the Agency met or exceeded its customer service goals in the majority of the established customer service standard during FY 2004. In the areas of timely docketing of cases, assignment of mediators, initial contact with the parties, and establishment of the first mediation session, the NMB substantially met or exceeded these goals.





Additional mediation goals include: (1) reaching agreements after no more than 45 days mediation meetings and (2) reaching agreements within 365 days of case docketing. In FY 2004, the Agency achieved a 92 percent success rate in closing cases in 45 days of mediation or less compared to 95 percent success rate in FY 2003. In the second goal, the Agency brought 56 percent of cases to closure in 365 days or less compared with a 59 percent success rate in FY 2003.

#### HIGHLIGHTS DURING FISCAL YEAR 2004

**Cooling-off Periods and Self-help Activity.** In FY 2004, Mesaba and its pilots represented by the Airline Pilots Association (ALPA) entered into a cooling off period and reached agreement without resorting to self-help. On the railroad side, Southeastern Pennsylvania Transit Authority (SEPTA) and its conductors represented by the United Transportation Union (UTU) entered a cooling off period under Section 159A of the RLA but did not reach agreement. A PEB was established which is discussed under the Presidential Emergency Board section of this report.

**Settlements.** In FY 2004, all the mediated cases were closed by voluntary agreement without a strike or other legal self-help. While the number of new mediation cases handled by the mediators was below the five-year average, the cases

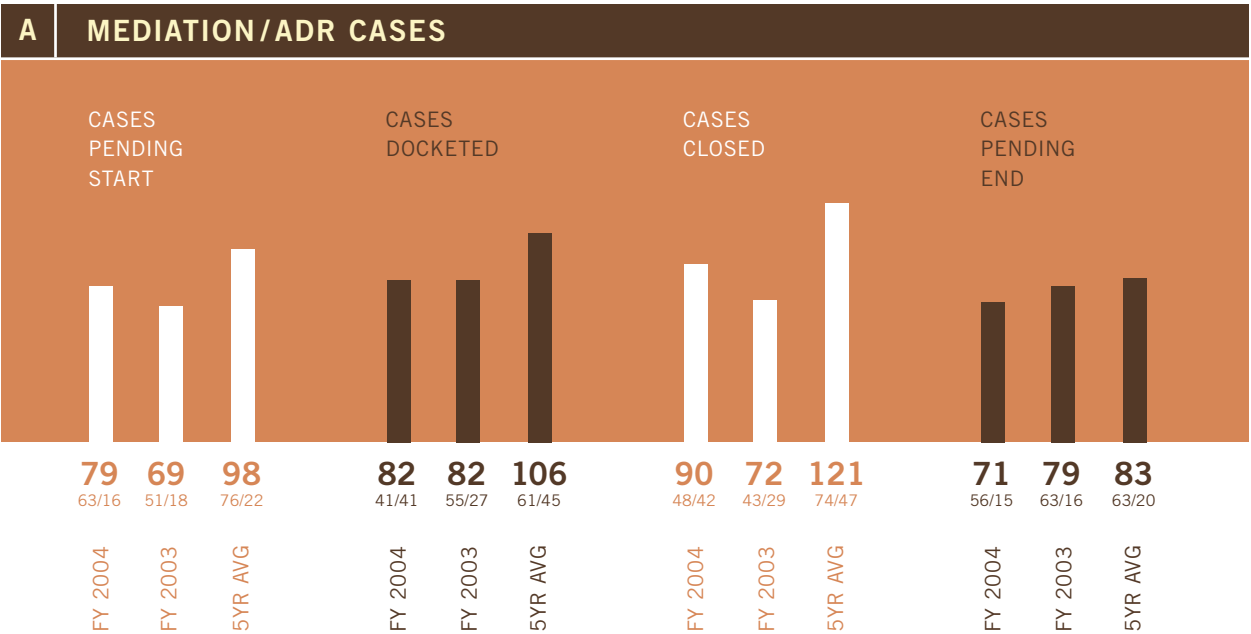
continued to be extremely complex due to factors previously mentioned. Thus, the Agency's actual mediation and facilitation activities remained at an intense level, impacting resources more than the caseload statistics indicate. The list of airline carriers and organizations which reached agreements with the NMB assistance but without economic confrontation is significant in FY 2004 and includes: Southwest and its flight attendants represented by the Transportation Worker's Union (TWU), America West and its pilots represented by ALPA, Mesaba and its pilots represented by ALPA, Net Jet and its mechanics represented by the IBT, Miami Air and its flight attendants represented by the Association of Flight Attendants (AFA/CWA), ATA and its mechanics represented by the IAM, and America West and its dispatchers represented by the TWU.

In the railroad industry, the NMB helped the parties reach agreements on the national level as well as among the short line and regional railroads. These successes included: NCCC/ BLE, NCCC/IBEW, Soo Line Railroad (SOO)/American Train Dispatchers Department (ATDD), SOO/UTU, Northern Indiana Commuter Transportation District (NICTD)/UTU, NICTD/BLE, Springfield Terminal/UTU, Rail Terminal and International Brotherhood of Teamsters (IBT), and Port Authority Trans Hudson (PATH)/Railway Independent Transit Union (RITU).

**ADR Services.** In FY 2004, the NMB made significant progress in moving parties toward more constructive dialogue through its training, facilitation and grievance mediation services by docketing 41 new cases versus 27 in FY 2003. The Agency provided training and facilitation services to major and regional airlines, Class I and regional railroads, and the unions representing these airline and railroad employees. Airlines and unions who availed themselves of the Board's IBB services included: Continental/ALPA (Pilots), United Airlines/IFPTE (Engineers), United Parcel Service (UPS)/IPA (Pilots), Atlantic Southeast Airlines (ASA)/ALPA (Pilots), Horizon/AFA (Flight Attendants), Frontier/IBT (Mechanics), ASA/AFA (Flight Attendants) and American Eagle/ALPA

(Pilots). The NMB continued to use various forums, including on-property presentations, to introduce ADR to the parties within the railroad industry.

In addition to training and facilitation services associated with collective, Section 6, bargaining, the NMB provided training and grievance mediation services which resulted in a reduction of the number of cases going to arbitration or the bargaining table. The carriers and unions involved in grievance mediation include DHL Airways/ALPA, Aloha Air/ALPA, ASA/AFA, Mesa Air/AFA, PSA Airlines/AFA, Horizon/AFA, Independence Air/ALPA, ASA/ALPA, American Eagle/ALPA, Piedmont/AFA and Champion/ALPA.



**Regional Airline Labor Management Relations.** During FY 2004, the Agency co-sponsored a labor/management relations conference with Regional Airline management and various labor groups. The conference was designed to discuss critical and timely issues facing both parties in the Regional Airline sector. The Agency is considering sponsoring a similar conference with passenger railroads in FY 2005.

**Labor Management Relations.** The Agency continued to work with the Sloan Business School at the Massachusetts Institute of Technology (MIT) to address issues facing labor and management in the airline and railroad industries. The Agency participated in an ongoing working committee of labor and management representatives and attended a conference with the parties.



**W. J. Usery, Jr., Center For The Workplace.** In 2004, the NMB continued to work with the Usery Center for the Workplace to develop training and research valuable to the Agency and the industries it serves. The focus of the Center's work continues to be the development of training and research that will be available to Agency employees and to labor and management representatives from the airline and railroad industries. A major focus of the Agency's work with the Usery Center in FY 2004 involved further development of the NMB's Online Dispute Resolution (ODR) Program.

**Pending Mediation Cases.** At fiscal year end, several significant airline cases will remain in mediation including UPS/ IPA, ASA/ALPA, Northwest/IAM, Mesaba/AMFA, Horizon/AMFA and Alaska/IAM. All of these cases are proving to be extremely difficult given the current collective bargaining environment.

In the railroad industry, the NCCC remains in mediation with two groups, the IAM and SMWIA. AMTRAK continues in mediation with BMWE, SMWIA, IBB&B, IBEW, BRS, IAM and UTU. While AMTRAK settlements traditionally follow those set by the NCCC, its current funding situation has caused unique problems in reaching settlements. Several Short Line and Commuter Rail Roads are also in mediation including South Buffalo with the BLE; Soo Line with the BLE, UTU and TCU; and Florida East Coast with the UTU and BMWE.





## 70 Years of Determinations

# REPRESENTATION

**During FY 2004, the NMB's Office of Legal Affairs (OLA) continued 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 is in a state of constant improvement, delivering outstanding services to the parties and the public.**

**It should be noted that caseload figures as reported in the President's Budget have been updated throughout this Annual Performance and Accountability Report based on final, end of fiscal year data. The updated figures reflect a higher level of representation cases docketed and closed FY 2004 as discussed below.**

## OVERVIEW OF FISCAL YEAR 2004

The OLA staff closed and docketed an almost equal number of cases during this year (63 closed; 60 received). This pattern of case intake, closure, and volume is consistent with the five-year average of case activity (FY 1999 - FY 2003). As a result of this productivity, the Agency has only one case pending at the end of FY 2004, and it is less than 180 days old. Moreover, the number of cases pending at the end of FY 2004 is three less than FY 2003 (4) and eight lower than the five-year average (9). With the Agency resources requested for in FY 2006, it is projected that case closings will continue to be investigated and resolved at this same pace over the next several fiscal years.

The NMB substantially met all of the standards set for representation cases under its FY 2004 Annual Performance Plan. Cases are managed using nine benchmarks covering the key phases of the Agency's investigation: Response to representa-

tion applications; Investigator assignment; Showing of interest determination; Timely response following ballot count; Overall timely resolution; Timely resolution of interference issues; Timely resolution of predocketing investigations; Prompt resolution of jurisdictional referrals from the NLRB; and Prompt issuance of Board level decisions after receiving staff recommendations. Five of the Representation customer service standards were modified in FY 2003: NMB response to representation applications will be made within two business days instead of three; An investigator will be assigned within two business days instead of three; Board decisions involving allegations of interference will be issued within 180 calendar days of docketing compared to 270 days; Predocketing investigations will be completed within 120 calendar days following the Investigator's assignment to the case instead of 180 days; and Jurisdictional opinions will be provided to the NLRB within 120 days from the date the jurisdictional referral from the NLRB headquarters is assigned to an Investigator compared to 180 days.

The FY 2004 standards for timely case processing were fully satisfied within the projected goals. In particular, the NMB responded to representation applications within two business days in 100 percent of all cases; assigned an Investigator to representation cases within two business days in 100 percent of all cases; determined there was a sufficient showing of interest to authorize an election or dismiss a case within 45 calendar days in 96 percent of all cases; issued certifications or dismissals within the next business day of ballot counts in 100 percent of all cases; and completed representation investigations within the 90 calendar day goal set for non-appellate cases in 93 percent of all cases.

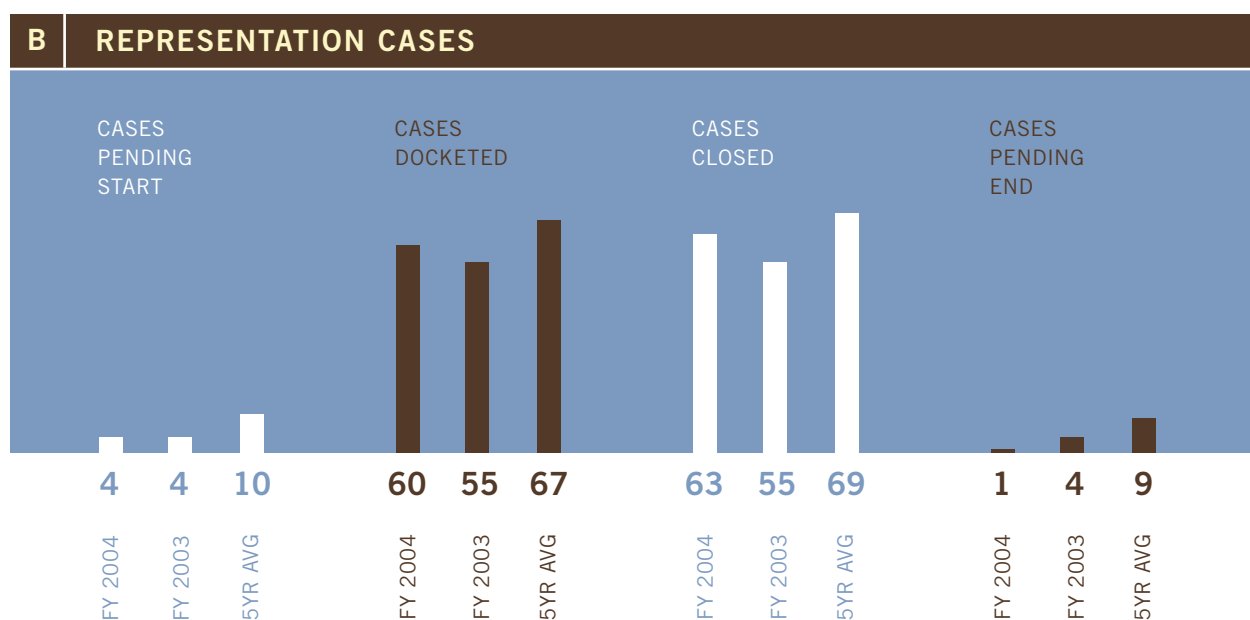
The Office of Legal Affairs' refinement of the Telephone Electronic Voting (TEV) system continued to allow for easier administration. Voter confidentiality and ballot integrity is guaranteed by a system of dual passwords for each voter, and by a state-of-the-art system of encryption, firewall protection, and physical separation of servers by the Agency's TEV contractor. The contractor has extensive experience in the TEV field and is the contractor for numerous Fortune 500

companies which use TEV services for stockholder votes and other sensitive information gathering purposes.

#### HIGHLIGHTS DURING FISCAL YEAR 2004

Under the RLA, the selection of employee representatives for collective bargaining is accomplished on a system wide basis. 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. 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 rulings by the NMB.

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 by the NMB during FY 2004.

**Frontier Airlines, Inc./International Brotherhood of Teamsters.** On July 22, 2003, the IBT filed an application alleging a representation dispute among the Appearance Agents at Frontier Airlines (Frontier). The IBT later amended its application to include Cleaners. The IBT represented the Mechanics and Related craft or class at Frontier. In a decision issued on October 9, 2003, the NMB found that based upon the work-related community of interest and other factors, the Appearance Agents and Cleaners at Frontier, were already part of the Mechanics and Related craft or class, and therefore dismissed the application. On October 13, 2003, Frontier filed a Motion for Reconsideration. Frontier asserted that, in its decision, the NMB failed to consider its “unique approach, its evolving way of conducting business and the particular circumstances of the Appearance Agents and the Cleaners.” On February 20, 2004, the NMB issued

a decision denying any relief upon reconsideration. In the decision on reconsideration, the NMB acknowledged that the authorization cards presented by the IBT with the application were confusing because the card “authorizes the IBT to represent the signer in collective bargaining, the authorization also requests that the NMB conduct an investigation and a representation election.” The NMB stated that in the future, it may not accept authorization cards that request a representation election for accretion cases or certification by card check. The NMB also noted that after its original decision, the Agency received a petition presented by an Appearance Agent and signed by several Appearance Agents stating that these employees did not want IBT representation. The NMB stated that it does not consider employee petitions. Member Van de Water dissented from the decision.

**Portland & Western Railroad, Inc./International Brotherhood of Teamsters/International Brotherhood of Locomotive Engineers Rail Operating Employees’ Council.** On September 5, 2003, the International Brotherhood of





Teamsters/International Brotherhood of Locomotive Engineers Rail Operating Employees' Council filed an application to represent the craft or class of Train and Engine Service Employees and requested that the NMB investigate whether Portland & Western Railroad (P&W) and Willamette & Pacific Railroad (W&P) operate as a single transportation system. On December 9, 2003, the NMB found that P&W and W&P operate as a single transportation system based upon the following facts: the route maps do not distinguish between the lines of the carriers; W&P and P&W share rail cars and locomotives which are painted with the P&W logo; the System Time Table for the P&W and W&P is printed as a single document; the carriers share common management and administrative functions; the human resources and labor relations functions are handled together in the same corporate office; all marketing, customer service and dispatching are centralized; the carriers share corporate officers; the carriers use the same operating rules and safety handbook; and the employees receive the same wages and benefits. The NMB directed an election be held among Train and Engine Service Employees on the combined P&W carrier system. On December 11, 2003, P&W filed a Motion for Reconsideration stating that the NMB should review the fact that P&W and W&P had not "consolidated their train operations." On January 29, 2004, the NMB found that the Motion failed to state sufficient grounds to grant the request; and therefore denied the motion. In particular, the NMB noted that P&W had merely restated its prior arguments and failed to demonstrate a material error of law or fact; or circumstances in which the NMB's exercise of discretion was important to

the public interest. An election was conducted and on March 17, 2004, the Brotherhood of Locomotive Engineers and Trainmen was certified to represent the craft or class of Train and Engine Service Employees at P&W.

#### **Piedmont Airlines/Communications Workers of America.**

The CWA filed an application with the NMB on August 7, 2003, seeking to represent Fleet and Passenger Employees at Piedmont Airlines (Carrier). An election was authorized and the tally was conducted on October 24, 2003. The CWA's application was dismissed on October 27, 2003. The CWA filed a charge of election interference on November 10, 2003. On December 5, 2003, the Agency found that the CWA's allegations stated a prima facie case that laboratory conditions were tainted and established a timeline for further investigation of the allegations. The NMB also continued its investigation into the Carrier's allegations that certain CWA conduct compromised the integrity of the voting process. In its interference allegations, CWA asserted that the Carrier engaged in behavior that tainted the laboratory conditions, including announcing an employee committee during the campaign; informing employees during a mandatory meeting that they were not allowed to discuss the CWA campaign on carrier property; and conducting a pervasive anti-union campaign. The CWA also alleged that numerous employees did not receive their voting materials. The Carrier denied the allegations. Additionally, the Carrier alleged that the CWA unlawfully polled and made statements to employees implying the CWA could determine whether or not employees voted, and that this conduct by CWA called into question

the integrity and secrecy of the voting process. The NMB found that the laboratory conditions had not been tainted. In support of its decision, the Agency found that although the Carrier announced the formation of an employee committee, no such committee was ever formed; that the evidence the Carrier coerced employees by telling them they could not discuss the union campaign on Carrier property was insufficient; and although there were several communications to the employees from the Carrier, that the communications were not inaccurate and did not taint laboratory conditions. As to the Carrier's allegations against CWA, the NMB found that while CWA did poll the employees, the polling did not taint the laboratory conditions and did not in any way compromise the confidentiality of the NMB's voting process.

**Georgia Ports Authority/International Longshoremen's Association, AFL-CIO.** The International Longshoremen's Association (ILA) filed an application on September 29, 2003, seeking to represent "nonsupervisory operators, drivers, clerks and mechanics" of the Georgia Ports Authority (GPA). GPA asserted that it is not subject to NMB jurisdiction because it is not a "carrier" as defined by the RLA. The NMB's investigator conducted an on-site investigation at GPA's Garden City and Ocean Terminals the week of December 8, 2003. GPA conceded that it operated two common carrier short line railroads that provided railroad switching services to and within GPA port facilities prior to 1998. However, GPA contended that in 1998 it sold the locomotives and related equipment to two new short line railroads, operated by Rail Link. GPA stated that since 1998,

although it retains ownership of the tracks, Rail Link operates free from control or interference by GPA. The ILA contended that GPA was the de facto operator of the railroad because it retained ownership of the tracks and had the right to terminate the easement agreement with Rail Link. In examining whether there was jurisdiction over GPA under the RLA, the NMB found that the functions performed by the GPA employees of loading and unloading containers onto and off rail cars are generally performed by rail employees. The NMB also found, however, that GPA did not directly or indirectly own or control a carrier subject to the RLA. Specifically, the NMB noted that mere ownership of the track did not create RLA jurisdiction and that the record as a whole established the GPA does not exercise any meaningful control over the short lines operated by Rail Link. For example, there was no evidence the GPA managers provided any daily supervision, assignment or direction to the short line employees nor was there evidence that Rail Link provided supervision, assignment or direction to GPA employees. Moreover, the NMB found that the short line employees did not use or operate any GPA equipment nor did the GPA employees use any Rail Link equipment. In a decision issued on March 23, 2004, based on the facts uncovered during the investigation, the NMB found that GPA was not subject to the RLA.

## 70 Years of Adjustments

# ARBITRATION SERVICES

**During FY 2004, the NMB's Arbitration program continued its efforts to streamline and modernize operational procedures. The National Railroad Adjustment Board (NRAB) has improved its filing procedures by instituting electronic filings which is eliminating duplicate submissions in the grievance and arbitration process.**

## **OVERVIEW OF FISCAL YEAR 2004**

Although the level of grievance activity handled through the NMB Arbitration program has increased, new procedures contemplated by the NMB are expected to ease the submission of grievances.

During FY 2004, the parties brought 4,705 cases to arbitration compared to 4,295 cases in FY 2003. In FY 2004, 4,931 cases were closed as compared to 5,161 in FY 2003, leaving 4,910 cases pending at the end of the fiscal year. The number of cases pending at the end of FY 2004 is approximately 30 percent lower than the five-year average.

One of the customer service and performance standards requires reimbursing the arbitrators within 3 business days. Working with the Finance and Administration Department,

the arbitrators were reimbursed within three business days in 87 percent of all vouchers submitted.

## **HIGHLIGHTS DURING FISCAL YEAR 2004**

On January 29, 2004, the Agency met with the Section 3 Committee to review its caseload and administrative procedures. The Section 3 Committee is comprised of labor and management representatives from the Class I freight railroads and the commuter carriers. The NMB reported on its efforts to complete all cases filed with the NRAB within one year of the notice of intent. Also, the NMB proposed to implement an internal NMB monitoring process which would consolidate cases for hearing to ensure the most efficient use of government funds. The NMB also announced immediate administrative changes at the NRAB which greatly reduced the paperwork submitted to the NMB and increased the use of information technology in the NRAB grievance process.



## Arbitration Services

The NMB is taking steps to attain a goal of 90 percent paperless transactions in this area by January 1, 2005.

For the past year, the NMB has undertaken a series of actions designed to improve the arbitration of grievances under Section 3 of the Railway Labor Act to address what it considers to be an unacceptable level of backlogged cases. These actions led the parties, the arbitrators, and the Board members to consider changing routines and processes that, in some cases, have been around for well over half a century. 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-commerce 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 are given the support they need to schedule, hear, and decide cases in a timely manner; and 5) to ensure that the NMB's resources are used wisely and in accordance with Federal regulations and sound accounting practices.

**Annual Case Audit.** In November 2003, the NMB conducted its annual intensive audit of all cases pending before public law boards and special boards of adjustment. The Agency provided the National Railway Labor Conference (NRLC), Section 3 Committee members, commuter railroads, regional railroads, all labor organizations representing railroad employees, and the NRAB with a list of pending cases on these boards. The NMB asked the parties to report any

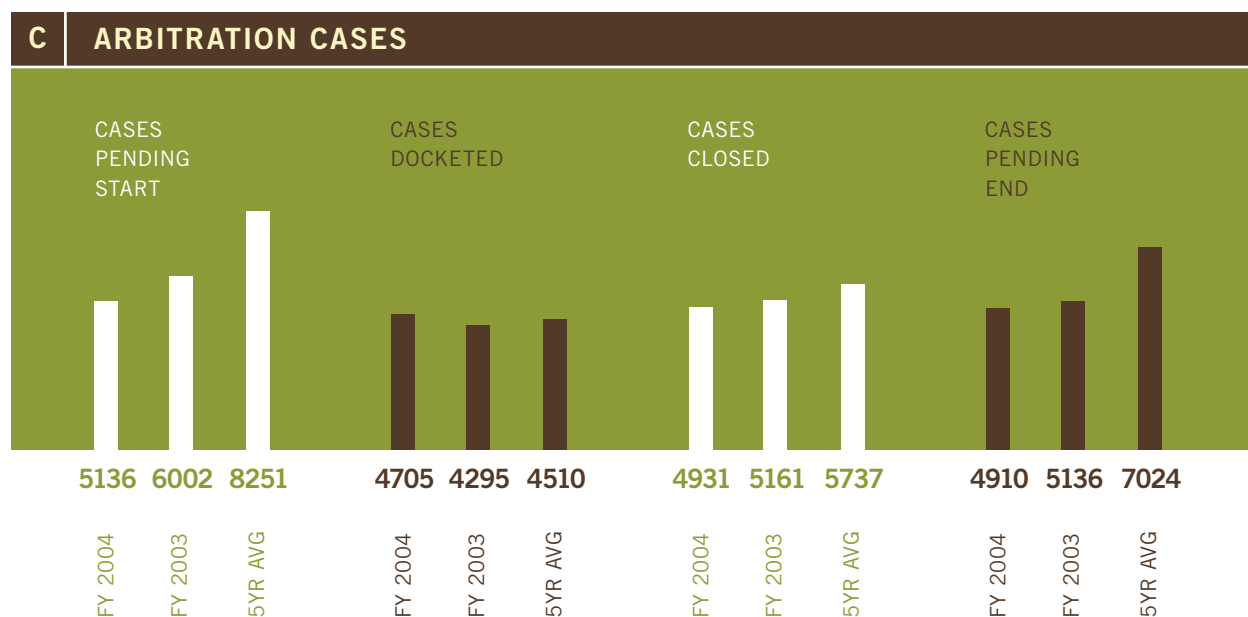
discrepancies between its records and the Agency's records. All of the carriers, railroad organizations and the NRAB responded to the audit. At 100 percent participation, this process confirmed the accuracy of the NMB's arbitration case management system.

**Forensic Audit.** In FY 2004, the NMB received the result of the forensic audit on payments made to the railroad neutrals. The NMB undertook this effort to reconcile the financial payments made and the information contained within its case management system. During this fiscal year, the Agency began implementing the recommendations from the audit which has resulted in changes to its arbitration voucher and accounting process.

**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 labor organizations.

During this fiscal year, the Board attended several UTU regional meetings of the general chairmen to promote grievance mediation as a means of resolving disputes. Based upon responses received, the Agency anticipates its services will be used.

**Increasing Arbitrator Productivity.** The NMB continued its efforts to increase the arbitrator productivity through rigorous enforcement of the six-month rule. Arbitrators who have not





issued a decision in the six month period are contacted monthly and encouraged to issue those decisions. Through these efforts, the Agency has met this performance goal in 86 percent of the cases.

During this fiscal year, the NMB attended several alternative dispute resolution conferences to recruit new arbitrators for the Roster. It is hoped that these efforts will increase the pool of qualified arbitrators available to the parties.

The Agency continued its successful program of using the NMB's web site as a source for many of the forms and documents needed by arbitrators and the parties. The use of the Internet allows the arbitrators, the parties, and the public to obtain information and forms instantaneously and reduces the staff time which ordinarily would be required to respond to questions and requests.

**Rulemaking.** In FY 2004, the NMB proposed amending its general administrative rules to improve and expedite the administration of arbitration programs. The principal purpose of the proposed rule is to provide a time frame for the resolu-

tion of labor grievances. Under the proposed rule, decisions on grievances will normally have to be issued within one year of the filing of the grievances. The proposed rule clarifies the status of arbitrators with respect to the NMB and parties in dispute. The rule also provides for the consolidation of minor disputes by the NMB when this will serve the interests of economy and efficiency in the Board's administration of its program of arbitration. Finally the proposed rule provides for the imposition of filing fees. By imposing modest filing fees, along with a grievance resolution schedule, the NMB hopes to foster faster resolution of minor labor disputes. Prior to proposing the rule, the NMB sought input from the parties through the publication of an advanced notice of proposed rulemaking. The NMB also held a public hearing on the rulemaking on December 19, 2003.



## 70 Years of Settlements

# PRESIDENTIAL EMERGENCY BOARDS

**When the NMB determines that a dispute cannot be resolved in mediation, the NMB shall proffer 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.**

## OVERVIEW OF FISCAL YEAR 2004

If the NMB determines, pursuant to Section 160 of the RLA, that a dispute threatens substantially to interrupt 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’s report to the President. The President designates

the number of PEB members. 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's report to the President.

Apart from the emergency board procedures provided by Section 160, Section 159A of the RLA provides special multi-step emergency procedures for unresolved disputes affecting publicly funded and operated commuter railroads and its employees. If NMB mediation procedures are exhausted, the parties to a 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, either 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.

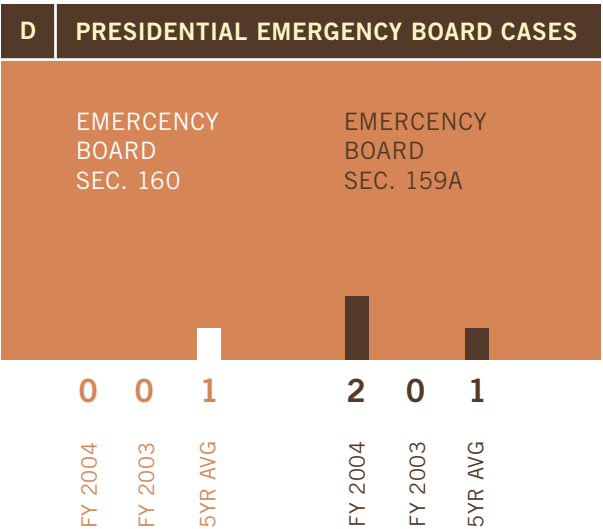
While PEBs are part of the RLA, the use of PEBs indicates that the parties have not been able to reach voluntary agreements. There were two Section 159A PEBs during FY 2004, both created to help resolve the dispute between the Southeastern Pennsylvania Transportation Authority and its Conductors represented by the United Transportation Union.

HIGHLIGHTS OF FISCAL YEAR 2004

**Presidential Emergency Board 237.** On March 12, 2004, after more than a year and a half of mediation between the Southeastern Pennsylvania Transportation Authority and the United Transportation Union, and SEPTA's failure to accept the NMB's proffer of arbitration, the NMB stated that its services were terminated under the provisions of Section 5, First, of the RLA. Accordingly, self-help became available at 12:01 a.m. EDT on April 12, 2004. On March 25, 2004, SEPTA requested that the President establish a PEB to investigate and issue a report and recommendations regarding the dispute. The President created PEB 237 on April 10, 2004 and appointed Richard R. Kashner as Chairman, and Robert E. Peterson and David P. Twomey as Members. The PEB conducted a hearing on April 28, 2004 in Philadelphia, Pennsylvania and held executive sessions with the parties on April 29, 2004 in Philadelphia. The PEB addressed a number of issues, with the main one being longevity pay for Conductors. The PEB issued its report to the President on May 11, 2004. While the UTU agreed with the PEB's recommendations, SEPTA did not accept the recom-

mendations of the Board. On June 7, 2004, a public hearing was held at the NMB's offices. On June 30, 2004, SEPTA requested that the President establish a new PEB to investigate and issue a report and recommendations regarding the dispute. The President created PEB 238 on August 9, 2004.

**Presidential Emergency Board 238.** On June 30, 2004, the Southeastern Pennsylvania Transportation Authority (SEPTA) requested that the President establish a second PEB to investigate and issue a report and recommendations regarding its dispute with the United Transportation Union (UTU). On August 9, 2004, the President created PEB 238, and appointed Robert O. Harris as Chairman, and Donna R. McLean and Peter W. Tredick as Members. An organizational meeting was held by the PEB with the parties on August 16, 2004. Thereafter, the PEB successfully convinced the parties to return to the bargaining table. On September 1, 2004, the parties entered into a proposed Memorandum of Agreement tentatively settling the dispute. On September 7, 2004, the President approved for a period of 60 days through November 8, 2004, an extension of time for the parties to submit final offers. The President also indicated that the maintenance of the status quo under Section 159a(h) was also extended for a period of 60 days. On October 2, 2004, by an eight-to-one margin, UTU's Conductors and Assistant Conductors voted to ratify the tentative agreement. SEPTA's Board of Directors ratified the agreement on October 28, 2004. The Board issued its report to the President on October 29, 2004, reporting that the parties' agreement had been ratified and the dispute resolved.





## 70 Years of Support

# MANAGEMENT AND SUPPORT

The primary management and support programs for the NMB are housed within two departments: Finance and Administration (F&A), and ADR Development and Technology (AD&T). Together, these departments include budget and finance, human resources, information technology, ADR (including online dispute resolution) research, staff development, and public information. From a budgetary standpoint, most of the costs of management and support programs are contained in the Mediation section of the budget. Because human resources, information technology and records management functions are outsourced, these activities are prorated among the three program areas.

## FINANCIAL MANAGEMENT

The F&A department provides budget planning, budget development, and oversight of budget execution. In addition, F&A 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 audit firm to audit its financial statements. With the accelerated Governmental timeframes for completing financial audit, the NMB met the requirements and received an unqualified opinion on its FY 2004 financial statements. The internal review of the accounting system also showed that the Agency didn't have any material weaknesses within its system. This year, the NMB will be including the results of

the financial audit as part of the agency's overall Annual Performance and Accountability Report.

In accordance with the Agency's management control plan, the NMB has one of its program or support areas reviewed annually. The internal review conducted for FY 2004 by an outside audit company showed that the NMB did not have any material weakness in the area of personnel and payroll. The result of this review is included with the NMB's FY 2004 Federal Managers' Financial Integrity Act report.

The Federal Financial Management Improvement Act (FFMIA) requires agencies to report on the status of its financial system. The Agency has been informed that its current vendor will not seek recertification of its current financial system. The system is currently in compliance with the Act, but it is anticipated that over the next couple of years

the vendor will not support the product. The Board is in the process of reviewing other financial systems for the future.

The Government Management Reform Act (GMRA) and Government Performance and Results Act (GPRA) require the implementation of managerial cost accounting and performance reporting. Since the NMB is a small agency with only three program areas, these program costs are reported and budgeted in accordance with the Agency's strategic and performance goals. During this fiscal year, the F&A staff began reporting the Representation area separately to ensure conformity with the strategic and performance plan which also separately displays this function. This process change has provided a clear budgetary link with the program areas.

### **HUMAN RESOURCES MANAGEMENT**

The NMB uses sound management practices and structures to deliver human resources management services with no increase in staffing. The Agency has continued to use contracted services in conjunction with in-house staff to deliver high quality, cost-effective services across the Agency. The NMB continues to concentrate on recruiting and retaining a highly diverse and skilled workforce to meet its strategic and performance goals.

The Board continues to rely on its annual performance management plan to monitor and improve the performance plan for each employee, and link all individual development plans (IDP) to the performance plans. The Agency makes use of the many hiring flexibilities to recruit and retain its workforce.

These flexibilities include the use of retention allowances to retain especially well qualified dispute resolution professionals and the utilization of the Student Loan Repayment Program as an additional inducement for retention.

The Agency has an alternative discipline policy which, in instances of employee misconduct, could minimize disruptions in the NMB workplace, produce a more positive outcome than traditional discipline, and deter future misconduct.

### **INFORMATION TECHNOLOGY**

The NMB continues to refine its use of information technology to improve mission performance, productivity, and administrative processes. During FY 2004 the Board embarked upon several projects that further integrate technology into Agency business practices and mission delivery.

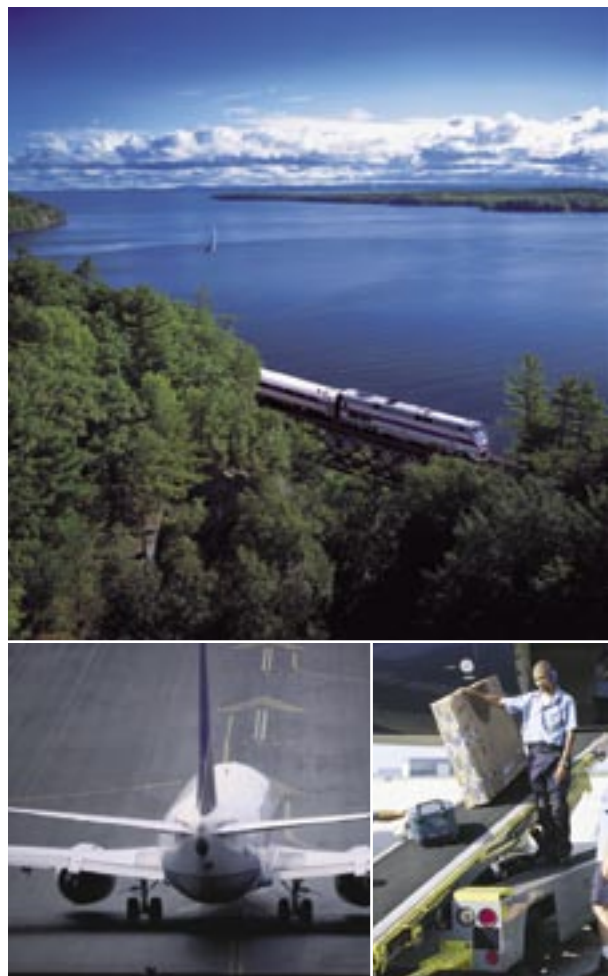
**E-Signature and E-Forms—Internal:** All regularly submitted travel and administrative forms used by the NMB's employees were, as of July 1, 2004, accessible on the Agency's internal web portal, and on the NMB web site. Agency employees can now submit forms for travel, leave, and reimbursement using an e-signature protocol, making it possible to process requests quicker and for employees to submit forms while in travel status.

**E-Signature and E-Forms—External:** During FY 2004 the Agency conducted a pilot program to test the feasibility of converting all arbitrator forms and reports to an e-forms environment. E-signatures were assigned to the pilot project

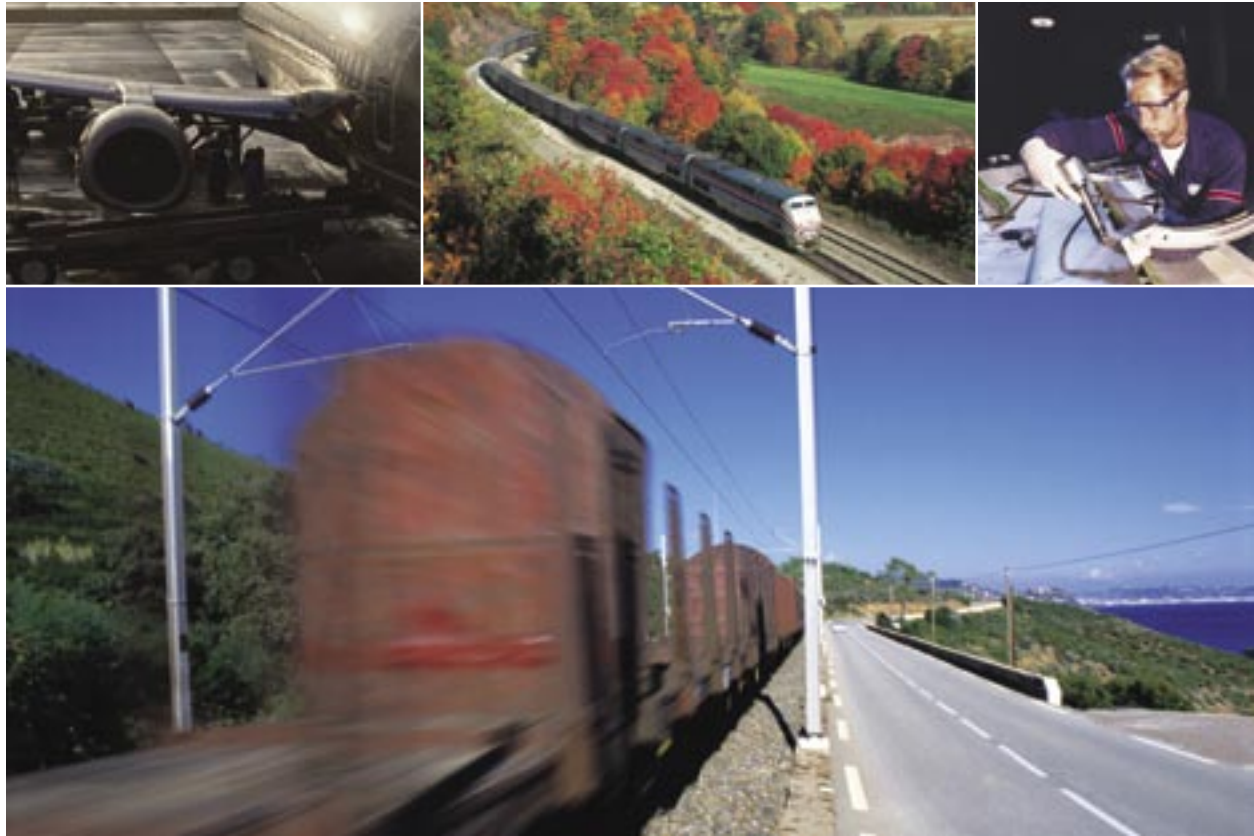
participants, and they used the e-forms during a two month test period. On October 1, 2004, the e-forms were made available to all arbitrators, and on January 1, 2005, the Agency has announced that use of the e-forms will be mandatory for all arbitrator submissions to the NMB.

**Document and Records Management:** During FY 2004, the Agency continued its work with a contractor to manage the archive and retention schedules with the National Archives and Records Administration (NARA), and to develop a comprehensive document and records management system. Two departments within the Agency are currently using the document management system – ADR Development and Technology, and Arbitration. The rest of the agency is scheduled to begin using the system during the first half of calendar year 2005.

**Video Conferencing:** The Agency has continued its agreement with the NLRB, the Union Pacific Railroad, Norfolk Southern Railroad, and the National Association of Railroad Referees (NARR) to encourage the use of video teleconferencing for appropriate arbitration hearings. The NLRB system interface with the carriers was fully tested during FY 2003 and has been available for use for all of FY 2004. Beginning with the FY 2005 memorandum of understanding with the NLRB, a provision was included which provides specific NLRB sites for use by the parties and arbitrators. In FY 2004, the agency put in place a web based video conference and document sharing program which is accessible remotely from the Internet.







On Line Dispute Resolution (ODR): During FY 2004 the Agency continued to develop its capacity to deliver ODR services. The Agency has in place a portable computer network and a web-accessible ODR site. In October 2004, the National Science foundation announced that it had awarded a grant to the University of Massachusetts at Amherst for the study of the impact of ODR on mediation. The NMB will work closely with U Mass for the duration of the three year research project.

An NMB security policy is in place and is consistent with applicable laws and regulations, ensuring that the agency's information will be safeguarded from data loss, incursion, or attack. An Agency emergency response plan also is in place to address responses to potential emergencies.

The NMB has an Information Technology (IT) capital planning document which outlines IT investments for the future.

The plan provides for a three year IT equipment life cycle. The Agency's website is located at [www.nmb.gov](http://www.nmb.gov). The focus of the website is to provide information on the principal functions of Mediation, Representation, Arbitration and Presidential Emergency Boards under the RLA. In keeping with the requirements of the Government Paperwork Elimination Act, forms to request services are on the website. The NMB continues to review and include information on the website which will meet all the necessary regulations for public disclosure. During FY 2004 the Agency added a comprehensive Help Desk to its web site functions.

During FY 2004, the NMB partnered with the User Center for the Work Place at Georgia State University to develop and deliver training to parties in the airline industry.

## NMB PERFORMANCE PLAN AND RESULTS (GPRA)

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The NMB 2004 Performance Plan is driven by and tracks its current, five-year Strategic Plan. The strategic plan contains outcome goals for the Agency's three missions: mediation, representation and arbitration. The strategic goals are highlighted and appear in the applicable mission-related areas of the performance plan. The performance plan, in turn, contains goals, targets, measures and strategies for achieving the strategic plan goals.

### RESOURCES REQUESTED TO MEET FY 2004 PERFORMANCE GOALS

The NMB's requested budget resources along with its allocated full-time equivalent positions will enable the agency to achieve the goals contained in the strategic plan and the annual performance plan. These resources will enable the NMB to meet its statutorily mandated obligations and to provide services to its airline and railroad labor-management and public customers. Seventy-five percent of the NMB's budget is attributed to FTE and contractual personnel costs. More than ninety percent of NMB staff have direct customer contact. The staff is dedicated to fulfilling the NMB's mission to provide the services described in the annual performance plan goals.

The FY 2004 annual performance goals are based on the assumption that the agency will experience level staffing and relatively stable case loads, consistent with the case load estimates included in the requested budget for FY 2004.

<b>CONTENTS</b>	<b>37</b>	Resources Requested to Meet FY 2004 Performance Goals
	<b>38</b>	Mediation Performance Goals
	<b>39</b>	Representation Performance Goals
	<b>41</b>	Arbitration Performance Goals

## STRATEGIC PLAN GENERAL GOAL 1: MEDIATION

**NMB mediation and alternative dispute resolution services will foster the prompt and peaceful resolution of collective bargaining disputes in the airline and railroad industries.**

### FY 2004 MEDIATION AND ALTERNATIVE DISPUTE RESOLUTION PERFORMANCE GOALS

#### I. Promptly and efficiently docket, assign and process mediation cases.

- A. In all non-excepted cases,\* mediation applications will be responded to within 3 business days following their receipt by the NMB.

FY 2002 Baseline	Target achieved 98%
FY 2004 Target	100%
FY 2004 Performance	100%

- B. In all non-excepted cases, a mediator will be assigned within 10 calendar days following docketing of all mediation cases.

FY 2002 Baseline	Target achieved 100%
FY 2004 Target	100%
FY 2004 Performance	98%

- C. In all non-excepted cases, the assigned Mediator will make an initial contact with the parties within seven calendar days following his or her assignment in all mediation cases. Initial contact is satisfied by speaking with both parties or leaving a voice mail message with both parties.

FY 2002 Baseline	Target achieved 100%
FY 2004 Target	100%
FY 2004 Performance	100%

#### II. Promote, manage and provide effective and efficient mediation services.

- A. In all non-excepted cases, the assigned Mediator will establish the date for the first mediation conference within 25 calendar days following the Mediator's assignment.

FY 2002 Baseline	Target achieved 93%
FY 2004 Target	100%
FY 2004 Performance	98%

- B. In all non-excepted cases, mediator and the Board will endeavor to assist the parties in reaching an agreement within 45 days of mediation meetings or fewer.

FY 2002 Baseline	Target achieved 93%
FY 2004 Target	100%
FY 2004 Performance	92%

- C. In all non-excepted cases, mediator and Board will endeavor to assist the parties in reaching an agreement within twelve months (365 days) of an application.

FY 2002 Baseline	Target achieved 80%
FY 2004 Target	100%
FY 2004 Performance	56%

- D. Provide mediation services for 70 new railroad and airline mediation cases.

FY 2002 Baseline	Target achieved 63%
FY 2004 Target	100%
FY 2004 Performance	59%

- E. Mediate to closure 70 railroad and airline mediation cases.

FY 2002 Baseline	Target achieved 84%
FY 2004 Target	100%
FY 2004 Performance	69%

### III. Promote, manage and provide effective and efficient alternative dispute resolution services.

- A. Provide facilitation and training services in 50 new alternative dispute resolution cases.

FY 2002 Baseline	Target achieved 100%
FY 2004 Target	100%
FY 2004 Performance	82%

- B. Bring 50 alternative dispute resolution cases to closure.

FY 2002 Baseline	Target achieved 100%
FY 2004 Target	100%
FY 2004 Performance	84%

## STRATEGIC PLAN GENERAL GOAL 2: REPRESENTATION

**Upon the request of employees of an airline or railroad, the NMB will promptly investigate representation disputes and definitively resolve the employees' representation status for collective bargaining purposes.**

### FY 2004 REPRESENTATION PERFORMANCE GOALS

#### I. Responses to representation applications will be issued promptly after their receipt at the NMB.

In all cases, a written response to a representation application will be sent within 3 business days.

FY 2002 Baseline	Target achieved 100%
FY 2004 Target	100%
FY 2004 Performance	100%

#### II. An NMB investigator will be assigned to a representation matter promptly.

In all cases, an NMB investigator will be assigned to investigate representation matters within 3 business days following the initial NMB response, unless the NMB declines to process the application.

FY 2002 Baseline	Target achieved 100%
FY 2004 Target	100%
FY 2004 Performance	100%



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**III. In all cases, the NMB's determination of whether there is sufficient showing of interest to warrant further investigation will be made within 45 calendar days of docketing.**

FY 2002 Baseline	Target achieved 84%
FY 2004 Target	100%
FY 2004 Performance	97%

**IV. In all cases, a certification or dismissal will be issued within 3 business days of the ballot count.**

FY 2002 Baseline	Target achieved 100%
FY 2004 Target	100%
FY 2004 Performance	100%

**V. Representation cases will be completed as expeditiously as practicable.**

A. All non-appellate representation cases will be completed within 90 calendar days of docketing.

FY 2002 Baseline	Target achieved 90%
FY 2004 Target	100%
FY 2004 Performance	95%

B. All Board decisions involving allegations of interference in appellate representation cases will issue within 270 calendar days of docketing.

FY 2002 Baseline	Target achieved 100%
FY 2004 Target	100%
FY 2004 Performance	100%

(Note: An appellate representation case involving a decision on allegations of interference is resolved only through a Board decision. Only a minority of NMB representation cases are appellate. The majority of appellate cases involve the resolution of allegations of interference.)

**VI. Predocketing investigations will be completed promptly.**

All predocketing investigations will be completed within 180 calendar days following the investigator's assignment to the case.

FY 2002 Baseline	Target achieved 100%
FY 2004 Target	100%
FY 2004 Performance	96%

**VII. Jurisdictional referrals from the NLRB will be resolved promptly.**

A written jurisdictional opinion will be provided to the NLRB within 180 calendar days from the date the jurisdictional referral from NLRB headquarters is assigned to an investigator.

FY 2002 Baseline	Target achieved 100%
FY 2004 Target	100%
FY 2004 Performance	83%

**VIII. In all cases which require a Board level decision, the Board will endeavor to issue a decision within 35 days after receiving a staff recommendation.**

FY 2002 Baseline	Target achieved 100%
FY 2004 Target	100%
FY 2004 Performance	97%

### STRATEGIC PLAN GENERAL GOAL 3: ARBITRATION

**The NMB will promote the prompt and orderly resolution of grievance disputes in the railroad and airline industry.**

#### FY 2004 ARBITRATION PERFORMANCE GOALS

**I. All arbitrators compensated by the NMB will be sent their payment within 3 business days following the NMB's receipt of an appropriate voucher.**

FY 2002 Baseline	Target achieved 49%
FY 2004 Target	100%
FY 2004 Performance	87%

**II. Monitor case loads and authorizations to encourage arbitrators to issue awards in all cases within 180 calendar days of hearing dates.**

FY 2002 Baseline	PLB/SBA Target achieved 81%
FY 2004 Target	100%
FY 2004 Performance	86%

FY 2002 Baseline	NRAB Target achieved 50%
FY 2004 Target	100%
FY 2004 Performance	63%

**III. At the National Railroad Adjustment Board, reduce the average length of time between the hearing of cases and decisions. A new, more meaningful calculation was used for FY 2004.**

FY 2004 Baseline	47.1%
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## NMB FINANCIAL REPORTS (FFMIA)

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### CFO Letter

For the first time, the NMB is presenting its Fiscal Year 2004 Performance and Accountability Report. This report is necessary pursuant to the Government Performance and Results Act (GPRA) which requires that agencies combine their performance reports with their accountability reports. The Chief Financial Officers Act and the Accountability of Tax Dollars Act requires all agencies to prepare an audited financial statement. These laws mandate that the agency maintain a financial management program of the highest quality. It is necessary for the NMB's financial management program to promote accountability and efficiency in the expenditure of taxpayers' monies. The NMB has received an unqualified opinion from its auditors for the last seven fiscal years. This unqualified opinion is the highest rating that any agency can receive from its auditors. It means that the agency has adhered to the highest standards of financial accountability. Following is the Fiscal Year 2004 National Mediation Board Audit Report for which the NMB received an unqualified opinion.



**June D.W. King**  
Chief Financial Officer

**NATIONAL MEDIATION BOARD**

Audit Report  
September 30, 2004

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**Allmond & Company**

Certified Public Accountants  
8181 Professional Place, Suite 250  
Landover, Maryland 20785  
(301) 918-8200

<b>CONTENTS</b>	<b>44</b>	Independent Auditor's Report
	<b>45</b>	Independent Auditor's Report On Internal Control
	<b>46</b>	Independent Auditor's Report On Compliance
		<b>Financial Statements:</b>
	<b>47</b>	Balance Sheet
	<b>48</b>	Statement Of Net Cost
	<b>48</b>	Statement Of Changes In Net Position
	<b>49</b>	Statement Of Budgetary Resources
	<b>50</b>	Statement Of Financing
	<b>52</b>	<b>Notes To Financial Statements</b>



## INDEPENDENT AUDITOR'S REPORT

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Board Members  
National Mediation Board

We audited the accompanying balance sheet of the National Mediation Board (NMB) as of September 30, 2004, and the related statements of net cost, changes in net position, and statements of budgetary resources and financing for the year then ended (the principal financial statements). These financial statements are the responsibility of NMB management and were prepared by NMB in accordance with Office of Management and Budget (OMB) Bulletin No. 01-09, *Form and Content of Agency Financial Statements*, as amended. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with *Government Auditing Standards*, auditing standards generally accepted in the United States, and OMB Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the principal financial statements referred to above present fairly, in all material respects, the financial position of NMB as of September 30, 2004, and its net costs, changes in net position, budgetary resources, and financing for the year then ended in conformity with accounting principles generally accepted in the United States.

We issued a draft of this report to NMB management and requested its comments. Management replied by indicating its general agreement with the audit results. In accordance with *Government Auditing Standards*, we issued separate reports dated November 12, 2004 on NMB's internal control and compliance with laws and regulations. Our reports on internal control and compliance are an integral part of an audit conducted in accordance with *Government Auditing Standards* and, in considering the results of the audit, those reports should be read together with this report.

**Allmond & Company**  
Marvin C. Allmond, CPA

November 12, 2004  
Landover, Maryland

## INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL

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Board Members  
National Mediation Board

We audited the accompanying balance sheet of the National Mediation Board (NMB) as of September 30, 2004, and the related statements of net cost, changes in net position, budgetary resources, and financing for the year then ended (the principal financial statements) and issued our report thereon, dated November 12, 2004. We conducted our audit in accordance with *Government Auditing Standards*, auditing standards generally accepted in the United States, and Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*.

In planning and performing our audit, we considered NMB's internal control over financial reporting by obtaining an understanding of NMB's internal control, determining whether internal control had been placed in operation, assessing control risk, and performing tests of control to determine auditing procedures for the purpose of expressing our opinion on the principal financial statements. We limited internal control testing to that necessary to achieve the objectives described in OMB Bulletin No. 01-02. We did not test all internal control relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982, such as the internal control relevant to ensuring efficient operations. The objective of our audit was not to provide assurance on internal control. Consequently, we do not express an opinion on internal control.

With respect to internal control related to performance measures reported in NMB management's overview, we obtained an understanding of the design of significant internal control relating to the existence and completeness assertions, as required by OMB Bulletin 01-02. We also assessed control risk relevant to NMB intra-agency transactions and balances. Our procedures were not designed to provide assurance on internal control over reported performance measures, and accordingly, we do not express an opinion on such control.

Our consideration of internal control over financial reporting would not necessarily disclose all matters that might be reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, reportable conditions are matters coming to our attention relating to significant deficiencies in the design or operation of internal control that, in our judgment, could adversely affect NMB's ability to record, process, summarize, and report financial data consistent with assertions by management in the financial statements.

Material weaknesses are reportable conditions in which the design or operation of one or more internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Because of inherent limitations in internal control, misstatements, losses, or noncompliance may nevertheless occur and not be detected. We noted no conditions involving internal control and its operation that we consider reportable conditions.

### Status of Prior-Year Recommendations

In the FY 2003 report on internal control, we did not describe any reportable conditions. Accordingly, no follow-up action is outstanding as it relates to resolving reportable conditions.

We issued a draft of this report to NMB management and requested its comments. Management replied by indicating its general agreement with the audit results. This report is intended solely for the information of NMB management, OMB, and Congress. This report is not intended to be and should not be used by anyone other than these specified parties.

**Allmond & Company**  
Marvin C. Allmond, CPA

November 12, 2004  
Landover, Maryland

## INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE

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Board Members  
National Mediation Board

We audited the accompanying balance sheet of the National Mediation Board (NMB) as of September 30, 2004, and the related statements of net cost, changes in net position, budgetary resources, and financing for the year then ended (the principal financial statements) and issued our report thereon, dated November 12, 2004.

We conducted our audit in accordance with *Government Auditing Standards*, auditing standards generally accepted in the United States, and Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

NMB management is responsible for complying with laws and regulations. As part of obtaining reasonable assurance about whether NMB's financial statements are free of material misstatement, we performed tests of its compliance with:

- Certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts.
- Certain other laws and regulations specified in OMB Bulletin No. 01-02.
- Requirements referred to in the Federal Financial Management Improvement Act (FFMIA) of 1996.

We limited our tests of compliance to these provisions and did not test compliance with all laws and regulations applicable to NMB. Our audit was not designed to provide an opinion on compliance with provisions of laws and regulations. Accordingly, we do not express such an opinion.

Our tests disclosed no instances of material noncompliance required to be reported under *Government Auditing Standards*. Additionally, we did not note any instances of immaterial noncompliance.

Under FFMIA, we are required to report whether the agency's financial management systems substantially comply with Federal financial management systems requirements, Federal accounting standards, and the United States Government Standard General Ledger at the transaction level. To meet this requirement, we performed the procedures specified in OMB's January 4, 2001, FFMIA implementation guidance. The results of our tests disclosed that NMB's financial management systems substantially complied with the three requirements in this paragraph.

We issued a draft of this report to NMB management and requested its comments. Management replied by indicating its general agreement with the audit results. This report is intended solely for the information of NMB management, OMB, and Congress. This report is not intended to be and should not be used by anyone other than these specified parties.

**Allmond & Company**  
Marvin C. Allmond, CPA

November 12, 2004  
Landover, Maryland

**NATIONAL MEDIATION BOARD**

Fiscal Year 2004

Financial Statements

**National Mediation Board****Balance Sheet****As of September 30, 2004 and September 30, 2003**

	2004	2003
<b>Assets</b>		
Entity Assets:		
Intragovernmental		
Fund Balance with Treasury (Note 2)	\$ 3,496,636	\$ 2,983,865
Real Estate, Property and Equipment (Note 3)	397,894	516,099
	<hr/>	<hr/>
Total Assets	\$ 3,894,530	\$ 3,499,965
	<hr/>	<hr/>
<b>Liabilities And Net Position</b>		
Liabilities:		
Intragovernmental Liabilities:		
Accounts Payable	\$ 302,155	\$ 395,114
Governmental Liabilities:		
Accounts Payable	97,879	143,459
Accrued Payroll and Benefits	186,218	164,035
Unfunded Annual Leave	264,980	286,515
	<hr/>	<hr/>
Total Liabilities	851,232	989,123
	<hr/>	<hr/>
Net Position:		
Unexpended Appropriated Capital	2,910,385	2,281,257
Cumulative Results of Operations	132,913	229,584
	<hr/>	<hr/>
Total Net Position	3,043,298	2,510,841
	<hr/>	<hr/>
Total Liabilities and Net Position	\$ 3,894,530	\$ 3,499,965
	<hr/>	<hr/>

The accompanying notes are an integral part of these financial statements.



**NATIONAL MEDIATION BOARD**

Fiscal Year 2004

Financial Statements

**National Mediation Board**  
**Statement of Net Cost**  
**For the Year Ended September 30, 2004 and September 30, 2003**

	2004	2003
Costs:		
Mediation/Representation, Arbitration, and Emergency Board		
Intragovernmental	\$ 3,026,593	\$ 3,045,251
With the Public	7,666,420	8,090,708
	<hr/>	<hr/>
Total	10,693,013	11,135,959
Less Earned Revenues	0	0
Net Program Costs	<hr/> \$ 10,693,013	<hr/> 11,135,959
Net Cost of Operations	<hr/> \$ 10,693,013	<hr/> 11,135,959

**National Mediation Board**  
**Statement of Changes in Net Position**  
**For the Year Ended September 30, 2004 and September 30, 2003**

	2004	2003
Net Cost of Operations	\$ (10,693,013)	\$ (11,135,959)
Revenue and Financing Sources:		
Appropriated Capital Used	10,425,643	10,833,957
Donations	(108,697)	(133,449)
Imputed Revenue - Costs paid by others (Note 5)	279,397	280,704
	<hr/>	<hr/>
Net Results of Operations	(96,671)	(154,747)
Net Change in Cumulative Results of Operations	(96,671)	(154,747)
Increase (Decrease) in Unexpended Appropriations	<hr/> 629,128	<hr/> 276,684
Change in Net Position	532,457	121,937
Prior Period Adjustment	0	0
Net Position - Beginning of Period	<hr/> 2,510,841	<hr/> 2,388,904
Net Position - End of Period	<hr/> \$ 3,043,298	<hr/> \$ 2,510,841

The accompanying notes are an integral part of these financial statements.

**NATIONAL MEDIATION BOARD**

Fiscal Year 2004

Financial Statements

**National Mediation Board**  
**Statement of Budgetary Resources**  
**For the Year Ended September 30, 2004 and September 30, 2003**

	2004	2003
Budgetary Resources:		
Budget Authority	\$ 11,421,000	\$ 11,315,000
Unobligated Balance - Beginning Period	1,845,180	1,354,676
Spending Authority from Offsetting Collections	22,003	9,243
Adjustments	(51,230)	367,140
	<u>13,236,953</u>	<u>13,046,059</u>
Total Budgetary Resources	\$ 13,236,953	\$ 13,046,059
Status of Budgetary Resources:		
Obligations Incurred	\$ 10,984,041	\$ 10,890,198
Unobligated Balance – Available	369,575	360,497
Unobligated Balance - Not Available	1,883,337	1,795,364
	<u>13,236,953</u>	<u>13,046,059</u>
Total, Status of Budgetary Resources	\$ 13,236,953	\$ 13,046,059
Outlays:		
Obligations Incurred	\$ 10,984,041	\$ 10,890,198
Less: Spending authority from offsetting collections and adjustments	(260,125)	(9,243)
Obligated Balance, Net – Beginning Period	1,202,795	1,403,134
Obligated Balance Transferred, Net		
Less: Obligated Balance, Net – End of Period	(1,235,669)	(1,202,795)
	<u>10,691,042</u>	<u>11,081,294</u>
Total Outlays	\$ 10,691,042	\$ 11,081,294

**NATIONAL MEDIATION BOARD**

Fiscal Year 2004

Financial Statements

<b>National Mediation Board</b>		
<b>Statement of Financing</b>		
<b>For the Year Ended September 30, 2004 and September 30, 2003</b>		
	<b>2004</b>	<b>2003</b>
Resources Used to Finance Activities		
Obligations Incurred	\$ 10,984,041	\$ 10,890,198
Less: Spending authority for offsetting collections and adjustments	(702,248)	(9,243)
Donations not in the Budget	(108,697)	(133,449)
Imputed Financing	279,397	280,704
Total Resources Used to Finance Activities	10,452,493	11,028,210
Less: Resources Not Used to Finance Net Cost of Operations		
Change in Amount of Goods, Services and Benefits		
Ordered but not yet Received or Provided	\$ (118,205)	\$ (143,008)
Costs Capitalized on the Balance Sheet	71,805	71,966
Change in Downward Adjustment of Prior Period Obligations	(4,110)	85,163
Financing Sources that Fund costs of prior periods	(21,535)	104,843
Total Resources Not Used to Finance Net Cost of Operations	(72,045)	118,964
Total Resources Used to Finance Net Cost of Operations	10,909,246	10,909,246
Costs that do not require Resources:		
Depreciation and Amortization	\$ 190,010	\$ 214,974
Revaluation of Assets and Liabilities	(21,535)	11,738
Total Costs that do not require Resources	168,475	226,712
Net Cost of Operations	\$ 10,693,013	\$ 11,135,635

The accompanying notes are an integral part of these financial statements.

**NATIONAL MEDIATION BOARD**

## Notes to Financial Statements

For the Year Ended September 30, 2004 and September 30, 2003

**NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES****Description of Reporting Entity**

The National Mediation Board (NMB), established in 1934 under section 4 of the Railway Labor Act (RLA), is an independent U.S. federal government agency that performs a central role in facilitating harmonious labor-management relations within two of the nation's key transportation modes - the railroads and airlines. Recognizing the importance of these transportation industries to the public shippers, and consumers, as well as to the economy and security of the country, the RLA established NMB to promote four key statutory goals:

- The prompt and orderly resolution of disputes arising out of the negotiation of new or revised collective bargaining agreements;
- The avoidance of interruptions to interstate commerce;
- The protection of employee rights to self-organization; and
- The prompt and orderly resolution of disputes over the interpretation or application of existing agreements.

These financial statements include all activity related to NMB's appropriation (No. 9542400), the principal funding for all NMB activities.

NMB prepares its financial statements to be in conformity with general accepted accounting principles.

**Budgets and Budgetary Accounting**

Congress annually adopts a budget appropriation that provides NMB with authority to use funds from Treasury to meet operating and program expense requirements. NMB has single year budgetary authority and all unobligated amounts at year-end are expired. At the end of the fifth year all amounts not expended are canceled. All revenue received from other sources must be returned to the U.S. Treasury.

**Basis of Accounting**

NMB's financial statements are prepared under the accrual method of accounting. The accrual method of accounting requires recognition of the financial effects of transactions, events, and circumstances in the period(s) when those transactions, events, and circumstances occur, regardless of when cash is received or paid. NMB also uses budgetary accounting to facilitate compliance with legal constraints and to keep track of its budget authority at the various stages of execution, including allotment, obligation, and eventual outlay.

The Balance Sheet, Statement of Net Cost, Statement of Net Position, Statement of Financing, and Statement of Budgetary Resources have been prepared in accordance with generally accepted accounting principles.

**Revenue and Other Financing Sources**

NMB receives funds to support its programs through annual appropriations. These may be used to pay program and administrative expenses (primarily salaries and benefits, occupancy, travel, and contractual services costs).

Appropriations are recognized as revenue at the time they are used to pay program or administrative expenses. Appropriations used to acquire property and equipment are recognized as revenues when depreciation on the assets is recognized.

NMB also earns revenue when it bills for copies of subscriptions. These subscriptions are for determinations on the cases NMB handles.



## NATIONAL MEDIATION BOARD

### Notes to Financial Statements

For the Year Ended September 30, 2004 and September 30, 2003

#### Fund Balances with the US Department of the Treasury

NMB does not maintain cash in commercial bank accounts. Cash receipts and disbursements are processed by Treasury. The balance of funds with Treasury represents appropriated fund balances that are available to pay current liabilities and finance authorized purchase commitments relative to goods or services that have not been received.

#### Property and Equipment

Property and equipment is stated at cost less accumulated depreciation. NMB capitalizes property and equipment purchases with a cost greater than \$5,000, and a total useful life exceeding one year. Depreciation is calculated on a straight-line basis based on an estimated useful life of 5 years for all assets. Expenditures for repairs and maintenance are charged to operating expenses as incurred.

When NMB enters into a lease agreement, as lessee, if the title of the asset transfers to NMB at the end of the lease, NMB capitalizes the lease if it is capitalizable and amortizes the cost over the economic useful life of the asset.

#### Liabilities

Liabilities represent the amount of monies or other resources that are likely to be paid by NMB as the result of a transaction or event that has already occurred. However, no liability can be paid by NMB absent an appropriation. Liabilities for which an appropriation has not been enacted are therefore classified as Liabilities Not Covered by Budgetary Resources and there is no certainty that the appropriations will be enacted. Also, liabilities of NMB arising from other than contracts can be abrogated by the government, acting in its sovereign capacity.

Regarding NMB's building lease, the General Services Administration (GSA) entered into a lease agreement for NMB's rental of building space. NMB pays GSA a standard level users charge for the annual rental. The standard level users charge approximates the commercial rental rates for similar properties. NMB is not legally a party to any building lease agreements, so it does not record GSA-owned properties and does not disclose future minimum lease payments.

#### Accrued Leave

Accrued payroll and benefits reflect salaries and benefits that have been earned, but not disbursed as of September 30, 2004.

#### Unfunded Annual Leave

Annual leave is accrued as a liability as it is earned. The accrual is reduced as leave is taken. Each year, the balance in the accrued annual leave account is adjusted to reflect current year pay rates. To the extent that the current or prior year appropriations are not available to fund annual leave earned but not taken, funding will be obtained from future appropriations. Sick leave and other types of non-vested leave are charged to expense as the leave is used.

#### Liabilities Not Covered By Budgetary Resources

These liabilities are not funded by direct budgetary authority. Liabilities not covered by budgetary resources result from the receipt of goods or services in the current or prior periods, or the occurrence of eligible events in the current or prior periods for which appropriations, revenues, or other financing sources of funds necessary to pay the liabilities have not been made available through Congressional appropriations or current earnings of the reporting entity. Liabilities not covered by budgetary resources as of September 30, 2003 were:

	FY 2004		FY 2003	
Unfunded Annual Leave	\$	264,980	\$	286,515

### Net Position

Appropriated fund balance consists of the following components:

**Unexpended appropriated capital** - represents amounts of unavailable and available spending authority that are unobligated, or obligated but not expended. The obligated amount represents amounts for goods and/or services outstanding for which funds have been obligated, but the liabilities have not been accrued.

	FY 2004	FY 2003
Unobligated, available	\$ 0	\$ 0
Unobligated, unavailable	2,260,967	1,781,071
Undelivered Orders	649,418	500,186
Unexpended Appropriated Capital	<u>\$ 2,910,385</u>	<u>\$ 2,281,257</u>

**Invested capital** - represents NMB's cost of property, plant and equipment, inventory and operating materials and supplies acquired that has been financed by appropriations less the reduction in investment due to depreciation.

**Future funding requirements** - represents the liabilities not covered by available budgetary resources.

### Retirement Plan

NMB's employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). Employees participating in CSRS contribute 7 percent of their gross pay to the plan, and NMB contributes 8.51 percent.

On January 1, 1987, FERS went into effect pursuant to Public Law 99-335. Most employees hired after December 31, 1983, are automatically covered by FERS and are eligible for Social Security benefits. Employees hired prior to January 1, 1984, could elect either to transfer to the FERS plan and become eligible for Social Security benefits or remain in CSRS. A primary feature of FERS is that it offers a savings plan in which NMB automatically contributes 1 percent of employees' pay and matches any employee contribution up to an additional 4 percent of pay.

The actuarial present value of accumulated benefits, assets available for benefits, and unfunded pension liability of CSRS and FERS is not allocated to individual departments and agencies and is therefore not disclosed by NMB. The reporting of these amounts is the responsibility of the Office of Personnel Management.

During fiscal year 2004 and 2003, NMB paid \$159,832 and \$151,730 for CSRS, and \$329,566 and \$342,581 for FERS, respectively for its employees' coverage.

### Tax Status

NMB, as an independent Board of the executive branch, a federal agency, is not subject to federal, state, or local income taxes, and, accordingly, no provision for income tax is recorded.

**NATIONAL MEDIATION BOARD**

Notes to Financial Statements

For the Year Ended September 30, 2004 and September 30, 2003

**NOTE 2: FUND BALANCES WITH TREASURY**

Fund balances with Treasury were entirely entity assets from appropriations and consisted of the following:

	FY 2004	FY 2003
Unobligated	\$ 1,235,669	\$ 1,202,795
Unobligated Available	0	0
Undelivered Restricted	2,260,967	1,781,071
Fund Balances with Treasury	<u>\$ 3,496,636</u>	<u>\$ 2,983,865</u>

**NOTE 3: PROPERTY AND EQUIPMENT, NET**

Property and equipment, and related accumulated depreciation, at September 30, 2004 and September 30, 2003 consisted of:

	FY 2004	FY 2003
Equipment-Capitalized	\$ 549,692	\$ 477,887
Computer Software-Capitalized	131,325	131,325
Leasehold Improvements	1,133,508	1,133,508
Capital Lease	23,362	23,362
	<u>1,837,887</u>	<u>1,766,082</u>
Less: Accumulated Depreciation	<u>(1,439,993)</u>	<u>(1,249,983)</u>
Total Property and Equipment, net	<u>\$ 397,894</u>	<u>\$ 516,099</u>

#### NOTE 4: PROGRAM/OPERATING EXPENSES

Although OMB 01-09 does not require that operating expenses be broken out by program and object classification, for FY 2004, NMB has chosen to display its operating expenses by object classification for FY 2004 and FY 2003. NMB only has one program.

	FY 2004	FY 2003
Personnel Compensation	\$ 6,456,553	\$ 6,318,984
Personnel Benefits	1,237,838	1,071,376
Former Benefits	0	0
Travel of Persons	730,662	674,936
Transportation of Things	12,923	23,099
Rent/Comm/Utilities	1,161,124	1,114,943
Printing	55,720	16,930
Other Services	493,480	745,234
Supplies	169,236	98,654
Equipment	(89,238)	536,515
Unvouchered	16,844	27,872
Total	<u>\$ 10,245,143</u>	<u>\$ 10,628,543</u>



**NATIONAL MEDIATION BOARD**

Notes to Financial Statements

For the Year Ended September 30, 2004 and September 30, 2003

**NOTE 5: PENSIONS, OTHER RETIREMENT BENEFITS, AND OTHER POST RETIREMENT BENEFITS**

The NMB reports the full cost of employee pensions, other retirement benefits, and other post-employment benefits in accordance with SFFAS No. 5, Accounting for Liabilities of the Federal Government. Although the NMB funds a portion of the benefits under FERS and CSRS relating to its employees and withholds the necessary payroll deductions, a portion of the Normal Pension Cost remains unpaid. SFFAS No. 5 requires the recognition of this remaining cost as imputed financing.

Pension and other retirement benefit expenses are calculated using cost factors determined by actuaries at the Office of Personnel Management. These cost factors are calculated based on economic and demographic assumptions. The cost factor is multiplied by the basic pay in order to obtain the "Normal Cost" for the accounting period. This Normal Cost is the present value of the projected benefits of each employee allocated on a level basis over the service of the employee between entry age and assumed exit age.

The imputed financing amount represents the difference between the employer's total pension expense and the employer's contribution. For the period ending September 30, 2004 the Normal Cost, employer's total pension expense, employer's contribution and imputed financing amounts were as follows:

EMPLOYEE TYPE	NORMAL COST	EMPLOYER'S TOTAL PENSION EXPENSE	EMPLOYER'S CONTRIBUTION	EMPLOYER'S IMPUTED FINANCING EXPENSE
CSRS	\$ 219,452	\$ 155,067	\$ 141,555	\$ 77,896
CSRS Offset	22,762	21,701	11,098	11,664
FERS	379,311	349,626	382,609	(3,298)
Total	<u>\$ 621,524</u>	<u>\$ 526,394</u>	<u>\$ 535,262</u>	<u>\$ 86,262</u>
Health Insurance				192,270
Life Insurance				865
Total				<u>193,135</u>
Grand Total Imputed Financing				<u>\$ 279,397</u>

## INTERNAL CONTROLS EVALUATION

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December 22, 2004

The President  
The White House  
Washington, DC 20500

RE: Federal Managers' Financial Integrity Act of 1982

Dear Mr. President:

This is the report of the National Mediation Board (NMB) for Fiscal Year 2004 (FY 04) pursuant to Sections 2 and 4 of the Integrity Act. (See: 31 U.S.C. § 3512(d)(2) and (d)(2)(B), respectively).

### **FY 04 Internal Controls Evaluation**

The FY 04 NMB Internal Controls Evaluation establishes a reasonable assurance that the agency's controls are achieving their intended objectives and that the agency's financial management systems conform with government-wide requirements.

The NMB's concept of reasonable assurance recognizes that the cost of internal controls should not exceed the benefits derived and that the benefits should reduce the risk of failing to achieve stated objectives.

Furthermore, the NMB's systems of internal accounting and administrative control provide reasonable assurance that:

- Obligations and costs are in compliance with applicable law;
- Funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and
- Revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of reliable financial and statistical reports and to maintain accountability over the assets.

The NMB is a small independent agency with limited resources. Consequently, the cost of an annual evaluation of each function or assessable unit of the NMB will outweigh the benefits derived. OMB Circular A-123, Management Accountability and Control, revised June 21, 1995, encourages agency heads to streamline Integrity Act compliance efforts by ensuring that the cost of evaluation methods do not outweigh the benefits derived. As a result, NMB has adopted the following techniques to obtain feedback on the effectiveness of its management controls:

- Questionnaires;
- Annual internal control review of one assessable unit or one component;
- Chief Financial Officer Act (CFO) audits of financial statements; and
- Summary of instances of non-compliance that come to management's attention during the year.

**ENCLOSURE A**

National Mediation Board

Documentation of Management Control Plan

The NMB continues to evaluate and to improve the agency's internal control systems in accordance with the Office of Management and Budget's Guidelines for the Evaluation and Improvement of and Reporting on Internal Control System in the Federal Government, and the Comptroller General's Guidelines.

**FY 04 Financial Statement Audit**

Finally, the NMB's FY 04 Financial Statement Audit in accordance with the Chief Financial Officers (CFO) Act of 1990 is in process. This is the NMB's tenth year undergoing such an audit. The audit has disclosed no material weaknesses in the agency's internal control system.

**Documentation and Statistical Summary Enclosures**

The NMB's FY 04 Internal Control Evaluation is formulated pursuant to the agency's Management Control Plan (Plan) at Enclosure A. The agency's annual internal control evaluation employs the techniques on pages 3-4 of the Plan to obtain feedback from managers and employees. In support of the evaluation, the NMB prepares a Statistical Summary of Performance reflecting a five (5) year history as well as, the current FY 04 reporting year at Enclosure B. Finally, to assist the review of this report, a brief description of the Conduct of the Internal Control Evaluation Process is found at Enclosure C.

**Summary**

Based on the FY 04 NMB review, I find that there is a reasonable assurance that the NMB controls are achieving their intended objectives and that the agency's accounting systems are in conformance with the principles, standards, and related requirements prescribed by the Comptroller General.

Sincerely,

**Harry R. Hoglander**

Chairman

-Enclosures-

## ENCLOSURE A

### National Mediation Board Documentation of Management Control Plan

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#### Prepared By:

Allmond & Company  
Certified Public Accountants  
8181 Professional Place, Suite 250  
Landover, Maryland 20785  
(301) 918-8200

#### Introduction

The National Mediation Board (NMB or Board) was established in 1934 under section 4 of the Railway Labor Act (Title 45 of the US Code) as an independent agency in the executive branch of the United States Government. The Board's main goals are:

- The prompt and orderly resolution of disputes arising out of the negotiations of new or revised collective bargaining agreements;
- The avoidance of interruptions to interstate commerce;
- The protection of employee rights to self-organization; and
- The prompt and orderly resolution of disputes over the interpretation or application of existing agreements.

Amendments in 1936 and 1981 expanded the Board's authority to include jurisdiction over airlines and publicly funded and operated commuter passenger railroads respectively.

As authorized by the regulations, the Board members may appoint officers and employees to assist in effectively performing the functions of the Board. In addition the Board may also fix salaries and make such expenditures as are necessary for the execution of the functions vested in the Board by Congress. Currently, the Board is authorized 52 full time equivalent positions.

During fiscal year 1996, the Board initiated a reorganization which included consolidating the mediators to the Washington, DC headquarters. A small satellite office is maintained in Chicago, IL to support the work of the National Railroad Adjustment Board (NRAB). The NMB receives its entire funding through an annual appropriation that totaled \$11,421,000 in FY 2004. The Board has no other source of revenue.

#### FMFIA and OMB A-123

The importance of management controls is addressed in many statutes and executive documents. The Federal Managers' Financial Integrity Act (FMFIA) passed in 1982, establishes specific requirements with regard to management controls. The "agency head" must establish controls that reasonably ensure that: (1) obligations and costs comply with applicable law; (2) assets are safeguarded against waste, loss, unauthorized use or misappropriation; and (3) revenues and expenditures are properly accounted for and recorded. In addition, the agency head annually must evaluate and report on the control and financial systems that protect the integrity of Federal programs. The Act encompasses program, operational, and administrative areas as well as accounting and financial management.



## ENCLOSURE A

### National Mediation Board

### Documentation of Management Control Plan

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The Office of Management and Budget's (OMB) implementation guide for FMFIA is contained in OMB Circular No. A-123, *Management Accountability and Control*, which was initially issued in August 1983 and amended in August 1986 and June 1995. The Circular states that agencies and individual Federal Managers must take systematic and pro-active measures to: (1) develop and implement appropriate, cost effective management controls for results oriented management; (2) assess the adequacy of management controls in Federal programs and operations; (3) identify needed improvements; (4) take corresponding corrective action; and (5) report annually on management controls. Management controls are the organizational structures, policies, and procedures being utilized as tools to help program and financial managers achieve results and safeguard the integrity of their programs.

OMB Circular A-123 and FMFIA identify three objectives of management controls. They are to ensure that (1) obligations and costs comply with applicable law, (2) assets are safeguarded against waste, fraud, loss, unauthorized use or misappropriation, and (3) revenues and expenditures are accounted for and recorded properly.

The best approach toward management controls required by FMFIA is to integrate the controls with other efforts to improve effectiveness and accountability. In this way, management controls become an integral part of the entire cycle of planning, budgeting, management, accounting, and auditing. They support the effectiveness and the integrity of every step of the process and provide continual feedback to management. The Board felt that developing a written strategy for internal agency use would help ensure that appropriate action is taken throughout the year to meet the objectives of FMFIA. Consequently, this document was designed to provide a framework for the development and continuous evaluation of management controls as required by FMFIA and OMB Circular A-123.

As part of the implementation of FMFIA, the General Accounting Office (GAO) established internal control standards for federal agencies in 1983. The GAO publication was titled *Standards for Internal Controls in the Federal Government* and was referred to as the *Green Book*. The NMB has strengthened its internal control system by ensuring that all the *Green Book* standards are an integral part of daily operations. NMB's management control system is composed of a plan of operations and policies and procedures adopted by management to ensure that: (1) resource use is consistent with laws, regulations, and policies; (2) resources are safeguarded against waste, fraud, and misuse, and; (3) reliable data is obtained, maintained, and fairly disclosed in reports. NMB recognizes that an appropriate balance of controls must exist in programs and operations. Too many controls can result in inefficient and ineffective government. Managers should benefit from controls, not be encumbered by them.

The proper stewardship of Federal resources is a fundamental responsibility of management and staff. Federal employees must ensure that government resources are used efficiently and effectively to achieve intended program results. Resources must be used in a manner consistent with agency mission, in compliance with law and regulation, and with minimal potential for waste, fraud, and mismanagement.

#### Assessable Units

Due to the limited size of the NMB, the selection of assessable units was not a difficult process. Four assessable units were identified.

**Mediation** - The primary function of the NMB is to mediate collective bargaining agreements in the Railroad and Airline industries and avoid disruption of services in these industries due to strikes. The mediators work with representatives of the union and management in order to come to an agreement on a contract. Mediation is performed predominately by NMB staff.

**Representation** - Representation determines which unions have the right to represent a specific group of employees in contract negotiations. NMB supervises the formation of unions, monitors elections and certifies unions to represent the employees in contract negotiations. Representation is also performed by NMB Staff.

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**Arbitration** - In addition to mediating collective bargaining agreements between labor and management, the NMB provides arbitration services to clarify interpretations of those contracts as they apply to individual situations involving management and an employee. The arbitration services are performed through the NRAB. While the NRAB is a separate entity from the NMB, the activities of the NRAB are funded by the NMB. Arbitration services are generally provided by contract arbitrators rather than permanent NMB employees.

**Support Services** - Support Services are the administrative and financial functions that provide support for the mediation, representation, and arbitration programs that are at the core of the Board's mission. These services include Personnel and Training, Travel, Procurement, Accounting, Budgeting, and Administrative Support.

#### **Approach For FMFIA Compliance**

The NMB is a small federal agency with limited resources. Consequently, the cost of an annual evaluation of each function or assessable unit of the NMB will outweigh the benefits derived. OMB Circular A-123 as revised in June 1995 encouraged agency heads to streamline their FMFIA compliance efforts by ensuring that the cost of evaluation methods do not outweigh the benefits derived. As a result, NMB has adopted the following techniques to obtain feedback on the effectiveness of its management controls:

- Questionnaires,
- Annual internal control review of one assessable unit or one component,
- Chief Financial Officer Act audits of financial statements, and
- Summary of instances of non compliance that come to management's attention during the year.

NMB managers will assess management controls in all assessable areas annually using a questionnaire. The questionnaire will be used to: (1) identify vulnerable areas; (2) identify management controls in place to prevent loss or unauthorized loss or unauthorized use of resources, errors in reporting, or violation of laws, regulations, or policies, and; (3) identify instances of non compliance with management controls. The questionnaire is used as the primary source of feedback and tool for reporting to the President and Congress annually.

Internal Control Reviews are utilized as a secondary method of assessing management controls. An internal control review will be performed annually of at least one assessable unit or component functional area. In performing the review NMB will:

- Gain an understanding of the functions (event cycles) performed by the assessable unit by reviewing the published policies and procedures and observing NMB employees performing their tasks.
- Prepare narrative descriptions and flowcharts of the policies and procedures in operation, and identified management controls in place.
- Assess the level of inherent risk and vulnerability to waste, loss, unauthorized use, or misappropriation as either high, medium, or low, and obtain NMB management's concurrence with the ratings based on the documented understanding of policies and procedures.
- Develop procedures and prepare plan(s) to test the adequacy and effectiveness of management controls in place for the review period. Where applicable, the requirements of OMB Circulars A-123, *Management Accountability and Control*, A-127, *Financial Management System*, and A-130, *Management of Federal Information Systems* will be considered.
- Perform the approved tests of management controls.

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An independent audit of the NMB's financial Statements will be performed annually. NMB prepares its financial statements as required under the Chief Financial Officers' (CFO) Act in accordance with OMB Bulletin Number 97-01, Statements of Federal Financial Accounting Standards (SFFAS), and the remaining hierarchy of federal accounting standards. The audit will be conducted in accordance with generally accepted auditing standards set by the American Institute of Certified Public Accountants; generally accepted government auditing standards as set forth in *Government Auditing Standards*, 1994 Revision (Yellow Book), and OMB Bulletin No. 93-06, *Audit Requirements of Federal Financial Statements* (or its successor). All findings on internal control weaknesses and noncompliance with laws, regulations, and directives identified in the audit report and management letter will be reviewed for inclusion in the annual FMFIA report. Currently, management receives feedback from various other sources such as monthly reporting by department managers, staff meetings, conferences and briefings, and self assessments. Information on instances of noncompliance with management controls will continue to be gathered from these sources and considered for FMFIA annual reporting.

**Corrective Action And Follow Up**

A management control deficiency will be reported to the next level of management. Employees and managers generally report deficiencies to the next supervisory level, which allows the chain of command structure to determine the relative importance of each deficiency.

Deficiencies in management controls and noncompliance with laws, regulations, and directives will be corrected by the responsible manager. Managers will report to the Board corrective actions initiated as well as those planned for future periods.

The extent to which corrective actions are tracked by the Board will be commensurate with the severity of the deficiency. Corrective action plans will be developed for all deficiencies included in the FMFIA report, and progress against plans will be periodically assessed and reported to the Board. The Board will track progress to ensure timely and effective results. For deficiencies that are not included in the FMFIA report, corrective action plans will be developed and tracked internally at the appropriate level.

NMB will conduct an annual review to evaluate whether corrective actions have been implemented and deemed adequate to prevent such deficiencies from occurring in the future. Adequate information on corrective actions shall be obtained and documented to make a complete and accurate reporting of corrective actions in the FMFIA report.

A determination that a deficiency has been corrected will be made only when sufficient corrective actions have been taken and the desired results achieved. This determination will be in writing for items included in the FMFIA report, and along with other appropriate documentation, should be available for review by appropriate officials.

The ability of managers to formulate and implement corrective actions will be one of their key performance measures. The Board will initiate actions reprimanding managers who continuously fail to carry out corrective actions necessary to reduce risk in vulnerable areas.

**ENCLOSURE B**

## Statistical Summary of Performance

**REPORT PURSUANT TO SECTION 2 OF THE INTEGRITY ACT: INTERNAL CONTROL SYSTEM**

Overall compliance: Yes

Number of Material Weaknesses:

PERIOD REPORTED	REPORTED	CORRECTED	PENDING
Prior Years	0	N/A	0
2000 report	0	N/A	0
2001 report	0	N/A	0
2002 report	0	N/A	0
2003 report	0	N/A	0
2004 report	0	N/A	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

Pending Material Weaknesses (by function):

CATEGORY	NUMBER	YEAR FIRST REPORTED
Program management	0	N/A
Functional management:	0	N/A
Procurement	0	N/A
Grant management	0	N/A
Personnel & organizational management	0	N/A
ADP security	0	N/A
Payment systems and cash management	0	N/A
Loan management and debt collection	0	N/A
Property and inventory management	0	N/A
<b>Total</b>	<b>0</b>	<b>N/A</b>

**REPORT PURSUANT TO SECTION 4 OF THE INTEGRITY ACT: SYSTEMS AND CONFORMANCE**

Overall compliance: Yes

Management Systems:

EXISTING SYSTEMS	TOTAL	IN CONFORMANCE
Prior years	1	1
2000 report	1	1
2001 report	1	1
2002 report	1	1
2003 report	1	1
2004 report	1	1
<b>Total</b>	<b>1</b>	<b>1</b>

Pending Nonconformance:

MATERIAL NONCONFORMANCE	REPORTED	CORRECTED	PENDING
Prior Years	0	N/A	0
2000 report	0	N/A	0
2001 report	0	N/A	0
2002 report	0	N/A	0
2003 report	0	N/A	0
2004 report	0	N/A	0
<b>Total</b>	<b>0</b>	<b>N/A</b>	<b>0</b>

**REPORT PURSUANT TO SECTION 4 OF THE INTEGRITY ACT: FINANCIAL MANAGEMENT SYSTEMS**

Overall Compliance: Yes, Achieved 1988

Number of Material Weaknesses:

PERIOD REPORTED FY 04	REPORTED	CORRECTED	PENDING
Prior Years	0	N/A	0
2000 report	0	N/A	0
2001 report	0	N/A	0
2002 report	0	N/A	0
2003 report	0	N/A	0
2004 report	0	N/A	0
<b>Total</b>	<b>0</b>	<b>N/A</b>	<b>0</b>

Pending Nonconformance:

PERIOD REPORTED FY 04	NUMBER	YEAR FIRST REPORTED
General ledger control	0	N/A
Interfaces	0	N/A
Data accuracy, timeliness, comparability, usefulness	0	N/A
Property	0	N/A
Cash management	0	N/A
Receivables	0	N/A
Program costs	0	N/A
Payroll	0	N/A
Systems documentation	0	N/A
Audit trails, security	0	N/A
Other	0	N/A
<b>Total</b>	<b>0</b>	<b>N/A</b>

**ENCLOSURE C**

## Description of the Conduct of the Internal Control Evaluation Process

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The National Mediation Board (NMB) is a small independent agency with a total staff of 52 and a FY 2004 budget of approximately \$11,421,000. Therefore, selection of assessable units was a relatively simple process.

The agency is responsible for the following functions, each of which was determined to be an assessable unit:

- Mediation
- Representation
- Arbitration
- Support Services

The managers of each of these areas or programs were responsible for evaluating the above units for vulnerability to fraud, waste, and abuse of federal resources.

Each manager submitted a report to the agency's internal control committee. The committee, in turn, evaluated the various reports and submitted its report to the Board. The Board conducted a review of the reports. The Board consolidated the data from the reports and the independent auditor's report on internal control structure prepared as a result of the Chief Financial Officer Act audit of the financial statements. The annual report is prepared using the consolidated data. The Internal Control Committee monitors the planned action for improvement for the purpose of ensuring that weaknesses have been corrected as intended.

Because the NMB is very small, accounting and payments are very tightly controlled and carefully monitored. The NMB pays all bills promptly, in accordance with the Prompt Payment Act. In FY 2004, no penalty fees were paid for late payments.

As reported to the General Accounting Office, the NMB has monitored payments and has found no erroneous payments. It should be noted that the Board does not administer any benefits or grant programs. NMB does administer a student loan program, but no employee applied in FY 2004.



## NATIONAL RAILROAD ADJUSTMENT BOARD (NRAB)

William R. Miller, Chairman

Martin W. Fingerhut, Vice Chairman

### NRAB BOARD MEMBERS

FIRST DIVISION MEMBERS	SECOND DIVISION MEMBERS	THIRD DIVISION MEMBERS	FOURTH DIVISION MEMBERS
<b>Richard K. Radek</b> Chairman	<b>Richard S. Bauman</b> Chairman	<b>William R. Miller</b> Chairman	<b>Gary J. Campbell</b> Chairman
<b>Martin W. Fingerhut</b> Vice Chairman	<b>John P. Lange</b> Vice Chairman	<b>Michael C. Lesnik</b> Vice Chairman	<b>Bjarne R. Henderson</b> Vice Chairman
Kim N. Thompson	Alexander M. Novakovic	Charlie A. McGraw	James R. Cumby
Marcus J. Ruef	Jay R. Cronk	Roy C. Robinson	N. Ray Cobb
John W. Babler	Daniel S. Anderson	David W. Volz	Jack S. Gibbins
Joseph P. Horbury, Sr.	William T. Bohne, Jr.	John F. Hennecke	Patricia A. Madden
William B. Murphy	John F. Ingham	LaVerne D. Miller	
Charles R. Wise	Russ Parks	Issac R. Monroe	
	Thomas N. Tancula	Thomas Rohling	
	H. Glen Williams	John S. Morse	

### CASES DOCKETED AND CLOSED BY THE NATIONAL RAILROAD ADJUSTMENT BOARD, FY-2004

ALL DIVISIONS	2004	2003	2002
Pending Cases at beginning of Fiscal Year	1509	2023	1760
New Cases	805	799	1439
Total number open cases	2314	2822	3199
Closed Cases	830	1313	1176
Pending Cases at end of Fiscal Year	1484	1509	2023

NATIONAL RAILROAD ADJUSTMENT BOARD (NRAB)

REFEREES

FIRST DIVISION	SECOND DIVISION	THIRD DIVISION	FOURTH DIVISION
Benn, Edwin H. Dennis, Rodney E. Goldstein, Elliott H. Hampton, Donald A. Kenis, Ann S. Malin, Martin H. Wallin, Gerald E.	Benn, Edwin H. Gianino, Carmelo R. Zamperini, Carol J.	Benn, Edwin H. Bierig, Steven M. Dennis, Rodney E. Eischen, Dana E. Eischen, Nancy F. Goldstein, Elliott H. Javits, Joshua M. Kenis, Ann S. LaRocco, John B. Malin, Martin H. Mason, James E. Meyers, Peter R. Nash, James E. Newman, Margo R. Parker, Joan Perkovich, Robert Quinn, Frank X. Wallin, Gerald E.	Hicks, Robert L. LaRocco, John B. Marx, Herbert L. Stallworth, Lamont E.

## SECTION 3 TRIBUNALS AND ARBITRATORS SELECTED

### 1. SECTION 3 TRIBUNALS ESTABLISHED FY 2004

	NO. OF BOARDS
Public Law Board	103
Special Boards of Adjustment	4
Arbitration Board	2

### 1A. PUBLIC LAW BOARDS FY 2004

CARRIERS	NO. OF BOARDS
The Belt Railway Company of Chicago	2
Birmingham Southern Railroad Company	1
Buffalo & Pittsburgh Railroad, Inc.	1
Burlington Northern Santa Fe Railway Company	18
Canadian National Railway	5
Consolidate Rail Corporation	1
CP Rail System	3
CSX Transportation, Inc.	16
Duluth, Missabe & Iron Range Railroad	1
Elgin, Joliet & Eastern Railway	2
Illinois Central Railroad	1
Indiana Harbor Belt Railroad	1
Indiana & Ohio Railway Company	1
Kansas City Southern	1
Kiamichi Railroad Company	1
Long Island Rail Road	2
Massachusetts Bay Commuter Railroad	1
Metro North Commuter Rail	2
Mississippi Export Railroad	1
National Railroad Passenger Corporation (AMTRAK)	4
New England Central Railroad	1
Norfolk Southern Corporation	6
Paducah & Louisville Railway	1
Peoria & Pekin Union Railway Company	1
Pittsburgh & Conneaut Dock Company	1
Port Terminal Railroad Association	1
South Buffalo Railroad	1
South Carolina Public Railway	1
Southeastern Pennsylvania Transportation Authority	2
Terminal Railroad Association of St. Louis	1
Union Pacific Railroad Company	20
Union Railroad Company	1
Wheeling & Lake Erie	1
<b>Total</b>	<b>103</b>

## SECTION 3 TRIBUNALS AND ARBITRATORS SELECTED

UNIONS	NO. OF BOARDS
American Train Dispatchers Association	3
Brotherhood of Locomotive Engineers	14
Brotherhood of Maintenance of Way Employes	15
Brotherhood of Railroad Signalmen	3
International Association of Machinists & Aerospace Workers	3
International Brotherhood of Electrical Workers	10
International Brotherhood of Blacksmith & Boilermakers	1
International Longshoremen's Association	1
International Railway Supervisors Association	1
National Conference of Firemen and Oilers	3
Sheet Metal Workers International Association	1
Transportation Communications International Union	13
Transport Workers Union	1
United Steel Workers of America	1
United Transportation Union	33
<b>Total</b>	<b>103</b>

### 1B. SPECIAL BOARDS OF ADJUSTMENT FY 2004

CARRIER	NO. OF BOARDS
Kansas City Southern Railroad	1
National Carrier Conference Committee	1
Norfolk Southern Railroad Company	1
Union Pacific Railroad Company	1
<b>Total</b>	<b>4</b>

UNIONS	NO. OF BOARDS
Association of Commuter Rail Employes	1
Brotherhood of Locomotive Engineers	1
Brotherhood of Railroad Signalmen	1
Transportation Communications International Union	1
<b>Total</b>	<b>4</b>

### 1C. ARBITRATION BOARDS FY 2003

CARRIER	NO. OF BOARDS
Union Pacific Railroad Company	1
National Carriers Conference Committee	1
<b>Total</b>	<b>2</b>

UNIONS	NO. OF BOARDS
Brotherhood of Locomotive Engineers	1
International Brotherhood of Locomotive Engineers	1
<b>Total</b>	<b>2</b>

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## 1D. ARBITRATORS SELECTED (PLB, SBA OR ARB BOARDS) FY 2004

John Binau	Danielle L. Hargrove	Robert Peterson
James Conway	Don Hays	Robert Perkovich
Joseph A. Cassidy, Jr.	Robert Hicks	Francis X. Quinn
James M. Darby	Thomas Ingles	Robert Richter
Barbara Deinhardt	Richard R. Kasher	Thomas Rinaldo
Rodney Dennis	Ann Kenis	Lynette A. Ross
Robert Douglas	Martin Malin	Barry Simon
John Easley	James Mason	Edward Suntrup
Dana E. Eischen	Herbert L. Marx, Jr.	David P. Twomey
Lewis L. Ellsworth	David C. Nevins	M. David Vaughn
Charles P. Fischbach	Margo Newman	Gerald Wallin
Charlotte Gold	Robert O'Brien	Marty E. Zusman
Elliott Goldstein	Joan Parker	

## 2. LABOR PROTECTIVE PROVISIONS

### 2A. CARRIERS

Union Pacific Railroad Company  
Canadian National Pacific Railway Company

### 2B. UNIONS

John Grother  
Brotherhood of Locomotive Engineers and Trainmen  
Michael D. Watkins, et al.

### 2C. ARBITRATORS SELECTED

Ann S. Kenis  
James McDonnell  
Thomas N. Rinaldo  
Lynette A. Ross



**MEDIATION, ADR, AND REPRESENTATION TABLES**

Table 1 - Number of Cases Received and Closed Out

	FY-2004	FY-2003	FY-2002	FY-2001	FY-2000	FY-1999	AVERAGE 1999-03
<b>Mediation</b>							
Start-pending	63	51	66	61	74	127	75.8
New	41	55	44	70	65	71	61.0
Sum	104	106	110	131	139	198	136.8
Closed	48	43	59	65	78	124	73.8
End-pending	56	63	51	66	61	74	63.0
<b>ADR</b>							
Start-pending	16	18	21	28	16	27	22.0
New*	41	27	48	45	59	45	44.8
Sum	57	45	69	73	75	72	66.8
Closed*	42	29	51	52	47	56	47.0
End-pending	15	16	18	21	28	16	19.8
<b>Representation</b>							
Start-pending	4	4	8	15	14	11	10.4
New	60	55	66	66	75	75	67.4
Sum	64	59	74	81	89	86	77.8
Closed	63	55	70	73	74	72	68.8
End-pending	1	4	4	8	15	14	9.0
<b>Total</b>							
Start-pending	83	73	95	104	104	165	108.2
New	142	137	158	181	199	191	173.2
Sum	225	210	253	285	303	356	281.4
Closed	153	127	180	190	199	252	189.6
End-pending	72	83	73	95	104	104	91.8

**Note:** Some figures in FY 1999 adjusted based on case audit.

\* The ADR caseload shown here includes only airline, railroad or union cases.

**MEDIATION, ADR, AND REPRESENTATION TABLES**Table 2 - Representation Case Disposition By Craft or Class,  
Employees Involved and Participating

	NUMBER OF CASES	NUMBER OF CRAFTS OR CASES	NUMBER OF EMPLOYEES	NUMBER OF EMPLOYEES INVOLVED PARTICIPATING
<b>RAILROADS</b>				
Certifications	14	14	696	527
Dismissals	8	8	18	8
<b>Totals</b>	<b>22</b>	<b>22</b>	<b>714</b>	<b>535</b>
	NUMBER OF CASES	NUMBER OF CRAFTS OR CASES	NUMBER OF EMPLOYEES	NUMBER OF EMPLOYEES INVOLVED PARTICIPATING
<b>AIRLINES</b>				
Certifications	11	11	3,725	2,193
Dismissals	30	30	4,879	1,875
<b>Totals</b>	<b>41</b>	<b>41</b>	<b>8,604</b>	<b>4,068</b>
<b>Totals</b>				
<b>RAILROADS AND AIRLINES</b>	<b>63</b>	<b>63</b>	<b>9,318</b>	<b>9,318</b>

**MEDIATION, ADR, AND REPRESENTATION TABLES**

Table 3 - Number of Cases Closed by Major Groups of Employees

	TOTAL CASES	REPRESENTATION CASES	MEDIATION/ADR
<b>RAILROADS</b>			
Agents, Telegraphers and Towermen	0	0	0
Boilermakers and Blacksmiths	0	0	0
Brakemen and Conductors	0	0	0
Carmen	3	0	3
Clerical Office, Station and Storehouse Employees	6	2	4
Conductors	2	0	2
Dining Car Employees, Train and Pullman Porters	1	1	0
Electrical Workers	3	2	1
Engineers and Related Employees	0	0	0
Firemen and Oilers	0	0	0
Locomotive Engineers	5	0	5
Locomotive Firemen and Hostlers	0	0	0
Longshoremen	1	1	0
Machinists.	2	2	0
Maintenance of Way Employees	1	0	1
Marine Service Employees	0	0	0
Mechanical Department Foremen and/or Supervisor of Mechanics	2	1	1
Operating and Non-Operating Employees	1	1	0
Police Officers Below the Rank of Captain	1	1	0
Power Directors (Supervisors)	0	0	0
Railroad Freight Loaders and Handlers	0	0	0
Sheet Metal Workers	0	0	0
Signalmen	3	0	3
Subordinate Officials in the Maintenance of Way Dept	0	0	0
Subordinate Officials in the Maintenance of Equipment Department	0	0	0
Subordinate Officials in the Maintenance of Way and Structures Department (B & B)	0	0	0
Technical Engineers, Architects, Draftsmen and Allied Workers	1	1	0
Train Dispatchers	2	0	2
Train and Engine Service	8	6	2
Train Service Employees	2	1	1
Trainmen	2	0	2
Yardmasters	6	2	4
Combined Groups, Railroad	4	0	4
Miscellaneous, Railroad	5	1	4
<b>Railroad Total</b>	<b>61</b>	<b>22</b>	<b>39</b>

Table 3 (Continued)

	TOTAL CASES	REPRESENTATION CASES	MEDIATION/ADR
<b>AIRLINES</b>			
Engineers and Related Employees	0	0	0
Fleet and Passenger Service Employees	2	1	1
Fleet Service Employees	6	4	2
Flight Attendants	15	2	13
Flight Deck Crew Members	3	1	2
Flight Dispatchers	8	4	4
Flight Engineers	2	2	0
Flight Kitchen and Commissary Employees	4	1	3
Flight Simulator Technicians	1	1	0
Ground School Instructors	1	1	0
Mechanics and Related Employees	15	8	7
Meteorologists	0	0	0
Office Clerical Employees	0	0	0
Office Clerical, Fleet and Passenger Service Employees	0	0	0
Paramedics	0	0	0
Passenger Service Employees	2	1	1
Pilots	24	7	17
Ramp and Store Employees	1	0	1
Screeners	3	3	0
Skycaps	1	1	0
Stock and Stores Employees	3	3	0
Combined Groups, Airlines	0	0	0
Miscellaneous, Airlines	1	1	0
<b>Airline Total</b>	<b>92</b>	<b>41</b>	<b>51</b>
<b>GRAND TOTAL, RAILROADS AND AIRLINES</b>	<b>153</b>	<b>63</b>	<b>90</b>

**MEDIATION, ADR, AND REPRESENTATION TABLES**

Table 4 - Number of Craft or Class Determinations and Number of Employees Involved in Representation Cases, By Major Groups of Employees

	NUMBER OF CASES	NUMBER OF CRAFTOR CLASS DETERMINATIONS	NUMBER OF EMPLOYEES	PERCENT OF EMPLOYEES INVOLVED
<b>RAILROADS</b>				
Agents, Telegraphers and Towermen	0	0	0	0
Boilermakers and Blacksmiths	0	0	0	0
Brakemen and Conductors	0	0	0	0
Carmen	0	0	0	0
Clerical Office, Station and Storehouse Employees	2	2	10	-
Conductors	0	0	0	0
Dining Car Employees, Train and Pullman Porters	1	1	20	-
Electrical Workers	2	2	21	-
Engineers and Related Employees	0	0	0	0
Firemen and Oilers	0	0	0	0
Locomotive Engineers	0	0	0	0
Locomotive Firemen and Hostlers	0	0	0	0
Longshoremen	1	1	0	0
Machinists	2	2	26	-
Maintenance of Way Employee	0	0	0	0
Marine Service Employees	0	0	0	0
Mechanical Department Foremen and/or Supervisors of Mechanics	1	1	0	0
Operating and Non-Operating Employees	1	1	2	-
Police Officers Below the Rank of Captain	1	1	257	-
Power Directors (Supervisors)	0	0	0	0
Railroad Freight Loaders and Handlers	0	0	0	0
Sheet Metal Workers	0	0	0	0
Signalmen	0	0	0	0
Subordinate Officials in the Maintenance of Way	0	0	0	0
Subordinate Officials in the Maintenance of Equipment Department	0	0	0	0
Subordinate Officials in the Maintenance of Way and Structures Department (B & B)	0	0	0	0
Technical Engineers, Architects, Draftsmen and Allied Workers	1	1	0	0
Train Dispatchers	0	0	0	0
Train and Engine Service	6	6	121	-
Train Service Employees	1	1	59	-
Yardmasters	2	2	19	-
Combined Groups, Railroad	0	0	0	0
Miscellaneous, Railroad	1	1	0	0
<b>Railroad Total</b>	<b>22</b>	<b>22</b>	<b>535</b>	<b>6%</b>



Table 4 (Continued)

	NUMBER OF CASES	NUMBER OF CRAFTOR CLASS DETERMINATIONS	NUMBER OF EMPLOYEES	PERCENT OF EMPLOYEES INVOLVED
<b>AIRLINES</b>				
Engineers and Related Employees	0	0	0	0
Fleet and Passenger Service Employees	1	1	469	-
Fleet Service Employees	4	4	455	-
Flight Attendants	2	2	17	-
Flight Deck Crew Members	1	1	134	-
Flight Dispatchers	4	4	234	-
Flight Engineers	2	2	17	-
Flight Kitchen and Commissary Employees	1	1	31	-
Flight Simulator Technicians	1	1	18	-
Ground School Instructors	1	1	4	-
Mechanics and Related Employees	8	8	177	-
Meteorologists	0	0	0	0
Office Clerical Employees	0	0	0	0
Office Clerical, Fleet and Passenger Service Employees	0	0	0	0
Paramedics	0	0	0	0
Passenger Service Employees	1	1	1,679	18%
Pilots	7	7	716	7%
Screeners	3	3	0	0
Skycaps	1	1	49	-
Stock and Stores Employees	3	3	68	-
Combined Groups, Airlines	0	0	0	0
Miscellaneous, Airlines	1	1	0	0
<b>Airline Total</b>	<b>41</b>	<b>41</b>	<b>4,068</b>	<b>44%</b>
<b>GRAND TOTAL, RAILROADS AND AIRLINES</b>	<b>63</b>	<b>63</b>	<b>4,603</b>	<b>49%</b>

1. Percent listing for each group represents the percentage of the 9,318 employees involved in all railroad and airline cases during fiscal year 2004.  
 (-) Less than one percent.

## MEDIATION, ADR, AND REPRESENTATION TABLES

Table 5 - Number of Crafts or Classes Certified and the Percent of Employees Involved in Various Types of Representation Cases

	NATIONAL ORGANIZATIONS			LOCAL UNIONS AND/OR INDIVIDUALS			TOTALS		
	Craft or Class	Employees Number	Involved Percent	Craft or Class	Employees Number	Involved Percent	Craft or Class	Employees Number	Involved Percent
<b>RAILROADS</b>									
Representation Acquired:									
Elections	7	118	-	0	0	0	7	118	-
Proved Authorizations	0	0	0	0	0	0	0	0	0
Representation Changed:									
Elections	4	133	-	3	271	-	7	404	-
Proved Authorizations	0	0	0	0	0	0	0	0	0
Representation Unchanged:									
Elections	0	0	0	0	0	0	0	0	0
Proved Authorizations	0	0	0	0	0	0	0	0	0
<b>Total, Railroads</b>	<b>11</b>	<b>251</b>	<b>-</b>	<b>3</b>	<b>271</b>	<b>-</b>	<b>14</b>	<b>522</b>	<b>-</b>
<b>AIRLINES</b>									
Representation Acquired:									
Elections	9	1,948	2%	0	0	0	9	1,948	2%
Proved Authorizations	0	0	0	0	0	0	0	0	0
Representation Changed:									
Elections	0	0	0	0	0	0	0	0	0
Proved Authorizations	0	0	0	0	0	0	0	0	0
Representation Unchanged:									
Elections	2	237	-	0	0	0	2	237	-
Proved Authorizations	0	0	0	0	0	0	0	0	0
<b>Total, Airlines</b>	<b>11</b>	<b>2,185</b>	<b>23%</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>11</b>	<b>2,185</b>	<b>23%</b>
<b>Total, Combined Railroads and Airlines</b>	<b>22</b>	<b>2,436</b>	<b>26%</b>	<b>3</b>	<b>271</b>	<b>-</b>	<b>25</b>	<b>2,707</b>	<b>29%</b>

Percent listing for each group represents the percentage of the 9,318 employees involved in all rail and airline cases in fiscal year 2004.

(-) Less than one percent.

Note: These figures do not include cases that were withdrawn or dismissed. Because of rounding, sums of individual items may not equal totals.

**MEDIATION, ADR, AND REPRESENTATION TABLES**

Tables 6 - 9

**TABLE 6**

Strikes in the Airline Industry

None\*

\*Mesaba and its pilots entered into a cooling-off period, but reached agreement without resorting to self-help.

**TABLE 7**

Strikes in the Railroad Industry

None\*

\*See Table-9 below.

**TABLE 8**

RLA Section 10 Presidential Emergency Boards

None

**TABLE 9**

RLA Section 9a Presidential Emergency Boards

PEB#	CARRIER	UNION	CREATED	REPORTED
238*	Southeastern Penn. Transit Authority (SEPTA)	UTU	08-09-04	10-29-04
237	Southeastern Penn. Transit Authority (SEPTA)	UTU	04-10-04	05-11-04

\*SEPTA and its conductors reached agreement prior to the Board's report to the President on PEB238.

## AIRLINE MEDIATION CASES DOCKETED FOR FISCAL YEAR 2004

CARRIER	UNION	CRAFT/CLASS
AirTran Airways	AFA-CWA	Flight Attendants
Alaska Airlines	IAM	Ramp and Store Employees
Alaska Airlines	IAM	Passenger Service Employees
Alaska Airlines	AFA-CWA	Flight Attendants
Aloha Island Airlines	HTAW	Mechanics & Related
American Eagle Airlines	TWU	Flight Dispatchers
ATA Airlines	AMFA	Mechanics & Related
Atlantic Coast Airlines	AMFA	Mechanics & Related
Atlantic Southeast Airlines	ALPA	Pilots
Big Sky Airlines	IAM	Mechanics & Related
Continental Airlines	IBT	Mechanics & Related
Continental Airlines	TWU	Flight Simulator Technicians
Express Jet	IBT	Mechanics & Related
Freedom Airlines	AFA-CWA	Flight Attendants
Frontier Airlines	TWU	Flight Dispatchers
Gate Gourmet	IAM	Flight Kitchen & Commissary Employees
Hacor, Inc.	IBT	Flight Kitchen & Commissary Employees
Horizon Air	AMFA	Mechanics & Related
Kalitta Airlines	IPA	Flight Deck Crew Members
Liat Caribbean Airlines	IAM	Passenger Service Employees
Mesaba Airlines	AMFA	Mechanics & Related
Net Jets	IBT	Mechanics & Related
Trans Airlines	IBT	Pilots
United Parcel Service	IPA	Flight Deck Crew Members
World Airways	IBT	Pilots
World Airways	TWU	Flight Dispatchers

## AIRLINE MEDIATION CASES CLOSED FOR FISCAL YEAR 2004

CARRIER	UNION	CRAFT/CLASS
Alaska Airlines	IAM	Passenger Service
Alaska Airlines	IAM	Ramp and Store Employees
Aloha Island Airlines	HTAW	Mechanics & Related
America West Airlines	ALPA	Pilots
America West Airlines	TWU	Flight Dispatchers
ATA Airlines	IAM	Fleet Service Employees
Big Sky Airlines	IAM	Mechanics & Related
Chautauqua Airlines	IBT	Pilots
Express Jet	IBT	Mechanics & Related
Freedom Airlines	AFA-CWA	Flight Attendants
Frontier Airlines	TWU	Flight Dispatchers
Gemini Air Cargo	ALPA	Flight Deck Crew Members
Hacor, Inc.	IBT	Flight Kitchen & Commissary Employees
Iberia Airlines	IAM	Flight Dispatchers
Iberia Airlines	IAM	Mechanics & Related
LSG Sky Chefs	HERE	Flight Kitchen & Commissary Employees
Mesaba Airlines	ALPA	Pilots
Miami Airlines	AFA-CWA	Flight Attendants
Net Jets, Inc.	IBT	Mechanics & Related
Northwest Airlines	IAM	Flight Kitchen & Commissary Employees
Southwest Airlines	TWU	Flight Attendants

## RAILROAD MEDIATION CASES DOCKETED FOR FISCAL YEAR 2004

CARRIER	UNION	CRAFT/CLASS
Delaware & Hudson Railway	BLET	Locomotive Engineers
Florida East Coast Railway	UTU	Train & Engine Service
Florida East Coast Railway	UTU	Yardmasters
Florida East Coast Railway	BMWE	Maintenance of Way
Lake Terminal Railroad	USWA	Carmen
Long Island Railroad	BLET	Locomotive Engineers
Pacific Harbor Railroad	BLET	Train, Engine Service & Maintenance Emp.
Rail Term, Corp.	IBT	Rail Freight Loaders & Handlers
Rochester & Southern Railroad	UTU	Mixed
South Buffalo Railroad	BLET	Locomotive Engineers
Soo Line Railroad	BLET	Locomotive Engineers
Soo Line Railroad	TCU	Carmen
Soo Line Railroad	TCU	Clerical Office, Station & Storehouse Emp.
Soo Line Railroad	UTU	Train Service
Soo Line Railroad	UTU	Yardmasters



## RAILROAD MEDIATION CASES CLOSED FOR FISCAL YEAR 2004

CARRIER	UNION	CRAFT/CLASS
Bessemer & Lake Erie Railroad	TCU	Clerical Office, Station and Storehouse
Bessemer & Lake Erie Railroad	TCU	Carmen
Belt Railway Company of Chicago	BRS	Signalmen
Birmingham & Southern Railroad	UTU	Trainmen
Canadian Pacific Railway	ATDD	Train Dispatchers
Duluth, Missabe & Iron Range Railroad	TCU	Rail Freight Loaders & Handlers
Duluth, Missabe & Iron Range Railroad	TCU	Carmen
Duluth, Missabe & Iron Range Railroad	TCU	Clerical Office, Station and Storehouse
Elgin, Joliet and Eastern Railway	TCU	Clerical Office, Station and Storehouse
Indiana Harbor Belt Railroad	BRS	Signalmen
Iowa, Chicago & Eastern Railroad	IBT/IBLE	Train and Engine Service
Kiamichi Railroad	ATDD	Mechanic Foremen in MOW Dept.
Lake Terminal Railroad	USWA	Carmen
NCCC/NLRC	BLET	Locomotive Engineers
NCCC/NLRC	IBEW	Electrical Workers
Northern Indiana Commuter Transp. Dist.	UTU	Train and Engine Service
Port Authority Trans Hudson	RITU	Mixed
Rail Term, Corp.	IBT	Rail Freight Loaders & Handlers
Rail Term, Corp.	IBT	Rail Freight Loaders & Handlers
Rochester & Southern Railroad	UTU	Mixed
Southeastern Pennsylvania Transit Authority	UTU	Conductors
Soo Line Railroad	UTU	Train Service
Springfield Terminal Railroad	UTU	Shop Laborers
Tracks Traffic & Management Services	TCU	Clerical Office, Station and Storehouse
Union Railroad	UTU	Trainmen
Union Railroad	UTU	Yardmasters
Union Railroad	USWA	Maintenance of Way Employees

## AIRLINE ADR CASES DOCKETED FOR FISCAL YEAR 2004

CARRIER	UNION	CRAFT/CLASS
Alleghany Airlines	AFA-CWA	Flight Attendants
Aloha Island Airlines	ALPA	Pilots
American Eagle Airlines	AFA-CWA	Flight Attendants
American Eagle Airlines	ALPA	Pilots
American Eagle Airlines	ALPA	Pilots
American Eagle Airlines	ALPA	Pilots
Astar Air Cargo	ALPA	Pilots
ATA Airlines	AFA-CWA	Flight Attendants
ATA Airlines	ALPA	Pilots
Atlantic Coast Airlines	ALPA	Pilots
Atlantic Coast Airlines	ALPA	Pilots
British Airways	IAM	Mechanics & Related
Champion Airlines	ALPA	Pilots
Champion Airlines	IBT	Flight Attendants
Chautauqua Airlines	IBT	Pilots
Continental Airlines	ALPA	Pilots
Frontier Airlines	IBT	Mechanics & Related
Frontier Airlines	IBT	Mechanics & Related
Kitty Hawk Air Cargo	ALPA	Pilots
Mesa Airlines	ALPA	Pilots
Midwest Airlines	AFA-CWA	Flight Attendants
Midwest Express Airlines	AFA-CWA	Flight Attendants
Piedmont Airlines	AFA-CWA	Flight Attendants
Piedmont Airlines	AFA-CWA	Flight Attendants
Pinnacle Airlines	PACE	Flight Attendants
Pinnacle Airlines	PACE	Flight Attendants
PSA Airlines	AFA-CWA	Flight Attendants
PSA Airlines	AFA-CWA	Flight Attendants
Southwest Airlines	SWAPA	Pilots
United Airlines	IAM	Fleet & Passenger Service Employees
US Airways	IAM	Fleet & Passenger Service Employees

## AIRLINE ADR CASES CLOSED FOR FISCAL YEAR 2004

CARRIER	UNION	CRAFT/CLASS
Alleghany Airlines	AFA-CWA	Flight Attendants
Aloha Airlines	ALPA	Pilots
American Eagle Airlines	AFA-CWA	Flight Attendants
American Eagle Airlines	AFA-CWA	Flight Attendants
American Eagle Airlines	ALPA	Pilots
American Eagle Airlines	ALPA	Pilots
American Eagle Airlines	ALPA	Pilots
American Eagle Airlines	ALPA	Pilots
ATA Airlines	AFA-CWA	Flight Attendants
ATA Airlines	ALPA	Pilots
Atlantic Coast Airlines	ALPA	Pilots
Atlantic Southeast Airlines	ALPA	Pilots
British Airways	IAM	Mechanics & Related
Champion Airlines	ALPA	Pilots
Continental Airlines	ALPA	Pilots
Frontier Airlines	IBT	Mechanics & Related
Frontier Airlines	TWU	Flight Dispatchers
Horizon Airlines	AFA-CWA	Flight Attendants
Kitty Hawk Airlines	KHPA	Pilots
Mesa Airlines	ALPA	Pilots
Mesa Airlines	ALPA	Pilots
Midwest Express Airlines	AFA-CWA	Flight Attendants
Piedmont Airlines	AFA-CWA	Flight Attendants
Pinnacle Airlines	PACE	Flight Attendants
PSA Airlines	AFA-CWA	Flight Attendants
PSA Airlines	AFA-CWA	Flight Attendants
Southwest Airlines	SWAPA	Pilots
United Airlines	IAM	Fleet and Passenger Service
United Parcel Service	IPA	Flight Deck Crew Members
US Airways	IAM	Fleet Service

## RAILROAD ADR CASES DOCKETED FOR FISCAL YEAR 2004

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CARRIER	UNION	CRAFT/CLASS
—	BLET	Locomotive Engineers
—	BLET	Locomotive Engineers
—	BLET	Locomotive Engineers
—	BLET	Locomotive Engineers
—	BRS	Signalmen
—	UTU	All members
—	UTU	All members
New Jersey Transit Railroad	UTU	Conductors
Soo Line Railroad	UTU	Yardmasters
Soo Line Railroad	UTU	Yardmasters

## RAILROAD ADR CASES CLOSED FOR FISCAL YEAR 2004

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CARRIER	UNION	CRAFT/CLASS
—	BLET	Locomotive Engineers
—	BLET	Locomotive Engineers
—	BLET	Locomotive Engineers
—	BLET	Locomotive Engineers
—	BRS	Signalmen
CSX Transportation	BLE-ATDD	Train Dispatchers
CSX Transportation	UTU	Yardmasters
New Jersey Transit Railroad	UTU	Conductors
Soo Line Railroad	UTU	Yardmasters
Soo Line Railroad	UTU	Yardmasters
—	UTU	All Members
—	UTU	All Members

## AIRLINE REPRESENTATION CASES DOCKETED FOR FISCAL YEAR 2004

CARRIER	UNION	CRAFT/CLASS
Aircraft Service International Group	IAM	Fleet Service
Aircraft Service International Group	IAM	Mechanics and Related Employees
AirTran Airways, Inc.	IBT	Mechanics and Related Employees
AirTran Airways, Inc.	IBT	Mechanics and Related Employees
American Airlines, Inc.	TWU-AMFA	Mechanics and Related Employees
Amerijet International, Inc.	IBT	Pilots
Amerijet International, Inc.	IBT	Flight Engineers
Amerijet International, Inc.	IBT	Flight Engineers
ATA Airlines, Inc.	IAM	Stock and Stores Employees
America West Airlines	IBT	Passenger Service Employees
ASTAR Air Cargo, Inc.	IBT	Ground Instructors
ASTAR Air Cargo, Inc.	IBT	Flight Dispatchers
AVGR Int'l Business d/b/a United Safeguard Agency	IUISTHE/TWU	Skycaps
Chicago Express Airlines	AFA-CWA	Flight Attendants
Chicago Express Airlines	IBT	Fleet Service Employees
CJ Systems Aviation Group, Inc.	OPEIU	Flight Deck Crew Members
Express Jet Airlines, Inc.	IAM	Flight Attendants
FirstLine Transportation Security, Inc.	IAM-USWA	Transportation Security Screeners
FirstLine Transportation Security, Inc.	IAM-USWA	Transportation Security Screeners
Frontier Airlines, Inc.	IBT	Mechanics and Related
Frontier Airlines, Inc.	IBT	Stock Clerks
Gate Serve, LLC	IBT-HERE	In-Flight Kitchen, Catering and Related Employees
Horizon Air Industries, Inc.	IAM	Crew Schedulers
Hyannis Air Service		
(Nantucket Airlines d/b/a Cape Air)	IBT	Pilots
JetLinx Aviation Corp.	JLPG	Pilots
John Menzies, PLC d/b/a Ogden Ground Services, Inc.	ILWU	Mechanics and Related Employees
John Menzies, PLC d/b/a Ogden Ground Services, Inc.	IBT	Fleet Service
McNeil Security, Inc./ZKD, Inc.	IAM	Screeners
Mesa Air Group	TWU	Flight Dispatchers
Mesaba Aviation, Inc.	TWU	Fleet Service Employees
Midwest Airlines	IBT	Stock Clerks
Midwest Airlines	IBT	Mechanics and Related Employees
North American Airlines, Inc.	IBT	Pilots
Piedmont Airlines, Inc.	IBT-CWA	Fleet and Passenger Service Employees
Southeast Airlines	IBT	Pilots
SkyWest Airlines	UPA	Pilots
Southwest Airlines	IBT-AMFA	Flight Simulator Technicians
US Airways	IAM	Mechanics and Related Employees
USA Jet Airlines	UAW	Pilots
USA Jet Airlines	UAW	Mechanics and Related Employees

## AIRLINE REPRESENTATION CASES CLOSED FOR FISCAL YEAR 2004

CARRIER	UNION	CRAFT/CLASS	DISPOSITION
AirTran Airways, Inc.	IBT	Mechanics and Related Employees	Findings Upon Investigation-Dismissal
AirTran Airways, Inc.	IBT	Mechanics and Related Employees	Findings Upon Investigation-Dismissal
America West Airlines	IBT	Passenger Service Employees	Certification
American Airlines, Inc.	TWU-PAFCA	Flight Dispatchers	Certification
American Airlines, Inc.	AMFA-TWU	Mechanics and Related Employees	Dismissal-Insufficient Showing of Interest
Amerijet International, Inc.	IBT	Pilots	Certification
Amerijet International, Inc.	IBT	Flight Engineers	Administratively Closed
Amerijet International, Inc.	IBT	Flight Engineers	Certification
ATA Airlines, Inc.	IAM	Stock and Stores Employees	Certification
ASTAR Air Cargo, Inc.	IBT	Ground Instructors	Certification
ASTAR Air Cargo, Inc.	IBT	Flight Dispatchers	Dismissal-Withdrawn During Investigation
AVGR Int'l Business d/b/a			
United Safeguard Agency	IUISTHE/TWU	Skycaps	Dismissal
Continental Airlines, Inc.	TWU	Fleet Service Employees	Dismissal
Chicago Express Airlines	AFA-CWA	Flight Attendants	Dismissal
Chicago Express Airlines	IBT	Fleet Service	Dismissal-Withdrawn During Investigation
CJ Systems Aviation Group	OPEIU	Flight Deck Crew Members	Dismissal
Express Jet Airlines, Inc.	IAM	Flight Attendants	Dismissal-Withdrawn During Investigation
FirstLine Transportation Security, Inc.	IAM-USWA	Screeners	Administratively Closed
FirstLine Transportation Security, Inc.	IAM-USWA	Screeners	Dismissal-Withdrawn During Investigation
Frontier Airlines, Inc.	IBT	Mechanics and Related Employees	Findings Upon Investigation-Dismissal
Frontier Airlines, Inc.	IBT	Stock and Stores Employees	Dismissal
Gate Serve, LLC	IBT-HERE	In-Flight Kitchen, Catering and Related Employees	Certification
Horizon Air Industries, Inc.	IAM	Crew Schedulers	Dismissal-Withdrawn During Investigation
Hyannis Air Service (Nantucket Airlines d/b/a Cape Air)	IBT	Pilots	Dismissal
JetLinx Aviation Corp.	JLPG	Pilots	Certification



# AIRLINE REPRESENTATION CASES CLOSED FOR FISCAL YEAR 2004 (CONTINUED)

CARRIER	UNION	CRAFT/CLASS	DISPOSITION
John Menzies, PLC d/b/a Ogden Ground Services, Inc.	ILWU	Mechanics and Related Employees	Dismissal-Withdrawn During Investigation
John Menzies, PLC d/b/a Ogden Ground Services, Inc.	IBT	Fleet Service Employees	Dismissal-Withdrawn During Investigation
McNeil Security, Inc./ ZDK, Inc.	IAM	Screeners	Dismissal-Withdrawn During Investigation
Mesa Air Group	TWU	Flight Dispatchers	Dismissal
Mesaba Aviation	TWU	Fleet Service Employees	Dismissal
Midwest Airlines	IBT	Stock Clerks	Dismissal
Midwest Airlines	IBT	Mechanics and Related Employees	Dismissal
North American Airlines	IBT	Pilots	Certification
Piedmont Airlines, Inc.	CWA	Fleet and Passenger Service Employees	Findings Upon Investigation-Dismissal
Pinnacle Airlines, Inc.	TWU	Flight Dispatchers	Dismissal
SkyWest Airlines	UPA	Pilots	Dismissal
Southeast Airlines	IBT	Pilots	Certification
Southwest Airlines	IBT-AMFA	Flight Simulator Technicians	Certification
US Airways	IAM	Mechanics and Related Employees	Findings Upon Investigation-Dismissal
USA Jet Airlines	UAW	Pilots	Dismissal
USA Jet Airlines	UAW	Mechanics and Related Employees	Dismissal

## RAILROAD REPRESENTATION CASES DOCKETED FOR FISCAL YEAR 2004

CARRIER	UNION	CRAFT/CLASS
Canadian Pacific Railway (Soo Line)	TCU-ARASA Div.-	Technical Engineers, Architects & Draftsmen
CN/Wisconsin Central Transportation Co.	IAM	Machinists
CN/Wisconsin Central Transportation Co.	IAM	Machinists/Mechanics
CN/Wisconsin Central Transportation Co.	IBEW	Electrical Workers
CN/Wisconsin Central Transportation Co.	UTU	Yardmasters
Georgia Ports Authority	ILA	Longshoremen
Huron and Eastern Railway Company	TCU	Train and Engine Service Employees and Maintenance Employees
Inter-Rail Transport of Jacksonville, LLC	CWA	Unloaders
Kiamichi Railroad Company, LLC	BLE-ATDD-Joe Brisco, Individual	Mechanical Department Employees
Louisville & Indiana Railroad	BLET	Train and Engine Service Employees
Metro-North Railroad	HERE-TWU	Dining Car Employees
National Railroad Passenger Corporation	FOP	Police Officers Below the Rank of Captain
National Railroad Passenger Corporation	MTD/TCU	Clerical, Office, Station & Storehouse Employees
New England Central Railroad	UTU-BLET	Train and Engine Service Employees
Norfolk Southern Corp.-Sandusky Dock	IBEW	Electrical Workers
South Central Florida Express	IBT/IBLE	Train and Engine Service Employees
St. Lawrence and Atlantic Railroad Company	UTU	Locomotive Maintenance Employees
Wheeling & Lake Erie Railway Company	UTU-Mark Rose, Individual	Yardmasters
Wheeling & Lake Erie Railway Company	UTU-BLET	Train Service Employees
Wheeling & Lake Erie Railway Company	UTU-Margaret Failor, Individual	Clerks

## RAILROAD REPRESENTATION CASES CLOSED FOR FISCAL YEAR 2004

CARRIER	UNION	CRAFT/CLASS	DISPOSITION
Canadian Pacific Railway (Soo Line)	TCU-ARASA Div.-SETA	Technical Engineers, Architects & Draftsman	Dismissal
CN/Wisconsin Central Transportation Co.	IBEW	Electrical Workers	Certification
CN/Wisconsin Central Transportation Co.	IAM	Machinists/Mechanics	Dismissal-Withdrawn During Investigation
CN/Wisconsin Central Transportation Co.	IAM	Machinists	Certification
CN/Wisconsin Central Transportation Co.	UTU	Yardmasters	Certification
Georgia Ports Authority	ILA	Longshoremen	Findings Upon Investigation-Dismissal
Great Western Railway of Colorado, LLC	IBT/IBLE	Train and Engine Service Employees	Certification
Inter-Rail Transport of Jacksonville, LLC	CWA	Unloaders	Determination of Jurisdiction-Dismissal
Kiamichi Railroad Company	BLE/ATDD-Joe Brisco, Individual	Mechanical Dept. Foremen/Supervisors	Dismissal-Withdrawn During Investigation
Louisville & Indiana Railroad	BLET	Train and Engine Service Employees	Certification
Metro-North Railroad Co.	HERE-TWU	Dining Car Employees	Certification
National Railroad Passenger Corporation (Amtrak)	FOP	Police Officers Below the Rank of Captain	Certification
National Railroad Passenger Corporation (Amtrak)	MTD/TCU	Clerical, Office, Station & Storehouse Employees	Findings Upon Investigation-Dismissal
New England Central Railroad	UTU-BLET	Train and Engine Service Employees	Certification
New York & Atlantic Railway	UTU-IBT/IBLE	Train and Engine Service Employees	Certification
Norfolk Southern Corp.- Sandusky Dock	IBEW	Electrical Workers	Dismissal-Withdrawn During Investigation
Portland & Western Railroad	IBT/IBLE	Train and Engine Service Employees	Certification
South Central Florida Express	IBT/IBLE	Train and Engine Service Employees	Dismissal
South Chicago & Indiana Harbor Railway Co.	USWA	Operating/Non-Operating Employees	Certification
Wheeling & Lake Erie Railway Co.	UTU-Mark Rose, Individual	Yardmasters	Certification
Wheeling & Lake Erie Railway Co.	UTU-BLET	Train Service Employees	Certification
Wheeling & Lake Erie Railway Co.	UTU-Margaret Failor, Individual	Clerks	Certification

## REGISTRY OF BOARD MEMBERS

NAME	ENTERED OFFICE	STATUS	DATE
Read Van de Water	12-11-03	Term Expires	07-01-06
Harry R. Hoglander	08-06-02	Term Expires	07-01-05
Edward R. Fitzmaurice, Jr.	08-02-02	Term Expires	07-01-04
Francis J. Duggan	11-22-99	Retired	11-21-03
Magdalena G. Jacobsen	12-01-93	Retired	08-02-02
Ernest W. DuBester	11-15-93	Resigned	08-01-01
Kenneth B. Hipp	05-19-95	Resigned	12-31-98
Kimberly A. Madigan	08-20-90	Resigned	11-30-93
Patrick J. Cleary	12-04-89	Resigned	01-31-95
Joshua M. Javits	01-19-88	Resigned	11-14-93
Charles L. Woods	01-09-86	Resigned	01-15-88
Helen M. Witt	11-18-83	Resigned	09-18-88
Walter C. Wallace	10-12-82	Term Expired	07-01-90
Robert J. Brown	08-20-79	Resigned	06-01-82
Robert O. Harris	08-03-77	Resigned	07-31-84
Kay McMurray	10-05-72	Term Expired	07-01-77
Peter C. Benedict	08-09-71	Deceased	04-12-72
David H. Stowe	12-10-70	Retired	07-01-79
George S. Ives	09-19-69	Retired	09-01-81
Howard G. Gamser	03-11-63	Resigned	05-31-69
Robert O. Boyd	12-28-53	Resigned	10-14-62
Leverett Edwards	04-21-50	Resigned	07-31-70
John Thad Scott, Jr.	03-05-48	Resigned	07-31-53
Francis A. O'Neill, Jr.	04-01-47	Resigned	04-30-71
Frank P. Douglass	07-03-44	Resigned	03-01-50
William M. Leiserson	03-01-43	Resigned	05-31-44
Harry H. Schwartz	02-26-43	Term Expired	01-31-47
David J. Lewis	06-03-39	Resigned	02-05-43
George A. Cook	01-07-38	Resigned	08-01-46
Otto S. Beyer	02-11-36	Resigned	02-11-43
John M. Carmody	07-21-34	Resigned	09-30-35
James W. Carmalt	07-21-34	Deceased	12-02-37
William M. Leiserson	07-21-34	Resigned	05-31-39

## GLOSSARY

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**Act** The Railway Labor Act

**Agency** The National Mediation Board

**Alliance** The Alliance for Education in Dispute Resolution

**Alternative Dispute Resolution (ADR)** ADR is a process for resolving disputes outside of the judicial system of law. In the venue of the NMB, mediation and arbitration have been the mainstay processes for dispute resolution, and Alternative Dispute Resolution is the facilitation of interest-based or mutual-interest negotiations and grievance mediation.

**Amendable Contract** Under the Railway Labor Act, collective bargaining agreements become subject-to-change on a specified date, rather than expiring as agreements do under the National Labor Relations Act.

**Arbitration** A type of grievance resolution process where an arbitrator renders a decision, which usually can be appealed only on a very narrow basis such as fraud.

**Board** May be one of:

National Mediation Board

Presidential Emergency Board

National Railroad Adjustment Board

Special Board of Adjustment

Public Law Board

National Labor Relations Board

**Cabotage** Airline cabotage is the carriage of air traffic that originates and terminates within the boundaries of a given nation by a foreign air carrier

**Center** See Usery Center

**CFO Act** Chief Financial Officer's Act

**Class I** A category of the largest U.S. railroads as defined by the Surface Transportation Board

**Collective Bargaining Agreement** A labor contract between a union and a carrier

**Cooling Off Period** A 30-day period of time preceding the right of parties to a collective bargaining dispute to engage in "self help" under the RLA.

**Craft or Class** A group of employees deemed by the NMB to share a community of work and interest for the purpose of collective bargaining under the RLA.

**Direct Negotiations** Negotiations between the parties to a collective bargaining dispute before or apart from NMB mediation.

**E-Business** The conduct of business on the Internet.

**Facilitation** A process where a neutral helps the parties in a collective bargaining or grievance dispute use ADR problem-solving methods such as interest-based bargaining or grievance mediation.

**Grievance Mediation** In the venue of the NMB, using mediation as an alternative to arbitration for resolving grievances.

**Impasse** In mediation under the RLA, an impasse is when the NMB determines that further mediation will not resolve a collective bargaining dispute.

**Interest Based Bargaining** A type of negotiations where the parties collaboratively focus on finding solutions to underlying needs or concerns of each party (i.e., the whys) instead of adversatively negotiating specific positions.

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**Laboratory Conditions** Conditions to a representation dispute which ensure the independence of labor and management for the purpose of self-organization and the right of employees to freely determine whether they wish to be represented for the purpose of collective bargaining.

**Legacy Carriers** A term applied to traditional major, hub-based airlines versus regional or point-to-point carriers.

**Mediation** A type of dispute resolution process where a neutral (i.e., a mediator) facilitates agreement between the parties to a collectively bargaining dispute, vis-a-vis imposing a settlement on the parties.

**National Handling** Mediation of a collective bargaining dispute where management of several railroads have chosen to negotiate collectively on a national basis.

**Open Skies** Agreements that give airlines the right to operate air services from any point in one nation to any point in another nation.

**Proffer of Arbitration** The step in the process of resolving collectively bargaining disputes under the RLA, which follows a determination of impasse by the NMB, whereby the NMB offers binding arbitration to the parties as a method for resolving the dispute.

**Public Interest Meetings** Under the RLA, the NMB can intervene in an active collectively bargaining dispute at any time in the interest of the general public. Usually, one or both parties to a dispute requests the mediation services of the NMB.

**Section 3** Section 153 of the RLA pertaining to the National Railroad Adjustment Board

**Section 3 Committee** A group of representatives from freight, regional and commuter railroads and representatives of major rail organizations whose goal is the improvement of resolution of minor disputes.

**Section 6** Section 156 of the RLA pertaining to the Changing of pay rates, rules and working conditions

**Section 7** Section 157 of the RLA pertaining to Arbitration

**Section 9a, Section 159a** Section 159A of the RLA pertaining to Presidential Emergency Boards involving government owned and operated railroads.

**Section 10, Section 160** Section 160 of the RLA pertaining to Presidential Emergency Boards, except Section 9a PEBs.

**Self Help** The right of a party to a collective bargaining dispute to unilaterally act in its own best interest. A carrier, for example, may lock disputing employees out of the workplace or implement changes in pay, rules and working conditions; and the union, for example, may strike or work specifically as required by its collective bargaining agreement.

**Showing Of Interest** In a representation dispute, a majority of employees in a Craft or Class must indicate an interest in being represented for the purpose of collective bargaining by signing authorization cards which are submitted to the NMB by the representative/s of their choosing.

**Status Quo** Situations under the RLA in either collective bargaining or representation disputes where existing pay rates, rules and working conditions cannot be changed unilaterally, pending the resolution of the dispute in question.

**System Boards of Adjustment** An arbitration board pursuant to an agreement by the parties for resolving grievances.

**Telephone Electronic Voting (TEV)** Initiative to streamline the balloting process, make representation more available to the parties, and help create a paperless office.

**Usery Center** The W. J. Usery Center for the Workplace at Georgia State University has formed an academic partnership with the NMB to develop and present research, educational programs, and training programs pertaining to labor and employment relations and dispute resolution in the railway and airline industries.

These definitions are meant to provide general understanding only. They do not provide definitive definition regarding any matter before the Board and are not to be construed as legal definitions that may be cited in any administrative, legal or arbitral proceeding.

## ACRONYMS

<b>ABX</b>	Airborne Express	<b>ILA</b>	International Longshoremen's Association
<b>ACR</b>	Association for Conflict Resolution (formerly SPIDR)	<b>ILWU</b>	International Longshore and Warehouse Union
<b>AD&amp;T</b>	ADR Development and Technology	<b>IUISTHE</b>	International Union of Industrial Service, Transport and Health Employees
<b>ADP</b>	Automated data processing (information technology)	<b>IPA</b>	Independent Pilots Association or Intergovernmental Personnel Act
<b>ADR</b>	Alternative Dispute Resolution	<b>IRRA</b>	Industrial Relations Research Association
<b>AFA</b>	Association of Flight Attendants	<b>IT</b>	Information Technology
<b>AIRCON</b>	Airline Industrial Relations Conference	<b>JD</b>	Juris Doctor (Doctor of Law)
<b>ALPA</b>	Air Line Pilots Association	<b>JLPG</b>	Jet Linx pilots Group
<b>ALRA</b>	Association of Labor Relations Agencies	<b>KHPA</b>	Kitty Hawk Pilots Association
<b>AMFA</b>	Aircraft Mechanics Fraternal Association	<b>MIT</b>	Massachusetts Institute of Technology
<b>AMTRAK</b>	National Railroad Passenger Corporation	<b>MTD</b>	Midwest Train Dispatchers
<b>ARASA</b>	American Railway and Airline Supervisors' Association (TCU)	<b>NARA</b>	National Archives & Records Administration
<b>ASA</b>	Atlantic Southeast Airlines	<b>NARR</b>	National Association of Railroad Referees
<b>ATDD</b>	American Train Dispatchers Department, BLE	<b>NCCC</b>	National Carriers' Conference Committee
<b>BLE/IBLE</b>	International Brotherhood of Locomotive Engineers	<b>NICTD</b>	Northern Indiana Commuter Transportation District
<b>BLET</b>	Brotherhood of Locomotive Engineers and Trainmen	<b>NLRB</b>	National Labor Relations Board
<b>BMWE</b>	Brotherhood of Maintenance of Way Employees	<b>NMB</b>	National Mediation Board
<b>BRS</b>	Brotherhood of Railroad Signalmen	<b>NRAB</b>	National Railroad Adjustment Board
<b>CFO</b>	Chief Financial Officer	<b>NSF</b>	National Science Foundation
<b>CIO</b>	Chief Information Officer	<b>ODR</b>	Online Dispute Resolution
<b>CLE</b>	Continuing Legal Education	<b>OLA</b>	Office of Legal Affairs
<b>COS</b>	Chief of Staff	<b>OMB</b>	Office of Management and Budget
<b>CPA</b>	Certified Public Accountant	<b>OPEIU</b>	Office and Professional Employees International Union
<b>CSRS</b>	Civil Service Retirement System	<b>P&amp;W</b>	Portland and Western Railroad
<b>CWA</b>	Communication Workers of America	<b>PACE</b>	Paper, Allied-Industrial, Chemical and Energy Workers International Union
<b>DCOS</b>	Deputy Chief of Staff	<b>PAFCA</b>	Professional Airline Flight Control Association
<b>DHL</b>	DHL Worldwide Express	<b>PATH</b>	Port Authority Trans Hudson
<b>F&amp;A</b>	Financial and Administrative	<b>PEB</b>	Presidential Emergency Board
<b>FERS</b>	Federal Employees' Retirement System	<b>PLB</b>	Public Law Board
<b>FFMIA</b>	Federal Financial Management Improvement Act	<b>PSA</b>	PSA Airlines
<b>FMFIA</b>	Federal Managers' Financial Integrity Act of 1982	<b>RITU</b>	Railway Independent Transit Union
<b>FOP</b>	Fraternal Order of Police – NJ Labor Council	<b>RLA</b>	Railway Labor Act
<b>FY</b>	Fiscal Year	<b>SBA</b>	Special Board of Adjustment
<b>GAO</b>	General Accounting Office	<b>SEIU</b>	Service Employees' International Union
<b>GM</b>	Grievance Mediation	<b>SEPTA</b>	Southeastern Pennsylvania Transportation Authority
<b>GMRA</b>	Government Management Reform Act	<b>SETA</b>	Soo Line Engineering Technicians Association
<b>GPA</b>	Georgia Ports Authority	<b>SMWIA</b>	Sheet Metal Workers International Union
<b>GPRA</b>	Government Performance and Results Act	<b>SWAPA</b>	Southwest Airlines Pilots Association
<b>GSA</b>	General Services Administration	<b>TCU/TCIU</b>	Transportation Communications International Union
<b>HERE</b>	Hotel Employees and Restaurant Employees International Union	<b>TEV</b>	Telephone Electronic Voting
<b>HTAW</b>	Hawaii Teamsters and Allied Workers	<b>TWA</b>	Trans World Airlines
<b>IAM</b>	International Association of Machinists & Aerospace Workers	<b>TWU</b>	Transport Workers Union of America
<b>IBB</b>	Interest-Based Bargaining	<b>UMASS</b>	University of Massachusetts - Amherst
<b>IBBB</b>	The International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers	<b>UAW</b>	International Union, United Automobile...Workers of America
<b>IBEW</b>	International Brotherhood of Electrical Workers	<b>UPS</b>	United Parcel Service
<b>IBT</b>	Int'l Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America	<b>USWA</b>	United Steelworkers of America
<b>IDP</b>	Individual Development Plan	<b>UTU</b>	United Transportation Union
<b>IFPTE</b>	International Federation of Professional and Technical Engineers	<b>VA-ACR</b>	Virginia Association for Conflict Resolution
		<b>W&amp;P</b>	Williamette and Pacific Railroad



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