

SMALL AGENCY REVIEW

SESSION 3



27 February 1995

4:00 p.m.

Small Agency Review Index

February 27, 1995

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A

Divider Title: _____

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

DESCRIPTION: The OSHRC adjudicates contested enforcement actions of the Secretary of Labor under the Occupational Safety and Health Act of 1970.

FY 1996 BUDGET PROPOSAL: Proposed FY 1996 budget authority is \$8.127 million, an increase of \$532,000 from FY 1995. Estimated FY 1996 FTE is 74, a decrease of 1 FTE from FY 1995.

AGENCY PROPOSAL: Continue to fund the Commission as an independent adjudicative agency. The agency maintains that parties contesting DOL enforcement actions would not be satisfied with private, informal and binding dispute resolution. Devolution of this adjudicative function to the states (who are required to adopt their own occupational safety and health plans) has occurred in approximately half the states. OSHRC claims that this is less cost-effective than a Federal system, and that most employers prefer uniform Federal standards and enforcement mechanisms. OSHRC deems adjudication by the courts to be too complex and expensive to employers, and would slow the resolution process. It also argues against reassignment of its statutorily mandated activities to other Federal agencies due to the nature of its activities.

DECISION OPTIONS:

- A. Abolish the OSHRC and rely on the federal court system to handle the disposition of all workplace safety cases.
- B. Eliminate the OSHRC and devolve all adjudicative functions to the states.
- C. No change; maintain funding and operations as indicated in the proposed FY96 budget.
- D. Eliminate the OSHRC and combine all workplace conditions Administrative Law Judges e.g., Federal Mine Safety and Health Review Commission into the Dept. of Labor's adjudicatory body.

ADVISORY GROUP RECOMMENDATION: D

RATIONALE: The Commission's adjudicatory function is a federal function. Abolition of the Commission and reliance on the federal court system would not benefit the government. Combining with the FMHRC, a Commission with a similar mission, into the Dept. of Labor's adjudicatory body would align the adjudication process and eliminate two niche commissions.

Legislation will be required for this action.

STEERING COMMITTEE DECISION



National Performance Review: Phase II Option Paper



Occupational Safety and Health Review Commission National Performance Review: Phase II Option Paper

This paper was prepared to explain the approach this Commission is taking toward reinventing itself. It is for use by the Phase II Steering Committee and the Vice President.

Overview and Mission

The Commission is a completely independent adjudicative agency that was created as part of the Occupational Safety and Health Act of 1970 (the Act), the nation's primary job safety and health law. In fact, it was the provision that established the Commission as an agency independent from the Labor Department (the "Javits compromise") that ended the stalemate in Congress and led to the Act's passage. The agency's sole function as neutral arbiter is to provide just and expeditious resolution of disputes between the Occupational Safety and Health Administration of the Labor Department and employers cited for federal safety and health violations. As the Supreme Court stated in definitively setting forth the role of the Commission: "Congress intended to delegate to the Commission the type of nonpolicymaking adjudicatory powers typically exercised by a *court* in the agency review process."¹

There are three commissioners, appointed by the president and subject to Senate confirmation, who serve 6-year terms. Under the Act, employers contesting citations are entitled to a hearing and the Commission appoints administrative law judges for this purpose. These judges dispose of 3500-4000 cases each year and parties may request review of any judge's decision by the three-member Commission.

The Commission has a budget of \$8 million and 75 employees in 5 cities, including 14 judges and a predominantly legally trained staff. It covers 33 states and territories including most of the large industrial states, with the remaining jurisdictions exercising their option under the Act to administer their own safety and health programs. OSHRC's mission has not changed since its creation and although its jurisdiction and workload are virtually the same as they were in 1981 (no state has created its own program since the late 1970's), its staffing has been drastically reduced from 151 staff years with 48 judges in 1981 to its current size of 75 staff years with 14 judges. The agency has absorbed these large and steady reductions over 15 years by continued restructuring, field office closings, pioneering the concept of "settlement judges" and making other efforts in alternative dispute resolution, automation of some routine functions and other improvements in efficiency. Nonetheless, by 1994 this downsizing had taken its toll and the Commission's financial inability to replace judges who retired caused a precipitous drop in case timeliness. In its review this year, OMB

¹ *Martin v. OSHRC (CF&I Steel)*, 499 U.S. 144,152 (1991). The role of the Commission might be analogized to that of the Tax Court with respect to the Internal Revenue Service.

acknowledged the need for greater funding and an increase in the number of judges, and this fact was reflected in the President's fiscal year 1996 budget.

In any event, the Commission will work to improve its service to the public and find economies in its operations. In fact we were recently able to replace one of the judges who had retired through creative cost reduction in other areas. We also have extensive plans to reengineer our processes and create the best small agency in government. These are outlined in the attached strategic plan and discussed in brief below.

Strategic Goals

The main public service goal in the Commission's strategic plan is to reengineer its processes to assure that decisions at both the judicial and Commission level provide high quality, easily understandable, and timely adjudication of disputes. Cross-functional teams are examining the efficacy of every facet of this process with the specific quality and timeliness objectives set forth in the strategic plan in mind.

Most emphasis is being placed on timeliness and on making our procedures easier to use for parties contesting citations, nearly 40 percent of whom are small employers not represented by counsel. To that end, the Commission is devising a pilot project called "E-Z Trial" to give small employers their "day in court" and to expeditiously resolve certain cases of lesser magnitude. "E-Z Trial" will simplify the adjudicative process, minimize formalities, and reduce the time and expense of litigation. "E-Z Trial" will eliminate most pleadings and discovery, require a conference with the judge early on to narrow the issues in dispute and work towards settlement, and it will permit the judge to eliminate the filing of briefs after the hearing. The Commission has also rewritten its guide to procedures in plain English and structured it so it is easy to follow each step. All other Commission documents are also being revised to be reader friendly.

Presently, more than 90 percent of contested cases are settled before going to hearing. The Commission, however, is increasing its efforts to foster alternative dispute resolution at all stages of the adjudicative process.

Assessment of Key Functions

Question 1. Is this function critical to the agencies mission?

The Commission has only one key function--the adjudication of disputes between employers and the Department of Labor regarding citations and penalties under the Act. Thus the Commission has no discretion under the law to change its mission and relatively little flexibility in how that mission is performed. Our caseload is entirely dependent on OSHA enforcement efforts. As long as federal OSHA issues citations against employers, those employers (our "customers") must have a "federal" means of obtaining review of this

government action. Such a means must be either judicial or administrative. It must involve adjudication or alternative methods of dispute resolution or some combination of these which is credible and defensible.

Question 2. Could the adjudication of safety and health cases be privatized?

Given the Commission's role as an impartial and independent court, it is difficult to imagine how it might be privatized. Some informal dispute resolution mechanisms (e.g. mediation) might be privatized but the vast majority of cases settle with limited and inexpensive effort by our judges. These efforts are part and parcel of the process of preparing the trial and it might well be more expensive to add a private step prior to assignment to a judge. Nor would many parties be satisfied by "informal" and binding dispute resolution without the option of a hearing before a judge.

Question 3. Can this function be done as well or better by the states or another federal entity?

As noted, the need for a federal tribunal such as the Commission depends on the continued existence of OSHA. With regard to the question of devolution, under Section 18 of the OSH Act individual states may devise their own occupational safety and health plans under the authority of state law and using state administrative and judicial procedures. State plans must be approved by OSHA and must provide for the development of state standards at least as effective as the federal standards. However, the manner of adjudicating enforcement disputes, the analog to the Commission's role, varies considerably from state to state. About half the states have elected to "opt out" of federal enforcement by developing a state plan. Such states get some federal aid, but must bear the brunt of the cost themselves. This means that devolution to the states, or more likely a partnership where states must still meet performance goals, would also result in higher costs to the states. For this and other reasons, although the state plan option still exists, no state has taken advantage of it since the late 1970's.

While there has been some dissatisfaction with OSHA enforcement from the business community, this may be more a function of how its mission has been carried out than of its federal nature. Most employers that do business across state lines favor the uniformity of federal standards and enforcement mechanisms to avoid the babble that would result from 50 different safety and health systems. In fact, one of the major factors that compelled passage of the OSH Act in 1970 was the vast disparity among the states in job safety and health law. These varying systems were considered burdensome, whereas uniform standards were viewed as leveling the playing field for all businesses in a given industry, regardless of the state in which they operated or the safety practices of their competitors. The Commission itself contributes to this level playing field by providing employers with the option of review of OSHA enforcement actions, thereby enhancing uniformity across the system while developing a consistent body of case law. State tribunals dealing with job

safety law frequently refer to the body of law that the Commission continues to develop as a point of reference.

Another alternative to an independent Commission would be to have its function accomplished by an adjudicatory body within OSHA or the Labor Department. However, Congress specifically and unequivocally rejected this older model of combining rulemaking, enforcement *and* adjudicative powers in the Labor Department because many in the business community objected to having the same agency prosecuting and adjudicating cases under the OSH Act. The legislative history is clear that without the compromise proposed by Senator Javits which established the Commission as a *separate* agency, the Act would not have passed.

Another alternative to having contested OSHA cases adjudicated by the Commission would be to eliminate altogether the option for administrative review and enable parties to take their cases directly to federal district courts. This alternative, however, would further burden the federal courts and deprive litigants of both the Commission's relatively less complex legal process and its expertise in the technical field of workplace health and safety. As the Supreme Court said in rejecting an employer's claim that it was entitled to a jury trial on an OSHA citation, "Congress is not required by the Seventh Amendment to choke the already crowded federal courts with new types of litigation or prevented from committing some new types of litigation to administrative agencies with special competence in the relevant field."²

Although we have not yet formally surveyed our primary stakeholders, the parties before us (predominantly small employers, the OSHA bar and the Secretary of Labor), could generally be expected to prefer an administrative proceeding to a strictly judicial one for a number of reasons. Small employers, particularly those that are not being represented by attorneys, prefer the less formal and more "user friendly" procedure the Commission offers. Resort to the courts, for example, would virtually require that they obtain paid counsel. For members of the OSHA bar, their ability to convey the complex technical aspects of health and safety cases is enhanced by the expertise of specialized jurists. As for the Secretary, whose resources are limited and whose attorneys have specialized knowledge, both factors mentioned above pose advantages.

Question 4. Are there other ways to cut costs or improve performance through major reinvention of operations or reengineering?

Given the extensive downsizing of the last fifteen years and the growing complexity of cases coming before the Commission, it does not appear that major cost savings are likely that would significantly reduce the Commission's spending. There are, however, opportunities to reduce operating costs, many of which we are pursuing, and we believe that we can streamline our operations to shift staff years away from administrative functions, and toward

²*Atlas Roofing Co., Inc. V. OSHRC*, 430 U.S. 442, 455 (1977).

the basic adjudicative function. To date we have reduced our operating and support costs for fiscal year 1995 by approximately \$75,000 and expect to find additional savings in fiscal year 1996.

Option 1 -- Termination of major programs or the entire agency

Option 1 is not applicable since, as noted above, our *sole* function is statutorily mandated and integral to any federal enforcement of job safety and health laws.

Option 2 -- Restructuring of major programs through reengineering operations.

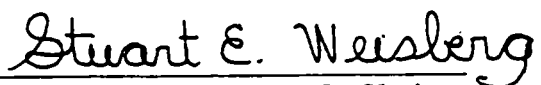
Case Processing. We are setting up cross functional teams to cut by 50 percent the average time that it takes the agency to dispose of its most costly trials. Modern technology, careful questioning of every process step and further simplifying our legal processes will make this possible. Better communication of our processes to litigants will make our procedures more user friendly.

Cost Savings. Meanwhile, we are redesigning our procurement, reproduction, mail management and communications, information management, data processing and case tracking systems to reduce costs and have achieved roughly \$50,000 in savings with our initial effort. In addition, we have reduced space, rental costs and phone lines in every geographic location and expect these to yield significant savings in fiscal year 1996. These savings will go to modernizing our technology, providing critical training and hiring additional judges.

Human Resources. Redesigning our performance management system to emphasize customer service, savings and process improvement should allow us to reduce support staff costs while improving mission performance. Although we need to hire additional judges we will do this within current or reduced staffing levels by eliminating positions through streamlining and cross-training.

Technology. Modernizing antiquated computer hardware and software will increase productivity, allow the restructuring of support functions and allow us to better track cases and automate routine judicial and clerical functions as we reengineer all key work processes.

February 21, 1995


STUART E. WEISBERG, Chairman

General and special funds—Continued

OFFICE OF INSPECTOR GENERAL—Continued
(INCLUDING TRANSFER OF FUNDS)—Continued

Program and Financing (in thousands of dollars)—Continued

Identification code 31-0300-0-1-276	1994 actual	1995 est.	1996 est.
Permanent:			
68.00 Spending authority from offsetting collections	13		
Relation of obligations to outlays:			
71.00 Total obligations	4,848	5,525	5,500
72.40 Obligated balance, start of year: Unpaid obligations:			
Treasury balance	697	1,442	1,943
74.40 Obligated balance, end of year: Unpaid obligations:			
Treasury balance	-1,442	-1,943	-2,027
78.00 Adjustments in unexpired accounts	-126		
87.00 Outlays (gross)	3,977	5,024	5,416
Adjustments to gross budget authority and outlays:			
88.00 Offsetting collections from: Federal sources	-13		
89.00 Budget authority (net)	4,800	5,080	5,500
90.00 Outlays (net)	3,964	5,024	5,416

The Inspector General Act Amendments of 1988 established a statutory Office of the Inspector General within the NRC that provides the Commission and Congress with an independent review and appraisal of the integrity of NRC programs and operations. The function of the Office of the Inspector General is to conduct and supervise audits and investigations relating to all facets of agency programs and operations.

Object Classification (in thousands of dollars)

Identification code 31-0300-0-1-276	1994 actual	1995 est.	1996 est.
Direct obligations:			
Personnel compensation:			
11.1 Full-time permanent	2,754	3,292	3,209
11.3 Other than full-time permanent	219	235	229
11.5 Other personnel compensation	287	313	306
11.8 Special personal services payments	16	79	76
11.9 Total personnel compensation	3,276	3,919	3,820
12.1 Civilian personnel benefits	653	718	715
21.0 Travel and transportation of persons	181	235	235
25.2 Other services	725	325	395
25.3 Purchases of goods and services from Government accounts		328	335
99.0 Subtotal, direct obligations	4,835	5,525	5,500
99.0 Reimbursable obligations	13		
99.9 Total obligations	4,848	5,525	5,500

Personnel Summary

Identification code 31-0300-0-1-276	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment	46	44	44

NUCLEAR WASTE TECHNICAL REVIEW
BOARD

Federal Funds

General and special funds:

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, [\$2,664,000] \$2,970,000, to be transferred from the Nuclear Waste Fund and to remain available until expended. (Energy and Water Development Appropriations Act, 1995.)

Program and Financing (in thousands of dollars)

Identification code 48-0500-0-1-271	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations	2,650	3,373	3,493
Financing:			
17.00 Recovery of prior year obligations	-50		
21.40 Unobligated balance available, start of year: Treasury balance	-1,672	-1,232	-523
24.40 Unobligated balance available, end of year: Treasury balance	1,232	523	
40.20 Budget authority (appropriation) (special fund, definite)	2,160	2,664	2,970
Relation of obligations to outlays:			
71.00 Total obligations	2,650	3,373	3,493
72.40 Obligated balance, start of year: Unpaid obligations:			
Treasury balance	210	176	675
74.40 Obligated balance, end of year: Unpaid obligations:			
Treasury balance	-176	-675	-699
78.00 Adjustments in unexpired accounts	-50		
90.00 Outlays	2,634	2,874	3,469

The Nuclear Waste Technical Review Board is directed to evaluate the technical and scientific validity of the activities of the Department of Energy's nuclear waste disposal program undertaken after the enactment of the Nuclear Waste Policy Amendments Act of 1987. The Board must report its findings not less than two times a year to the Congress and the Secretary of Energy.

Object Classification (in thousands of dollars)

Identification code 48-0500-0-1-271	1994 actual	1995 est.	1996 est.
Personnel compensation:			
11.1 Full-time permanent	1,249	1,445	1,507
11.3 Other than full-time permanent	313	558	558
11.5 Other personnel compensation	24	30	30
11.8 Special personal services payments	2	10	10
11.9 Total personnel compensation	1,588	2,043	2,105
12.1 Civilian personnel benefits	260	331	346
21.0 Travel and transportation of persons	252	334	344
23.1 Rental payments to GSA	225	232	225
23.3 Communications, utilities, and miscellaneous charges	46	61	68
24.0 Printing and reproduction	13	33	33
25.1 Advisory and assistance services	58	80	80
25.2 Other services	123	129	135
25.3 Purchases of goods and services from Government accounts	47	66	66
26.0 Supplies and materials	33	44	44
31.0 Equipment	5	20	52
99.9 Total obligations	2,650	3,373	3,493

Personnel Summary

Identification code 48-0500-0-1-271	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment	19	27	27

OCCUPATIONAL SAFETY AND HEALTH
REVIEW COMMISSION

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), [\$7,595,000] \$8,127,000. (Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995.)

Program and Financing (in thousands of dollars)

Identification code 95-2100-0-1-554	1994 actual	1995 est.	1996 est.
Program by activities:			
00.01 Commission review	2,260	2,334	2,498
00.02 Administrative law judge determinations	3,613	3,734	3,995
00.03 Executive direction	1,477	1,527	1,634
10.00 Total obligations	7,350	7,595	8,127
Financing:			
25.00 Unobligated balance expiring	12		
40.00 Budget authority (appropriation)	7,362	7,595	8,127
Relation of obligations to outlays:			
71.00 Total obligations	7,350	7,595	8,127
72.40 Obligated balance, start of year: Unpaid obligations:			
Treasury balance	677	410	423
74.40 Obligated balance, end of year: Unpaid obligations:			
Treasury balance	-410	-423	-452
77.00 Adjustments in expired accounts	-73		
90.00 Outlays	7,544	7,582	8,098

The Review Commission, established by the Occupational Safety and Health Act of 1970, adjudicates contested enforcement actions of the Secretary of Labor. The Commission holds factfinding hearings and issues orders affirming, modifying, or vacating the Secretary's enforcement actions.

SELECTED WORKLOAD DATA

	1994 actual	1995 est.	1996 est.
Commission review activities:			
Cases pending beginning of year	73	80	85
Cases called for review	68	75	80
Cases decided	61	70	80
Administrative law judge activities:			
Cases pending beginning of year	1,614	1,716	1,921
New cases received	3,697	3,900	4,000
Case dispositions:			
After assignment but without hearing	3,414	3,510	4,040
Heard and decided by judge	181	185	215

Object Classification (in thousands of dollars)

Identification code 95-2100-0-1-554	1994 actual	1995 est.	1996 est.
11.1 Personnel compensation: Full-time permanent	4,857	5,034	5,298
12.1 Civilian personnel benefits	739	811	838
21.0 Travel and transportation of persons	65	108	124
22.0 Transportation of things	8	11	11
23.1 Rental payments to GSA	1,140	1,131	1,156
23.3 Communications, utilities, and miscellaneous charges	65	75	84
24.0 Printing and reproduction	10	9	30
25.2 Other services	245	287	372
26.0 Supplies and materials	128	84	84
31.0 Equipment	93	45	130
99.9 Total obligations	7,350	7,595	8,127

Personnel Summary

Identification code 95-2100-0-1-554	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment	73	75	74

OFFICE OF GOVERNMENT ETHICS

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended by Public Law 100-598, and the Ethics Reform Act of 1989, Public Law 101-194, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed \$1,500 for official reception and representation expenses;

[\$8,104,000] \$8,328,000. (Independent Agencies Appropriations Act, 1995.)

Program and Financing (in thousands of dollars)

Identification code 95-1100-0-1-805	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations	7,550	8,619	8,426
Financing:			
25.00 Unobligated balance expiring	851		
39.00 Budget authority (gross)	8,401	8,619	8,426
Budget authority:			
Current:			
40.00 Appropriation	8,313	8,104	8,328
50.00 Reappropriation		425	
Permanent:			
68.00 Spending authority from offsetting collections	88	90	98
Relation of obligations to outlays:			
71.00 Total obligations	7,550	8,619	8,426
Obligated balance, start of year:			
72.10 Receivables from other government accounts	-79	-27	-9
72.40 Unpaid obligations: Treasury balance	1,866	1,815	354
Obligated balance, end of year:			
74.10 Receivables from other government accounts	27	9	10
74.40 Unpaid obligations: Treasury balance	-1,815	-354	-347
77.00 Adjustments in expired accounts	-28		
87.00 Outlays (gross)	7,521	10,062	8,434
Adjustments to gross budget authority and outlays:			
88.00 Offsetting collections from: Federal sources	-88	-90	-98
89.00 Budget authority (net)	8,313	8,529	8,328
90.00 Outlays (net)	7,433	9,972	8,336

The Office of Government Ethics (OGE) is charged by law to provide overall direction of executive branch policies designed to prevent conflicts of interest and insure high ethical standards. The OGE discharges its responsibilities to preserve and promote public confidence in the integrity of executive branch officials by developing rules and regulations pertaining to conflicts of interest, post employment restrictions, standards of conduct, and public and confidential financial disclosure in the executive branch; by monitoring compliance with the public and confidential financial disclosure requirements of the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989, to determine possible violations of applicable laws or regulations and recommending appropriate corrective action; by consulting with and assisting various officials in evaluating the effectiveness of applicable laws and the resolution of individual problems; by preparing formal advisory opinions, informal letter opinions, policy memoranda, and Federal Register entries on how to interpret and comply with the requirements on conflicts of interest, post employment, standards of conduct, and financial disclosure; and by issuing and amending regulations implementing the procurement integrity provisions relating to negotiating for employment, post employment, and gratuities in the Office of Federal Procurement Policy Act Amendments of 1988, P.L. 100-679.

Object Classification (in thousands of dollars)

Identification code 95-1100-0-1-805	1994 actual	1995 est.	1996 est.
Direct obligations:			
Personnel compensation:			
11.1 Full-time permanent	4,321	4,946	5,124
11.3 Other than full-time permanent	282	100	119
11.5 Other personnel compensation	173	152	156
11.9 Total personnel compensation	4,776	5,198	5,399
12.1 Civilian personnel benefits	859	1,013	1,052
13.0 Benefits for former personnel	134		
21.0 Travel and transportation of persons	90	104	132
22.0 Transportation of things	4	5	7
23.1 Rental pay to GSA	1,044	1,058	1,098

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B

Divider Title: _____

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

DESCRIPTION: The Commission reviews and decides contested enforcement actions of the Secretary of Labor on mine safety legislation. The Commission also adjudicates claims by miners and miners' representatives concerning their rights under law. The Commission holds factfinding hearings and issues orders affirming, modifying, or vacating the Secretary's enforcement actions. From the approximately 140,000 Mine Safety and Health Administration citations issued each year, roughly 8,000 cases are contested before the Commission's Administrative Law Judges (ALJ). Less than 15% of the ALJ's decisions are appealed to the U.S. Court of Appeals. Historically, 80% of the ALJ's decisions are upheld in federal court on appeal.

FY 1996 BUDGET PROPOSAL: The budget authority for FY 1996 is \$6.467 million, an increase of \$267,000 from the FY 1995 budget. The projected FTE level for FY 1996 is 60, no change from FY 1995.

AGENCY PROPOSAL: The Commission argues that its adjudication function cannot be devolved to state or local governments because of federal statute and historical problems with conflicting interpretations and uneven decision enforcement. The Commission argues that it functions as a buffer for the judicial branch. The Commission argues that if it were eliminated, its operating costs would be borne by the federal court system. In addition, elimination would result in delays in the resolution of mine safety and health cases because the cases would have to be heard in an already overcrowded federal judicial system. Because of a slowed resolution process, penalty collection income for the Department of Labor would drop substantially or cease.

DECISION OPTIONS:

- A. Abolish the Commission and rely on the federal court system to handle the disposition of all mine safety and health cases.
- B. Eliminate the FMSHR and combine all workplace conditions Administrative Law Judges e.g., the Occupational Safety and Health Review Commission into the Dept. of Labor's adjudicatory body.
- C. No change; fund the Commission at FY 1996 levels.

ADVISORY GROUP RECOMMENDATION: B.

RATIONALE: The Commission's adjudication function is a federal function. Abolition of the Commission and reliance on the federal court system would not benefit the government. Combining with the OSHRC, a Commission with a similar mission, into the Dept. of Labor's adjudicatory body would align the adjudication process and eliminate two niche commissions.

Legislation will be required for this action.

STEERING COMMITTEE RECOMMENDATION:

NPR PHASE II OPTIONS PAPER

submitted by the

**FEDERAL MINE SAFETY AND HEALTH
REVIEW COMMISSION**

February 21, 1995

NPR PHASE II OPTIONS PAPER

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

I. OVERVIEW

The Federal Mine Safety and Health Review Commission is an independent adjudicatory agency created as a result of the passage of the Federal Mine Safety and Health Amendments Act of 1977 ("Mine Act"). The Commission provides administrative trial and appellate review of legal disputes arising under the Mine Act. The Commission conducts its adjudicative function through 1) trial-level adjudication of contested safety and health enforcement actions of the Secretary of Labor, lodged in the Commission's Offices of Administrative Law Judges ("ALJs"), and 2) appellate review at the Commission level of ALJ decisions.

Most cases that come before the Commission deal with enforcement actions brought by the Department of Labor's Mine Safety and Health Administration ("MSHA") against mine operators. In a typical proceeding, the Secretary of Labor prosecutes a case and a mine operator defends itself. Other cases address orders to close mines and miners' complaints of safety-related discrimination.

Prior to FY 1991, the Commission received approximately 2,000 cases at the trial level and 60 cases for review. Since that time, the workload has increased dramatically to 5,000 new cases annually at the trial level and 90 new cases a year at the review level.

Each year, MSHA issues approximately 140,000 citations and orders to mine operators. Approximately 11,000 of those citations, consisting of 7,860 cases, are currently pending for trial before the Commission's ALJs. Over half of the Commission's trial cases are currently being disposed of within 6 months of receipt, and about 82% within 9 months. At the review level, the Commission presently has an inventory of 51 cases with an average age of 6 months. The average age of decisions issued in FY 1994 was less than 5 months.

Under the Mine Act, appeals from Commission decisions may be taken to the U.S. Court of Appeals. Less than 15% of the Commission's cases have been appealed to the courts. Historically, the Commission has enjoyed an 80% affirmance rate.

The Commission's adjusted appropriation for FY 1995 is \$6,200,000. The budget request for FY 1996 is currently \$6,467,000. All costs are "on budget," administrative in nature, and contain no regulatory or subsidy programs. The Commission's FTE is 60.

II. MISSION AND GOALS

The Commission is concerned solely with adjudication of disputes and determining appropriate penalty amounts under the Mine Act; it does not regulate the mining industry or enforce the Mine Act. Its goal is the just, speedy and inexpensive determination of all proceedings that come before it. Through the swift and impartial adjudication of these civil matters, the Commission seeks to enhance compliance with the Mine Act and contribute to improved health and safety of the Nation's miners.

III. ASSESSMENT OF KEY FUNCTIONS

The Commission has only one function: adjudication of disputes under the Mine Act. These disputes consist principally of enforcement actions brought by MSHA against mine operators. Because the Commission has no enforcement role under the Mine Act, possible re-engineering of MSHA's health and safety enforcement program is beyond the scope of this option paper. Accordingly, the following assessment presupposes the continuance of a mandatory Federal program of safety and health measures in the mining industry.

A. Is this program or function critical to the agency's mission, based on "customer" input?

Yes. As discussed above, the adjudicatory function is the Commission's sole activity, and is the basis for its mission.

B. Can it be done as well or better at the State or local level?

No. Given a nationwide program of health and safety enforcement at the Federal level, separate state or local adjudications would result in conflicting interpretations and uneven enforcement. Moreover, the goal of swift determinations would also be compromised as contestant mine operators are forced into a variety of State and local court systems already overburdened with civil cases. In addition, these adjudications involve technical inquiries which State and local adjudicatory bodies, without expertise in safety and health issues related to the mining industry, will be ill-equipped to handle.

Lack of effective and consistent enforcement of mine safety regulations by the States has been a motivating factor in Congress's passage of a series of mine safety and health laws dating from the end of the 19th Century. The Coal Mine Safety and Health Act of 1941 was passed in part because of perceived lack of uniformity among the States in safety and health enforcement in the mining industry. President Truman stated that leaving mine accident prevention in the hands of the States was one of the

deficiencies of the 1952 Coal Act. The Coal Mine Health and Safety Act of 1969 effectively federalized the mine industry health and safety program, including adjudication. Under the 1969 Act, enforcement and adjudication of health and safety citations was lodged in the Department of the Interior, with *de novo* trials in the federal district courts. The 1977 Mine Act continued the federal role in adjudication by establishing the Commission to hear all disputes at the trial and appellate levels, with review in the U.S. Courts of Appeals. Unlike the Occupational Safety and Health Act, the Mine Act contains no provisions permitting the States to opt out of federal regulation by establishing their own enforcement and adjudicatory programs meeting certain standards.

C. Is there any way to cut costs or improve performance by introducing competition?

Adjudicative activities involve due process and are not subject to the competitive process.

D. How can NPR principles be applied to put customers first, cut red tape, and empower employees?

The Commission has always striven to be responsive to its customers' needs. In 1989, after 10 years of operation, the Commission determined that a general reexamination of its Rules of Procedure was appropriate. In a series of public meetings, possible revisions were considered, and in 1990 proposed revisions were published. Although notice-and-comment rulemaking under the Administrative Procedures Act does not apply, the Commission has traditionally encouraged public participation in its rulemaking process. Comments and suggestions were solicited from Commission customers. A number of organizations and individuals filed comments, including the American Mining Congress, the National Coal Association, the Appalachian Research Defense Fund of Kentucky, the United Mine Workers of America, the Department of Labor and several law firms engaged in practice before the Commission. In March 1993, taking account of its customers' comments, the Commission completed this comprehensive self-evaluation and published its revised Rules of Procedure.

The Commission has also embarked on a program of increased computerization in its case tracking and assignment system. With implementation of new case management software developed specifically for the Commission's needs, cases can be assigned to judges much more efficiently on the basis of workload, pending case assignments, travel considerations, and case complexity, and agency resources can be commensurately conserved. Enhanced computerization also permits more effective

management of the ALJ operation by making available productivity and aging data in a variety of formats.

The mine operators appearing before the Commission may have numerous cases in litigation at one time. In an effort to increase case dispositions early in the process, and thereby increase efficiency, the Commission has begun the practice of holding "calendar calls" in which up to 60 cases at a time are discussed by the Chief Judge and representatives of the parties in an effort to promote settlements and free up judicial resources for cases that are heading for trial.

IV. OPTION 1 - TERMINATION OF THE FMSHRC

A. Pros, compared with the status quo

None. Given federal enforcement of mine safety and health laws, adjudication is required based on elementary due process principles.

B. Cons, compared with the status quo

Assuming that contestants are thrown into the federal court system, MSHA enforcement strategy will be stymied. Penalty collection would dwindle or cease due to insurmountable delays in judicial resolution of disputes.

In enacting the Mine Act, Congress chose to establish the Commission in order to end the endemic delays associated with the cumbersome dispute-resolution mechanism, involving trials in the federal district courts, that was a feature of the 1969 Coal Act. The key Congressional committee report stated:

The Committee firmly believes that to effectively induce compliance, the penalty must be paid by the operator in reasonably close time proximity to the occurrence of the underlying violation. A number of problems with the current penalty assessment and collection system interfere with this. Final determinations of penalties are not self-enforcing, and operators have the right to seek judicial review of penalty determinations, and may request a de novo trial on the issues in the U.S. District Courts. This encourages operators who are not predisposed to voluntarily pay assessed penalties to pursue cases through the elaborate administrative procedure and then to seek redress in the Courts. Since the District Courts are still reluctant to schedule trials on these cases, and the Department of Justice has been reluctant to pursue such cases in the courts, the matters generally languish at that stage, and the penalties go uncollected. In the seven years since the effective date of the [1969]

Coal Act virtually no penalties have been collected as a result of court decisions.¹

The Commission functions as a buffer to the judiciary branch. FMSHRC provides parties expert, efficient and economical due process and relieves the overcrowded federal court system of the many thousand of cases that would otherwise be their workload. If the Commission were eliminated, FMSHRC's costs would have to be borne by the federal court system to avoid drastic worsening of delays in processing civil cases. Mine operators subjected to the federal court system would experience delays, higher costs, and more difficulties proceeding without legal counsel.

For the same reason, absorption of FMSHRC by the Labor Department would not save the government the costs of adjudicating safety and health violations, a required feature of any enforcement program. Such a measure would have the added problem of incurring the opposition of the mining industry. The Commission was established as an independent adjudicative agency separate from the Labor Department to ensure its impartiality and instill confidence in its decisions. The Supreme Court recently recognized that the Commission "was established as an independent review body to develop a uniform and comprehensive interpretation of the Mine Act" ² The mining industry can be expected to vehemently oppose capture of the adjudicative function by the enforcement agency.

¹ S. Rep. No. 181, 95th Cong., 1st Sess. 16, *reprinted in Legislative History of the Federal Mine Safety and Health Act of 1977*, at 604.

² *Thunder Basin Coal Co. v. Reich*, ___ U.S. ___, 127 L.Ed.2d 29, 42 (1994).

Summary Cost Information

	FY 1996 PROGRAM LEVELS IN BUDGET	ESTIMATED RESULTING LEVELS FOR FY 1996*	ESTIMATED RESULTING LEVELS FOR FY 1997*	ESTIMATED RESULTING LEVELS FOR FY 2000*	5-YEAR CUMULATIVE (FY 1996- 2000)*
Discretionary Budget Authority	6,467				
Discretionary Budget Outlays	5,471				
Mandatory Outlays	688				
Governmental Receipts	---				
FTE Changes	60				

- * Because the adjudicative function is required, it is expected that costs would continue at current levels no matter where this function is lodged.

V. OPTION 2 - RESTRUCTURING OF MAJOR PROGRAMS

As noted above, the Commission has only one function. It is now performing that function with a complement of Commissioners, judges, attorneys, and minimal support staff that has essentially remained static for a decade. Yet the Commission's case load at the trial and appellate levels has been increasing. At the trial level, new cases are being filed at about twice the rate of the average for the 1980s. In light of the Commission's small size, modest budget, increasing case load, and narrow focus, the Commission is currently "lean and mean." Nevertheless, the Commission will continue to seek out ways of improving efficiency, meeting customers' needs, and reducing costs. See Section III.D. above.

Summary Cost Information:

Not applicable

Attachments:

None

General and special funds—Continued

SALARIES AND EXPENSES—Continued

Object Classification (in thousands of dollars)—Continued

Identification code 93-0100-0-1-505	1994 actual	1995 est.	1996 est.
11.3 Other than full-time permanent	111	125	125
11.5 Other personnel compensation	198	170	170
11.9 Total personnel compensation	18,475	18,592	19,330
12.1 Civilian personnel benefits	3,869	4,082	4,167
13.0 Benefits for former personnel		263	
21.0 Travel and transportation of persons	1,825	1,494	2,019
22.0 Transportation of things	19	1	1
23.1 Rental payments to GSA	3,141	3,550	3,639
23.3 Communications, utilities, and miscellaneous charges	891	909	994
24.0 Printing and reproduction	59	56	58
25.2 Other services	707	587	651
26.0 Supplies and materials	298	196	245
31.0 Equipment	159	114	686
41.0 Grants, subsidies, and contributions	769	1,500	1,500
99.0 Subtotal, direct obligations	30,212	31,344	33,290
99.0 Reimbursable obligations	242	230	250
99.9 Total obligations	30,454	31,574	33,540

Personnel Summary

Identification code 93-0100-0-1-505	1994 actual	1995 est.	1996 est.
Direct:			
1001 Total compensable workyears: Full-time equivalent employment	301	302	296
Reimbursable:			
2001 Total compensable workyears: Full-time equivalent employment			

FEDERAL MINE SAFETY AND HEALTH
REVIEW COMMISSION

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), [\$6,200,000] \$6,467,000. (Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995.)

Program and Financing (in thousands of dollars)

Identification code 95-2800-0-1-554	1994 actual	1995 est.	1996 est.
Program by activities:			
00.01 Commission review	2,771	3,173	3,345
00.02 Administrative law judge determinations	2,886	3,027	3,122
10.00 Total obligations	5,657	6,200	6,467
Financing:			
25.00 Unobligated balance expiring	185		
40.00 Budget authority (appropriation)	5,842	6,200	6,467
Relation of obligations to outlays:			
71.00 Total obligations	5,657	6,200	6,467
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance	704	647	688
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	-647	-688	-724
77.00 Adjustments in expired accounts	-165		
90.00 Outlays	5,549	6,159	6,431

The Commission reviews and decides contested enforcement actions of the Secretary of Labor on mine safety legislation. The Commission also adjudicates claims by miners and miners' representatives concerning their rights under law. The

Commission holds factfinding hearings and issues orders affirming, modifying, or vacating the Secretary's enforcement actions.

SELECTED WORKLOAD DATA

	1994 actual	1995 est.	1996 est.
Commission review activities:			
Cases pending beginning of year	47	57	70
Cases called for review	105	93	93
Cases decided	95	80	91
Administrative law judge activities:			
Cases pending beginning of year	7,254	8,028	8,548
New cases received	5,080	5,100	5,100
Cases decided	4,306	4,580	4,650

Object Classification (in thousands of dollars)

Identification code 95-2800-0-1-554	1994 actual	1995 est.	1996 est.
Personnel compensation:			
11.1 Full-time permanent	3,354	4,011	4,212
11.3 Other than full-time permanent	25	25	25
11.8 Special personal services payments	27	40	25
11.9 Total personnel compensation	3,406	4,076	4,262
12.1 Civilian personnel benefits	646	684	749
21.0 Travel and transportation of persons	139	139	140
22.0 Transportation of things	11	11	11
23.1 Rental payments to GSA	602	602	
23.3 Communications, utilities, and miscellaneous charges	87	95	104
24.0 Printing and reproduction	35	35	36
25.2 Other services	488	471	466
26.0 Supplies and materials	122	72	75
31.0 Equipment	121	15	15
99.9 Total obligations	5,657	6,200	6,467

Personnel Summary

Identification code 95-2800-0-1-554	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment	53	60	60

FEDERAL RETIREMENT THRIFT INVESTMENT
BOARD

Federal Funds

General and special funds:

PROGRAM EXPENSES

Program and Financing (in thousands of dollars)

Identification code 26-5290-0-2-803	1994 actual	1995 est.	1996 est.
Program by activities:			
00.01 Administrative expenses	31,654	38,972	41,674
00.02 Fiduciary insurance	90	95	100
10.00 Total obligations	31,744	39,067	41,774
Financing:			
60.25 Budget authority (appropriation) (special fund, indefinite)	31,744	39,067	41,774
Relation of obligations to outlays:			
71.00 Total obligations	31,744	39,067	41,774
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance	4,861	8,175	8,175
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	-8,175	-8,175	-8,175
77.00 Adjustments in expired accounts	-929		
90.00 Outlays	27,501	39,067	41,774

The Federal Retirement Thrift Investment Board is responsible for managing the Thrift Savings Fund. The Thrift Savings Fund is a special tax-deferred savings fund established by the Federal Employees' Retirement System Act of 1986. Due to the fiduciary nature of the Thrift Savings Fund, the Fund is not included in the totals of the Federal budget.

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C

Divider Title: _____

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DESCRIPTION: The Corporation for National and Community Service was established by the National and Community Service Act of 1993. It engages Americans of all ages and backgrounds in community-based service which addresses the nation's educational, human, public safety, and environmental needs to achieve meaningful results. In doing so, the Corporation attempts to foster civic responsibility, strengthen the cords that bind us together as a people, and provide educational opportunity for those who make a substantial commitment to service.

FY 1996 BUDGET PROPOSAL: Proposed FY 96 budget authority is \$1,082,376,000, an increase of \$290.666 million from FY 95. Proposed FY 96 FTE is 602; no change of FTE from FY 95.

AGENCY PROPOSAL: The Corporation for National and Community Service proposes no significant changes in its organization or operation, explaining that it is still in a start-up mode and that, as a creation of the Administration working in partnership with Congress, incorporates the principles of reinvention and Phase II of the National Performance Review.

DECISION OPTIONS:

- A. No change; follow FY 96 budget recommendation
- B. Terminate funding.

ADVISORY GROUP RECOMMENDATION:

A.

RATIONALE:

The Corporation for National and Community Service is one of the Administration's initiatives. As such, we recommend the FY 96 budget be approved.

STEERING COMMITTEE RECOMMENDATION

February 13, 1995

CORPORATION
FOR NATIONAL
SERVICE

TO: Jay Friedman, Jerry Nikolaus, Marv Voskhul
National Performance Review

FROM: Gary Kowalczyk
Acting Chief Financial Officer

SUBJECT: Congressional Appropriations Committee Hearings

We have been advised that the VA-HUD-Independent Agencies subcommittee of the Senate Appropriations Committee will conduct hearings on National and Community Service Act appropriations on February 22. A portion of the Corporation's appropriations is also handled by the Labor, Health and Human Services, Education subcommittee, but hearings there are not expected.

On the House side, the Subcommittee on VA, HUD, Independent Agencies has scheduled a hearing for March 24; we have not yet heard with regard to the Labor, HHS, Education and Related Agencies Subcommittee.

Attached is a discussion that analyzes the Corporation's relationship to Phase II. The points are made that:

- The Corporation is a product of legislation that is already based on both reinventing government and new federalism principles; hence, doing the top to bottom review called for by Phase II is redundant.
- The President, the Vice President and other key participants in the Administration have repeatedly made a compelling case for the Corporation for National Service that incorporates the concepts of Phase II. Thus, pursuing a contrary case at this time would be in conflict with this aspect of the President's program.
- The Corporation is in a start-up mode; thus, it would be premature to revisit underlying assumptions and operations until there has been adequate time to determine their value.

Thank you for keeping us apprised of NPR developments.

1100 Vermont Avenue, NW
Washington, DC 20025
Telephone 202-606-5000
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Getting Things Done.
AmeriCorps, National Service
Learn and Serve America
National Senior Service Corps

Corporation for National Service
THE NATIONAL PERFORMANCE REVIEW - PHASE II

AmeriCorps is not just a program, it is a movement -- a movement of young Americans imbued with the American spirit. Government is a partner in this movement. It sets standards and goals. But it allows people at the grassroots to do what they do best -- to get things done. Vice President Gore, September 12, 1994

This country has ... all these young people full of energy and passion and ... dying to serve.... And, we've got an unbelievable number of problems out there that have to be solved in a personal, highly labor-intensive way that neither the government nor the private sector could otherwise afford. President Clinton, August 31, 1993

AmeriCorps is America at its best -- people rolling up their sleeves and assuming responsibility to make our country better.... Instead of just talking about problems, they'll be solving them. President Clinton, September 10, 1994

I want you to see national service as the embodiment of what we want to do. It is not a government program. It's a corporation with Republicans and Democrats on the board. It is not a bureaucracy. It's totally grass-roots oriented. President Clinton, December 6, 1994

I want us to cut more spending, but I hope we won't cut government programs that help to prepare us for the new economy, promote responsibility, and are organized from the grass roots up, not by federal bureaucracies. The very best example of this is AmeriCorps. President Clinton, January 24, 1995

The Corporation for National Service was established by the National and Community Service Act of 1993. In September 1994, AmeriCorps was launched at a high profile White House ceremony that electronically linked communities and new AmeriCorps members throughout the Nation. A creation of the Administration working in partnership with the Congress, few initiatives are so thoroughly a product of the President and Vice President's views on how a federal program should operate. Thus, the Corporation not only has a head start on Phase II of the National Performance Review, it in fact begins at the point where Phase II is aiming governmentwide.

- 2 -

The framers of the National and Community Service Act had reinvention in the forefront of their thinking as they crafted the Corporation's structure and operating principles, and the Corporation's approach has been to reinforce reinvention in the formative start-up stages of our programs and functions. Reinvention concepts that are built directly into the Corporation's enabling legislation include:

- Using a flexible *government Corporation* rather than creating (or adding onto) a more typical bureaucratic structure.
- *Devolving real authority* to the states for strategic plans and the management of grant competitions with an emphasis on trusting communities to do the right thing and solve their own problems.
- Using *competition and incentives* as the central premise for grant making. While a third of AmeriCorps*USA monies are distributed to states by formula, another third involves competition among the states and the remaining third involves national competition. Even Federal agencies are required to compete for AmeriCorps monies.
- Creating an *alternative personnel system* that simplifies hiring, pay, appraisal and other work systems.

Additionally, the Corporation has been:

- *Taking full advantage of the information age* to keep the organization small, quick, flexible and non-bureaucratic.
- Emphasizing a *customer service orientation* with user friendly regulations (which are on the Internet); consulting program people through focus groups; using customer satisfaction evaluations; and streamlining administrative processes.
- Focusing on *tangible outcomes* -- getting things done -- and holding funds recipients accountable for results.
- *Flattening and delayering* the organization by eliminating regional offices and mid-level political positions in headquarters; by arranging state offices into clusters of self-managed teams; and by using a self-managed team approach for administering the Corporation's five field service centers.

- 3 -

- **Streamlining operations** and reallocating staff so that new National and Community Service Act programs (excludes the National Civilian Conservation Corps) are being run with only a hundred new FTE's.

Since the Corporation is a new approach that avoided the structural and operational assumptions of yesterday's government and since it will essentially continue as a start-up organization through fiscal year 1996, we believe a fundamental top to bottom review of programs and functions at this time and under these circumstances would be both redundant and counterproductive. The vision for the Corporation was clearly articulated in its enabling legislation, and that vision remains both fresh and vibrant. It was reinforced as part of the fiscal year 1995 appropriations process, and we are now focused on sustaining this record through the fiscal year 1996 appropriations process.

A key part of the Corporation's strategic focus is to continually assess where we have been and to make improvements on a rolling basis in where we are going, including:

- > What work was performed by our programs.
- > The impact on direct beneficiaries.
- > The institutional impacts of our programs on sponsors, partners, or involved institutions.
- > Whether our programs build stronger communities.
- > Whether our programs foster increased collaboration among community based organizations.
- > Whether our programs increase the number of activities that bring diverse community members together.
- > The return (costs and benefits) on the national service investment and which program models are most cost effective.
- > Public awareness and support of national service.
- > The extent to which distressed areas are serviced.
- > Types of services provided.

- 4 -

- > The extent that service recipients, programs sponsors, program partners, and community members are satisfied with the programs and with community services provided.
- > Practices that contribute to effective program start-up and successful program results.
- > Ways the Corporation can improve its operations.
- > Impacts on recruitment for other programs or for the military.
- > The effect of living allowances on the ability to serve.
- > Impacts of national service on meeting basic human needs as well as education, environmental, and public safety needs.

Information resulting from the assessments we are pursuing will frame our continuing reinvention efforts; allow us, as a learning organization, to keep evolving and improving; and will be integral to the positions taken during the Congressional reauthorization process. The data that will be available to us and to the Congress will provide the wherewithal for determining the criticality of national service to the Nation's well being and to revisit the delivery structure as needed. Much of this information will also be integrated into a uniquely broad range of strategic plans and reports required by the legislation.

Personnel Summary

Identification code 61-0100-0-1-551	1994 actual	1995 est.	1996 est.
Total compensable workyears:			
1001 Full-time equivalent employment	485	487	487
1005 Full-time equivalent of overtime and holiday hours	1	1	1

CORPORATION FOR NATIONAL AND
COMMUNITY SERVICE

Federal Funds

General and special funds:

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING
EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service in carrying out the programs, activities, and initiatives under the National and Community Service Act of 1990, as amended (Public Law 103-82) (hereinafter referred to as "the Act"), [\$575,000,000, of which \$386,212,000 is available for obligation for the period September 1, 1995 through August 31, 1996] \$817,476,000 to remain available until September 30, 1997: *Provided*, That not more than [\$29,400,000] \$35,476,000 is available for administrative expenses authorized under section 501(a)(4) of the Act, of which not more than \$14,700,000 shall be for administrative expenses for State commissions pursuant to section 126(a) of subtitle C of title I of the Act; *Provided further*, That not more than \$2,500 shall be for official reception and representation expenses: *Provided further*, That not more than [\$145,900,000] \$189,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust Fund for educational awards as authorized under subtitle D of title I of the Act; *Provided further*, That not more than \$175,000 of the \$145,900,000 made available for the National Service Trust shall be for educational awards authorized under section 501(b) of subtitle C of title I of the Act: *Provided further*, That the \$6,500,000 shall be made available for the Points of Light Foundation for purposes authorized under title III of the Act: *Provided further*, That no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the National Civilian Community Corps, or any portion of any of the Corporation's field offices or staff working on National and Community Service or National Civilian Community Corps programs. (Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995.)

Program and Financing (in thousands of dollars)

Identification code 95-2720	506	1994 actual	1995 est.	1996 est.
Program by activities:				
Direct program:				
00 01 National Service Trust		93,250	145,900	189,000
00 02 AmeriCorps grants		124,069	281,431	429,800
00 03 Innovation assistance and other activities		15,626	80,702	60,200
00 04 Evaluation		2,883	8,717	8,000
00 05 National Civilian Community Corps		303	35,697	30,000
00 06 Service learning/higher education		25,969	64,031	60,000
00 07 NCSA program administration		23,389	30,761	35,476
00 08 Points of Light Foundation		5,000	6,500	5,000
00 91 Total direct program		290,489	653,739	817,476
01 01 Reimbursable program		209		
10 00 Total obligations		290,698	653,739	817,476
Financing:				
21 40 Unobligated balance available, start of year: Treasury balance		-2,450	-78,739	
24 40 Unobligated balance available, end of year: Treasury balance		78,739		
25 00 Unobligated balance expiring		422		
39 00 Budget authority (gross)		367,409	575,000	817,476

Budget authority:

Current:			
40.00 Appropriation	365,000	575,000	817,476
42.00 Transferred from other accounts	2,200		
43.00 Appropriation (total)	367,200	575,000	817,476
Permanent:			
68.00 Spending authority from offsetting collections	209		
Retention of obligations to outlays:			
71.00 Total obligations	290,698	653,739	817,476
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance		163,107	571,175
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	-163,107	-571,175	-917,564
87.00 Outlays (gross)	127,591	245,671	471,087
Adjustments to gross budget authority and outlays:			
88.00 Offsetting collections from: Federal sources	-209		
89.00 Budget authority (net)	367,200	575,000	817,476
90.00 Outlays (net)	127,382	245,671	471,087

The Corporation for National and Community Service engages Americans of all ages and backgrounds in community-based service which addresses the nation's educational, human, public safety, and environmental needs to achieve meaningful results. In doing so, the Corporation fosters civic responsibility, strengthens the cords that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service.

National Service Trust. The Trust serves as a secure repository for educational awards set aside for eligible participants in National Service programs.

AmeriCorps grants. With funds both channelled through States and provided directly to community based organizations, AmeriCorps grants enable communities to address problems they identify by using the skills of individuals serving in National Service positions.

Innovation, assistance, and other activities. In 1996, \$60.2 million will be provided as support to programs receiving assistance under AmeriCorps or Serve America or to organizations or States which would like to create programs or apply to the Corporation for funding.

Evaluation. This activity will determine the impact and effectiveness of Corporation programs.

National Civilian Community Corps. This residential National Service program provides unique service opportunities for members and communities.

Service learning/higher education. Through grants to State educational agencies, colleges and consortia of colleges and nonprofit organizations, and other means, curriculum will be improved and opportunities provided to students to participate in service learning activities.

NCSA program administration. Fifty percent of these funds will be provided to State Commissions to develop National Service plans and manage these activities within their States. Fifty percent of these funds will be used by the Corporation to administer these activities.

Points of Light Foundation. A grant will be provided to this nongovernment, nonprofit 501(c)(3) entity to enable it to increase opportunities for Americans to participate in voluntary activities.

Object Classification (in thousands of dollars)

Identification code 95-2720-0-1-506	1994 actual	1995 est.	1996 est.
Direct obligations:			
Personnel compensation:			
11.1 Full-time permanent	1,080	6,270	6,578
11.3 Other than full-time permanent	3,090	6,813	5,525
11.5 Other personnel compensation	124	1,156	1,030
11.8 Special personal services payments	1,479	9,125	8,367
11.9 Total personnel compensation	5,773	23,364	21,500

General and special funds—Continued

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING
EXPENSES—Continued

(INCLUDING TRANSFER OF FUNDS)—Continued

Object Classification (in thousands of dollars)—Continued

Identification code 95-2720-0-1-506	1994 actual	1995 est.	1996 est.
12.1 Civilian personnel benefits	10,943	3,427	3,381
21.0 Travel and transportation of persons	1,316	5,596	5,950
22.0 Transportation of things	176	363	381
23.1 Rental payments to GSA	177	180	233
23.3 Communications, utilities, and miscellaneous charges	437	1,006	940
24.0 Printing and reproduction	263	967	1,134
25.2 Other services	9,776	10,818	35,509
25.3 Purchases of goods and services from Government accounts	93,250	145,900	189,000
26.0 Supplies and materials	682	2,323	3,034
31.0 Equipment	887	1,202	1,276
41.0 Grants, subsidies, and contributions	166,809	428,593	555,138
99.0 Subtotal, direct obligations	290,489	653,739	817,476
99.0 Reimbursable obligations	209		
99.9 Total obligations	290,698	653,739	817,476

Personnel Summary

Identification code 95-2720-0-1-506	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment	87	206	206

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, [\$214,710,000] \$262,900,000, to remain available until September 30, 1997. (Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995.)

Program and Financing (in thousands of dollars)

Identification code 95-0103-0-1-506	1994 actual	1995 est.	1996 est.
Program by activities:			
Direct program:			
00.01 Volunteers in Service to America	42,597	48,320	60,000
00.02 Special volunteer programs	200		
00.03 National Senior Service Corps	130,342	135,964	168,400
00.04 Inspector General	941		
00.05 Program support	30,967	31,194	34,500
00.91 Total direct program	205,047	215,478	262,900
01.01 Reimbursable program	25,385	4,929	
10.00 Total obligations	230,432	220,407	262,900
Financing:			
21.40 Unobligated balance available, start of year: Treasury balance		-854	
24.40 Unobligated balance available, end of year: Treasury balance	854		
25.00 Unobligated balance expiring	796		
39.00 Budget authority (gross)	232,082	219,553	262,900
Budget authority:			
Current:			
40.00 Appropriation	205,097	214,710	262,900
40.76 Cash awards reduction pursuant to P.L. 103-333		-86	
42.00 Transferred from other accounts	1,600		
43.00 Appropriation (total)	206,697	214,624	262,900
Permanent:			
68.00 Spending authority from offsetting collections	25,385	4,929	
Relation of obligations to outlays:			
71.00 Total obligations	230,432	220,407	262,900
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance	93,130	105,351	109,241

74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	-105,351	-109,241	-130
77.00 Adjustments in expired accounts	-11,131		
87.00 Outlays (gross)	207,080	216,517	241,551
Adjustments to gross budget authority and outlays:			
Offsetting collections from:			
88.00 Federal sources	-23,139	-2,429	
88.40 Non-Federal sources	-2,246	-2,500	
88.90 Total, offsetting collections	-25,385	-4,929	
89.00 Budget authority (net)	206,697	214,624	262
90.00 Outlays (net)	181,695	211,588	241,551

Volunteers in Service to America.—The VISTA program assists communities working to resolve local poverty-related problems in areas such as illiteracy, hunger, unemployment, substance abuse, homelessness, and lack of adequate health support. The Literacy Corps develops, strengthens, supplements, and expands the efforts of public and private non-profit organizations at the local, State, and Federal levels to overcome the problems of illiteracy.

National Senior Service Corps.—These programs provide opportunities for people aged 55 and over, including those who are low-income, to volunteer their services to the community in many socially useful activities including working with the emotionally disturbed, the mentally retarded, and physically disabled, as well as the isolated and infirm elderly.

Inspector General.—The Office of the Inspector General is funded from a separate appropriation beginning in 1995, in accordance with the Inspector General Act of 1978, as amended.

Program support.—Costs of program direction and administration are financed by this activity.

Object Classification (in thousands of dollars)

Identification code 95-0103-0-1-506	1994 actual	1995 est.	1996 est.
Direct obligations:			
Personnel compensation:			
11.1 Full-time permanent	18,415	18,526	19,434
11.3 Other than full-time permanent	810	742	768
11.5 Other personnel compensation	587	611	633
11.8 Special personal services payments	31,149	32,203	38,667
11.9 Total personnel compensation	50,961	52,082	59,502
12.1 Civilian personnel benefits	4,783	4,532	4
13.0 Benefits for former personnel	501	513	531
21.0 Travel and transportation of persons	3,484	3,673	6,068
22.0 Transportation of things	239	300	324
23.1 Rental payments to GSA	2,835	3,600	4,109
23.3 Communications, utilities, and miscellaneous charges	1,075	1,152	1,218
24.0 Printing and reproduction	258	445	588
25.2 Other services	8,148	11,895	17,298
26.0 Supplies and materials	485	844	1,424
31.0 Equipment	202	28	29
41.0 Grants, subsidies, and contributions	132,076	136,414	167,001
99.0 Subtotal, direct obligations	205,047	215,478	262,900
99.0 Reimbursable obligations	25,385	4,929	
99.9 Total obligations	230,432	220,407	262,900

Personnel Summary

Identification code 95-0103-0-1-506	1994 actual	1995 est.	1996 est.
Direct:			
1001 Total compensable workyears: Full-time equivalent employment	354	380	380
Reimbursable:			
2001 Total compensable workyears: Full-time equivalent employment	70	1	

OFFICE OF THE INSPECTOR GENERAL

for necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$2,000,000. (Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995.)

Program and Financing (in thousands of dollars)

Identification code 95-2721-0-1-506	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations		2,000	2,000
Financing:			
40.00 Budget authority (appropriation)		2,000	2,000
Relation of obligations to outlays:			
71.00 Total obligations		2,000	2,000
72.40 Obligated balance, start of year: Unpaid obligations:			
Treasury balance			200
74.40 Obligated balance, end of year: Unpaid obligations:			
Treasury balance		-200	-200
90.00 Outlays		1,800	2,000

The Office of the Inspector General provides an independent assessment of Corporation operations, primarily through audits and investigations, with a goal of preventing fraud, waste, and abuse.

Object Classification (in thousands of dollars)

Identification code 95-2721-0-1-506	1994 actual	1995 est.	1996 est.
Personnel compensation:			
11.1 Full-time permanent		953	989
11.3 Other than full-time permanent		230	240
11.9 Total personnel compensation		1,183	1,229
12.1 Civilian personnel benefits		296	307
21.0 Travel and transportation of persons		75	85
23.3 Communications, utilities, and miscellaneous charges		1	1
24.0 Printing and reproduction		5	5
25.2 Other services		420	353
26.0 Supplies and materials		20	20
99.9 Total obligations		2,000	2,000

Personnel Summary

Identification code 95-2721-0-1-506	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment		13	13

Trust Funds

GIFTS AND CONTRIBUTIONS

Program and Financing (in thousands of dollars)

Identification code 95-9972-0-7-506	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations	98,751	146,400	189,900
Financing:			
21.40 Unobligated balance available, start of year: Treasury balance		-4,775	-16,775
24.40 Unobligated balance available, end of year: Treasury balance	4,775	16,775	41,748
60.27 Budget authority (appropriation) (trust fund, indefinite)	103,526	158,400	214,873
Relation of obligations to outlays:			
71.00 Total obligations	98,751	146,400	189,900
72.40 Obligated balance, start of year: Unpaid obligations:			
Treasury balance		98,556	239,470
74.40 Obligated balance, end of year: Unpaid obligations:			
Treasury balance	-98,556	-239,470	-374,006

90.00 Outlays 195 5,486 55,364

The gifts and contributions account is a consolidation of two trust accounts. In one, gifts and contributions from individuals and organizations are deposited for use in furthering program goals. In the other, funds appropriated to make educational awards to individuals who successfully complete national service are maintained until such time as the individual uses those awards.

Object Classification (in thousands of dollars)

Identification code 95-9972-0-7-506	1994 actual	1995 est.	1996 est.
Personnel compensation:			
11.3 Other than full-time permanent		100	100
11.8 Special personal services payments		300	300
11.9 Total personnel compensation		400	400
12.1 Civilian personnel benefits		51	51
21.0 Travel and transportation of persons		275	350
23.3 Communications, utilities, and miscellaneous charges		10	12
24.0 Printing and reproduction		225	175
25.2 Other services	98,751	145,425	188,900
26.0 Supplies and materials		14	12
99.9 Total obligations	98,751	146,400	189,900

Personnel Summary

Identification code 95-9972-0-7-506	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment		3	3

CORPORATION FOR PUBLIC BROADCASTING

Federal Funds

General and special funds:

CORPORATION FOR PUBLIC BROADCASTING

[(INCLUDING RESCISSION)]

[Of the funds made available under this heading in Public Law 102-394, \$7,000,000 are hereby rescinded.]

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year [1997] 1998, [\$315,000,000] \$296,400,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex. (Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995.)

Program and Financing (in thousands of dollars)

Identification code 20-0151-0-1-503	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations (object class 41.0)	275,000	285,640	312,000
Financing:			
65.00 Budget authority (advance appropriation) (definite)	275,000	285,640	312,000
Relation of obligations to outlays:			
71.00 Total obligations	275,000	285,640	312,000
90.00 Outlays	275,000	285,640	312,000

The Corporation for Public Broadcasting provides grants to qualified public television and radio stations to be used at their discretion for purposes related primarily to program production or acquisition; and, supports the production and acquisition of radio and television programs for national dis-

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D

Divider Title: _____

NATIONAL LABOR RELATIONS BOARD

DESCRIPTION: Established in 1935, the NLRB administers the National Labor Relations Act of 1935. The mission is to serve the public interest by reducing interruptions in interstate commerce caused by labor disputes through: 1) the resolution of questions concerning the representation of employees for the purpose of collective bargaining through prompt secret ballot elections; and 2) the prevention and remedying of unfair labor practices by employers and unions. In FY 94, over 35,000 unfair labor practice charges and over 6,000 representation petitions were filed. The Agency annually fields over 200,000 inquiries from the public seeking NLRB assistance. It has been able to handle over 95% of these without a charge or petition being filed.

Field Investigations:--Charges of unfair labor practices and petitions for elections to resolve representation disputes are investigated by regional office personnel. Over 92 percent of unfair labor practice cases are settled and about 85 percent of representation cases are resolved through mutual agreement of the parties. The remainder are prepared for public hearing.

Administrative Law Judge Hearings:--Administrative law judges conduct public hearings in unfair labor practice cases.

Board Adjudication:--In an unfair labor practice case, a judge's decision becomes a Board order if no exceptions are filed. This occurs about 30% of the time. The remainder with exception filed require contested Board decision. In representation cases, regional directors initially decide the issues. The Board decides representation issues on referral from regional directors or by granting request for review of regional directors' decisions.

Securing Compliance From Board Orders:--If the parties do not voluntarily comply with the Board's order involving unfair labor practices, the Board must request that the Appellate Courts enforce its decisions.

FY 1996 BUDGET PROPOSAL: The budget authority for FY 95 is \$176.097 million; the proposed FY 96 budget authority is \$181.164 million -- an increase of \$5.07 million. The projected FTE for FY 96 is 2,121; an increase of 62 over the FY 95 FTE of 2,059.

AGENCY PROPOSAL: The Board has concluded that its mission can neither be eliminated nor assumed by other entities. It argues to continue its in-depth reinvention efforts to apply NPR principles.

DECISION OPTIONS:

- A Accept the NLRB proposal and support their reinvention initiatives.
- B Reduce the Federal mission areas by reinventing the existing process.
- C. Terminate and create a new agency combining National Mediation Board, National Labor Relations Board and Federal Mediation and Conciliation Service.

ADVISORY GROUP RECOMMENDATION: A

RATIONALE:

The National Labor Relations Board is a quasi-judicial body. The Board's investigatory role is essential to serving the public's interest. The Board's mandate to resolve unfair labor practices has served the Nation's interests.

STEERING COMMITTEE RECOMMENDATION



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

Washington, D.C. 20570

1.4na

February 14, 1995

The National Performance Review
750 17th Street, N.W., Suite 200
Washington, D.C. 20006

Attention: Jay Friedman, Jerry Nikolaus and Marvin Voskhul

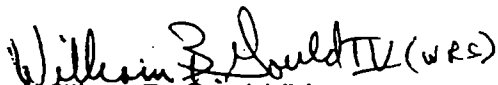
Dear Sirs:

Enclosed please find the NPR Phase II review of the National Labor Relations Board and its mission.

Although the NLRB has concluded that its mission can neither be eliminated nor assumed by other entities, it continues to undergo an in-depth reinvention to ensure that NPR principles are applied to put customers first, to cut red tape and to empower employees. Through reinvention and other NPR initiatives, it will continue to find ways to better serve the American public.

If you have questions concerning this report, please call Gloria Joseph on (202) 273-3890.

Sincerely,


William B. Gould IV
Chairman


Fred Feinstein
General Counsel

Enclosure

cc: Robert Stone
Executive Director
National Performance Review

Mission of the National Labor Relations Board National Performance Review - Phase II

The National Labor Relations Board is an independent Federal agency established in 1935 to administer the Nation's principal labor relations law, the National Labor Relations Act (NLRA). The mission of the NLRB is to serve the public interest by reducing interruptions in interstate commerce caused by labor disputes through: (1) the resolution of questions concerning the representation of employees for the purpose of collective bargaining through prompt secret-ballot elections; and (2) the prevention and remedying of unfair labor practices by employers and unions. Through orderly and uniform processes, the NLRB protects and implements the respective statutory rights of employees, employers and unions in their relationships with one another.

The Agency thus has a single "program" through its statutory mission. There are no other Federal or state agencies or private enterprises which provide an equivalent service. While it is true that some states have "mini NLRA" statutes, their jurisdiction is properly limited to purely local employers who do not affect interstate commerce (often limited to public employees of the state or local municipalities).

The activities of the NLRB have an impact on a significant segment of the American public. Thus, the NLRB is neither a "low priority agency" nor one of "regional interest." The forces and interests of labor and management are not confined to regional or municipal boundaries and they are powerful enough to disrupt an entire Nation if not properly dealt with throughout the Nation. During Fiscal Year 1994, over 35,000 unfair labor practice charges and over 6,000 representation petitions were filed with the NLRB. The NLRB does not control the number of cases filed—it can neither initiate nor refuse unfair labor practice charges or representation petitions. Moreover, the filing of charges and petitions occurs in every state, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam and Samoa. The Agency annually receives well over 200,000 contacts from the public seeking assistance on the filing of charges and petitions or general inquiries or information concerning the NLRA or labor related issues. Through an effective public information program, the Agency is able to handle nearly 95 percent of those inquiries without the necessity of a charge or petition being filed. During Fiscal Year 1993, over 200,000 employees voted in NLRB conducted secret-ballot elections to determine whether they would be represented by a union for the purpose of collective bargaining; over 21,000 employees received over \$53 million in backpay and over 4,000 employees were offered reinstatement to their jobs following the resolution of an unfair labor practice charge.

Since the NLRB is a creation of Congress, it would take congressional action to eliminate it or modify its authority and responsibility. The Agency cannot, on its own initiative, embark on such a venture. However, even if the NLRB could entertain such an undertaking, there are significant reasons why the mission of the Agency is vital and why it cannot be undertaken by other agencies, the states, localities, or by the private sector.

In the vast majority of cases, labor disputes have a significant effect on interstate commerce and the enforcement of a national labor policy has minimized disruptions in interstate commerce caused by such disputes for 60 years. In many cases, the parties not only do business among the states, but in fact exist on a multi-state basis. Only through a national labor law has there been the ability to resolve those disputes which otherwise affect the free flow of commerce between the states.

Stability in labor-management relations is essential to the social and economic stability of the Nation. If there were no national labor law enforced by a single Federal independent agency, and labor disputes affecting commerce were subject to multiple law enforcing authorities, the inherent disharmonies would cause instability in the relationships between employers, unions and employees and significantly disrupt the American economy and the flow of commerce. As stated by the United States Supreme Court:¹

Congress has entrusted administration of the labor policy for the Nation to a centralized administrative agency (NLRB) armed with its own procedures, and equipped with its specialized knowledge and cumulative experience:

"Congress did not merely lay down a substantive rule of law to be enforced by any tribunal competent to apply law generally to the parties. It went on to confide primary interpretation and application of its rules to a specific and specially constituted tribunal and prescribed a particular procedure for investigation, complaint and notice, and hearing and decision, including judicial relief pending a final administrative order. Congress evidently considered that centralized administration of specially designed procedures was necessary to obtain uniform application of its substantive rules and to avoid these diversities and conflicts likely to result from a variety of local procedures and attitudes towards labor controversies. . . . A multiplicity of tribunals and a diversity of procedures are quite apt to produce incompatible or conflicting adjudications as are different rules of substantive law." *Garner v. Teamsters Union*, 346 U.S. 485, 490-491.

¹ *San Diego Unions v. Garmon*, 359 U.S. 236 (1959)

With ever increasing frequency, business and labor are national entities conducting their affairs on a national, if not international, basis. The actions of employers and unions which form the basis of charges and complaints occur across state lines. The investigation and prosecution of those matters occur across state lines and remedies have to be ordered across state lines. The uniform policy, rules and procedures of the NLRB provide the only effective means of resolving these matters. Through the coordination of multiple cases on a national basis, the issues between the parties are resolved in consolidated proceedings, eliminating duplicative, overlapping administrative or other legal proceedings. The results are consistent and uniform rather than inconsistent or conflicting. Certainty is afforded the parties. The knowledge and special expertise of the NLRB is brought to bear on difficult and complex issues affecting the nation, its workers, its businesses and its economy.

The NLRB's success before the Federal Circuit Courts of Appeals has been exceptionally high, providing evidence of the effective manner in which the NLRA has been interpreted and applied by the NLRB and enforced on a national basis in the courts. When significant legal issues and principles are interpreted differently by the Federal Circuit Courts, leading to a split in a national labor policy, the Supreme Court readily endorses the importance of a uniform national labor policy, granting certiorari as necessary to resolve the conflicts between the circuits. The mere fact that conflicts exist between such judicial forums is evidence of the difficulty involved in resolving the complexities that arise under the nation's labor laws. The expertise of the NLRB is critical to resolving the vast majority of these issues without costly and duplicative litigation. Because of its expertise, over 92 percent of the merit cases filed with the NLRB are settled with the parties without litigation. Of those litigated, the General Counsel is successful in administrative litigation in 86 percent of the cases and in circuit court litigation in about 79 percent of the cases (Fiscal Year 1994 figures). It is only through the expertise which the NLRB has developed over the years that cases can be investigated and determined with such impressive results. Privatized litigation, or relinquishment of control to the states as discussed below, would produce enormous inefficiencies, great expenditures of time and money in litigation and inferior results.

The NLRB has often been held out to be a model of government efficiency. One aspect of that efficiency is its coordinated field organization which places highly skilled investigators, attorneys and support staff at the focal points of high case activity while allowing for inter-regional cooperation and assistance in the investigation, prosecution and resolution of multi-regional labor disputes. Localized administration of labor laws affecting interstate commerce would be costly, disruptive and inefficient. The efficiencies of multi-state or multi-regional coordination would be lost. Inconsistencies in policies, rules, regulations and decisions would subject interstate commerce to significant disruptions caused by local interests, whim or political wind. Labor and management would be playing

on different fields and under different rules—perhaps at the same moment on the same issue involving the same group of employees. Not only would such a scenario provide great barriers to the resolution of labor-management issues in the short run, but it would lead to great instability in the long run as employers and labor organizations shop for forums in which to operate based not upon the economic and social factors which drive a free enterprise system, but upon the race for special interest legislation which the states or localities might undertake. The NLRA balances the rights of employees to engage in collective bargaining over the terms and conditions of their employment through a representative of their own choosing, with the rights of employees, employers and unions to be free from proscribed unfair labor practices of employers and unions. It is a delicate balance—a balance that can only be maintained by a single, independent, neutral agency. Chairman Gould has addressed this point in *Agenda for Reform: The Future of Employment Relationships and the Law*, pp. 151-179 (1993).

As an independent agency, the NLRB has earned a reputation for being neutral and impartial in its administration of the NLRA. Its mission, although defined by statute, has been sufficiently flexible to adapt to the ongoing changes in business, industry and the labor movement: localized small and midsize industries have given way to broad-based mega corporations and industries; entire businesses can now move from state to state; industrial demographics have shifted from production and manufacture to service and information. The expertise of the NLRB has adapted and kept pace with the realities of the labor-management world. Its organization is efficient and mission driven. There are no advantages to merging the NLRB with any other federal agency or department. The NLRB is a specialized law enforcement agency and merger or consolidation would not streamline the investigative, litigation or decisional process. Rather, and most likely, merger or consolidation would add layers of unnecessary and inefficient administrative bureaucracy.

As illustrated by the sharply divided reception given the recent report of the President's Commission on the Future of Worker-Management Relations, now, as in earlier years, proposals to alter the NLRA must contend with "strong contending forces and deeply held views on the role of organized labor in the free economic life of the Nation and the appropriate balance to be struck between the uncontrolled power of management and labor to further their respective interest." *Local 1776, Carpenters v. NLRB*, 357 U.S. 93, 99-100 (1958). Whether the NLRB should be eliminated and what other federal or state agencies could—or should—perform the NLRB's core functions has been a recurring subject of consideration since the time of the NLRA's enactment. There is no consensus in favor of altering the balance struck by the current law.

For example, proposals that the Board's adjudicative functions should be transferred to the courts have met with the argument that the courts are

overloaded and are themselves searching for ways to contract, not expand, their jurisdiction. Proposals that the federal agencies dealing with aspects of the employer-employee relationship should be combined, or transformed into a specialized labor court, have been considered for years without gathering substantial support. Likewise, efforts by the National Conference of Commissioners on Uniform State Laws to bring about a more effective means of resolving wrongful dismissal claims at the state level—proposals that might allow some unfair labor practice cases to be resolved in state courts—have not been widely enacted. See W. Gould, *Agenda for Reform: The Future of Employment Relationships and the Law*, pp. 63-103 (1993).

Over the years, the existing distribution of authority between the NLRB and the states over labor matters has sometimes been perceived as disadvantaging employers and sometimes as disadvantaging labor. As Justice Blackmun observed, however, the NLRA "is not intended to serve either party's individual interest, but to foster in a neutral manner a system in which the conflict between these interests may be resolved." *First National Maintenance Corp. v. NLRB*, 452 U.S. at 666, 680-81 (1981). There has been no convincing showing that the Board's continued performance of its core functions has not served the public well.

Although the NLRB has concluded that its mission can neither be eliminated nor assumed by other entities, it continues to undergo an in-depth reinvention to ensure that NPR principles are applied to put customers first, to cut red tape and to empower employees. Measures have already been implemented: the elimination of unnecessary reporting, clearances and other paperwork flowing between the field offices and headquarters; field office managers have been delegated increased authority in casehandling; greater priority to the prompt resolution of representation questions and greater use of injunctive relief, where appropriate, are customer driven priorities; some streamlining has already occurred in headquarters and further streamlining is the next topic on the agenda for the NLRB Partnership Council. The NLRB Partnership Council gives the Agency's internal labor organizations a full partnership role in all NPR objectives. More will be done.

In addition to the above NPR initiatives, the NLRB has conducted a customer survey and has issued customer service standards, both of which are the subject of ongoing analysis and review. That the Agency's customers regard the NLRB's core functions as critical is demonstrated daily in the most practical way imaginable—they bring their disputes to the Agency for resolution. For Congress deliberately withheld from the Board the power to initiate investigations on its own motion and instead established a system whereby the Board can involve itself in representation disputes or unfair labor practices only if requested to do so by a private party. Private arbitrators and other commercial enterprises can and do conduct elections or resolve other industrial disputes where the affected

parties mutually agree and are satisfied with the results. To that extent, private competition already exists.

In summary, the NLRB concludes that its statutory mission is as important in 1995 as it was in 1935 when the NLRA was enacted. The Agency has a rich history of neutral, effective and efficient enforcement of the NLRA. Through reinvention and other NPR initiatives, it will continue to find ways to better serve the American public.

General and special funds—Continued

GRANTS AND ADMINISTRATION—Continued

The Institute of Museum Services provides competitive grants to a broad range of museums which exhibit both living and non-living collections. Its programs help museums improve the quality of their programs and operations to better exhibit, preserve, and teach about our cultural, historic, and scientific heritage.

Object Classification (in thousands of dollars)

Identification code 59-0300-0-1-503	1994 actual	1995 est.	1996 est.
Personnel compensation:			
11.1 Full-time permanent	619	750	793
11.3 Other than full-time permanent	65	21	31
11.5 Other personnel compensation	26	17	17
11.9 Total personnel compensation	710	788	841
12.1 Civilian personnel benefits	167	173	188
13.0 Benefits for former personnel	4		
21.0 Travel and transportation of persons	57	75	81
22.0 Transportation of things	16	8	8
23.1 Rental payments to GSA	136	134	137
23.3 Communications, utilities, and miscellaneous charges	56	56	56
24.0 Printing and reproduction	48	38	38
25.2 Other services	272	236	432
25.3 Purchases of goods and services from Government accounts	80	87	90
26.0 Supplies and materials	16	9	14
31.0 Equipment	21	10	15
41.0 Grants, subsidies, and contributions	27,194	27,101	27,900
99.9 Total obligations	28,777	28,715	29,800

Personnel Summary

Identification code 59-0300-0-1-503	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment	15	19	19

Trust Funds

GIFTS AND DONATIONS (MUSEUM SERVICES)

Program and Financing (in thousands of dollars)

Identification code 59-8080-0-7-503	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations (object class 25.2)	4	13	15
Financing:			
21.40 Unobligated balance available, start of year: Treasury balance	-3	-12	-14
24.40 Unobligated balance available, end of year: Treasury balance	12	14	17
60.27 Budget authority (appropriation) (trust fund, indefinite)	12	15	18
Relation of obligations to outlays:			
71.00 Total obligations	4	13	15
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance		3	
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	-3		
90.00 Outlays	1	16	15

The National Foundation on the Arts and Humanities Act of 1965, as amended, authorizes the Institute of Museum Services to receive money and other donated property. Such gifts may be used, sold, or otherwise disposed of to support the activities of the Institute. Budget authority in this schedule reflects donations received each year by the Institute.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses. (*Department of the Interior and Related Agencies Appropriations Act, 1995.*)

NATIONAL LABOR RELATIONS BOARD

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, [\$176,047,000] \$181,134,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes. (*Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995.*)

Program and Financing (in thousands of dollars)

Identification code 63-0100-0-1-505	1994 actual	1995 est.	1996 est.
Program by activities:			
Direct program:			
00.01 Field investigation	132,699	136,613	140,561
00.02 Administrative law judge hearing	14,280	14,788	15,215
00.03 Board adjudication	15,995	16,548	17,026
00.04 Securing compliance with Board orders	7,438	7,570	7,789
00.05 Internal Review	502	528	543
00.91 Total direct program	170,914	176,047	181,134
01.01 Reimbursable program	41	50	30
10.00 Total obligations	170,955	176,097	181,164
Financing:			
25.00 Unobligated balance expiring	360		
39.00 Budget authority (gross)	171,315	176,097	181,164
Budget authority:			
Current:			
40.00 Appropriation	171,274	176,047	181,134
Permanent:			
68.00 Spending authority from offsetting collections	41	50	30
Relation of obligations to outlays:			
71.00 Total obligations	170,955	176,097	181,164
Obligated balance, start of year:			
72.10 Receivables from other government accounts	-2,188	-1,477	-1,500
72.40 Unpaid obligations: Treasury balance	17,145	14,144	14,515
Obligated balance, end of year:			
74.10 Receivables from other government accounts	1,477	1,500	1,544
74.40 Unpaid obligations: Treasury balance	-14,144	-14,515	-14,931
77.00 Adjustments in expired accounts	-331		
87.00 Outlays (gross)	172,914	175,749	180,792
Adjustments to gross budget authority and outlays:			
88.00 Offsetting collections from: Federal sources	-41	-50	-30
89.00 Budget authority (net)	171,274	176,047	181,134
90.00 Outlays (net)	172,873	175,699	180,762

The Board resolves representation disputes in industry, and remedies and prevents specified unfair labor practices by em-

INDEPENDENT AGENCIES

For labor organizations. Case intake and additional program statistics appear in the table below.

Program Statistics

	1994 actual	1995 est.	1996 est.
Unfair labor practice cases	35,703	35,810	37,508
Representation cases	6,120	6,881	7,245
Administrative law judges:			
Hearings closed	523	496	506
Adjustments after hearings closed	7	24	24
Decisions issued	524	464	478
Board adjudication:			
Contested Board decisions issued	521	605	539
Regional director decisions	874	858	1,048
Representation election cases:			
Decisions issued	55	64	67
Objection rulings	141	120	152
Board decisions requiring court enforcement	113	158	181

Field investigation.—Charges of unfair labor practices and petitions for elections to resolve representation disputes are investigated by regional office personnel. Over 92 percent of the unfair labor practice cases and about 85 percent of the representation cases are closed by settlement, dismissal, or withdrawal. The remainder are prepared for public hearing. The agency strives to maximize the voluntary settlement of all cases and to avoid litigation.

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Securing compliance with Board orders.—If the parties do not voluntarily comply with the Board's order involving unfair labor practices, the Board must request that the appellate courts enforce its decisions.

Object Classification (in thousands of dollars)

Identification code 63-0100-0-1-505	1994 actual	1995 est.	1996 est.
Direct obligations:			
Personnel compensation:			
11.1 Full-time permanent	108,443	110,959	115,012
11.3 Other than full-time permanent	3,237	3,346	3,435
11.5 Other personnel compensation	1,816	1,758	1,654
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Identification code 63-0100-0-1-505	1994 actual	1995 est.	1996 est.
Total compensable workyears:			
1001 Full-time equivalent employment	2,063	2,054	2,116
1005 Full-time equivalent of overtime and holiday hours	5	5	5

NATIONAL MEDIATION BOARD

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, [\$8,519,000] \$8,933,000. (Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995.)

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00.04 Arbitration services, sections 3 and 7, administration	617	603	612
10.00 Total obligations	7,959	8,519	8,933
Financing:			
25.00 Unobligated balance expiring	698		
40.00 Budget authority (appropriation)	8,657	8,519	8,933
Relation of obligations to outlays:			
71.00 Total obligations	7,959	8,519	8,933
72.40 Obligated balance, start of year: Unpaid obligations:			
Treasury balance	857	1,094	1,555
74.40 Obligated balance, end of year: Unpaid obligations:			
Treasury balance	-1,094	-1,555	-2,035
90.00 Outlays	7,722	8,058	8,453

Mediator services.—The Board mediates disputes over wages, hours, and working conditions for some 746 rail and air carriers and approximately 795,000 employees in the two industries.

The Board also provides technical assistance to enable labor and industry representatives to explore informally the relevant economic and noneconomic problems that condition collective bargaining in the railroad and airline industries.

Mediation cases:	1994 actual	1995 est.	1996 est.
Pending, start of year	122	112	132
Received during year	59	100	100
Closed during year	69	80	80
Pending, end of year	112	132	152

Employee Representation.—The Board investigates representation disputes involving the various crafts or classes of railroad and airline employees to determine their choice of representatives for the purpose of collective bargaining.

Representation cases:	1994 actual	1995 est.	1996 est.
Pending, start of year	21	22	22
Received during year	103	70	70
Closed during year	102	70	70
Pending, end of year	22	22	22
Freedom of Information Act (FOIA) requests received	49	60	60
Investigation cases closed	63	40	40

Emergency disputes.—When the parties fail to resolve their disputes through mediation, they are urged to submit their differences to arbitration. If neither mediation nor voluntary arbitration is successful, the President, when notified of disputes which threaten to seriously interrupt service, may appoint emergency boards to investigate and report on the disputes under section 160 of the Railway Labor Act (RLA).

Clinton Presidential Records Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

E

Divider Title: _____

NATIONAL MEDIATION BOARD

DESCRIPTION: The National Mediation Board is an independent federal agency established in 1934 under the Railroad Labor Act. NMB programs include mediation services/emergency disputes, employee representation proceedings and arbitration services.

Mediation Services/Emergency Disputes:--The NMB is the national mediator for the airline and railroad industries. When the parties fail to resolve their disputes through mediation, they are urged to submit their differences to arbitration. If neither mediation nor voluntary arbitration is successful, the President, when notified of disputes which threaten to seriously interrupt service, may appoint emergency boards to investigate and report on the disputes while preventing a work stoppage.

Employee Representation Proceedings:--NMB representation activities facilitate resolution by ensuring that potentially disruptive disputes about who represents employees for collective bargaining purposes are resolved peacefully.

Arbitration Services:--Arbitration of disputes concerning the interpretation of collective bargaining agreements is an integral part of the Railroad Labor Act process for resolving labor-management disputes and minimizing disruptions to commerce.

FY 1996 BUDGET PROPOSAL: The budget authority for FY 95 is \$ 8.519 million; the proposed FY 96 budget authority is \$ 8.933 million -- an increase of \$.414 million. The projected FTE for FY 96 is 58; the same as the FY 95 FTE.

AGENCY PROPOSAL:

The NMB's review of their programs indicates the rail and airline industries have been served effectively. They propose leaving the Board intact and continuing their reinvention efforts.

DECISION OPTIONS:

- A Accept the NMB proposal and support their reinvention initiatives.
- B Terminate and create a new agency combining National Mediation Board and Federal Mediation and Conciliation Service

ADVISORY GROUP RECOMMENDATION: B

RATIONALE:

Both agencies work the area of mediation -- The National Mediation Board for the rail and airline industries and the Federal Mediation and Conciliation Service for general mediation and alternate dispute resolution. Terminating both and creating a new agency along the lines of the Federal Mediation and Conciliation Service, incorporating a fee for service concept, could simplify the Federal presence across the nation while providing "one-stop shopping" for mediation customers.

This would require legislation. There may be considerable opposition to the idea from the rail and airline unions.

STEERING COMMITTEE RECOMMENDATION:



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

OFFICE OF THE CHAIRMAN
(202) 523-5428

February 21, 1995

**Honorable Al Gore
Vice President of the United States
The National Performance Review
750 17th Street, N.W., Suite 200
Washington, D.C. 20006**

Re: NMB Options Paper-NPR II

Dear Mr. Vice President:

I am pleased to submit the National Mediation Board's Options Paper for use by the National Performance Review. As the paper notes, the labor-management parties recently have reconfirmed their support for the NMB's programs under the Railway Labor Act. The Board will continue to remain attuned to our customers' communications and responsive to their requirements.

The NMB's internal review indicates that the sensitive labor-relations environment in the airline and railroad industries has been served effectively by the Board's dispute resolution efforts. However, improvement is a constant process and the Board is committed to ensuring excellence through innovation and reengineering. We will be glad to provide any further information that you may find useful.

Sincerely,

A handwritten signature in dark ink, which appears to read "Ernest DuBester".

**Ernest W. DuBester
Chairman**

-Enclosure-



(202) 523-5920

NATIONAL MEDIATION BOARD
WASHINGTON, D.C. 20572

NATIONAL PERFORMANCE REVIEW

OPTIONS PAPER

Presented by the

NATIONAL MEDIATION BOARD

FEBRUARY 21, 1995

- NPR II OPTIONS PAPER -
- NATIONAL MEDIATION BOARD -

February 21, 1995

Overview

The National Mediation Board (NMB) is an independent federal agency established in 1934 under the Railway Labor Act (RLA). NMB programs include mediation services/emergency disputes, employee representation proceedings and arbitration services. The NMB budget for FY-1995 is \$8,519,000 with 58 FTE's.

Mission/Goals and Customer Support

The NMB's mission is to facilitate the peaceful resolution of labor-management disputes in the airline and railroad industries. NMB programs under the RLA provide an integrated dispute resolution process that has met the goal of minimizing disruptions effectively in these two key transportation sectors for over 60 years. Approximately 98% of the collective bargaining disputes mediated by the NMB have been resolved without strikes or other interruptions of commerce.

Broad-based customer support for the NMB's programs has both an historical basis as well as current confirmation. Following years of discordant labor relations in the railroad industry, labor and management jointly proposed a comprehensive approach to managing their recurring conflicts. The RLA was enacted essentially as drafted by the parties and the airline industry subsequently was brought under the Act with similar accord. Strong customer support for the RLA's programs continues, as demonstrated by the December 1994 Report of the Commission on the Future of Worker-Management Relations (Dunlop Commission) which found:

Despite differences of interest and experience, the major representatives of labor and management governed by the Railway Labor Act responded unanimously that this Commission should not recommend any changes to the Act.

In June-July 1994, seven focus group meetings were held at which a broad range of the NMB's customers participated. The independent report of the customers' positions included the consensus views that: "the RLA and the Board have saved the railroad industry"; and "amendment of the RLA is unnecessary and undesirable." (August 8, 1994 Facilitators' Report). The labor-management parties also will submit recommendations to the NMB in March 1996 pursuant to the Dunlop Commission report.

Assessment of Key Functions

Program--Mediation Services/Emergency Disputes:

Issue #1--Is this program critical to the agency's mission?

Response--Yes, the NMB's statutory authority as national mediator for the airline and railroad industries is critical to protecting U.S. commerce. Strikes or other interruptions to transportation services in these industries may occur only after the Board has determined, in writing, that its mediation efforts have been exhausted. Such agency discretion and mediation expertise ensures that bargaining disputes rarely escalate into disruptions of commerce. When a strike becomes unavoidable, the NMB manages the timing of the dispute to minimize the impact on commerce and the traveling public. In addition, the NMB determines, and notifies the President, if a collective bargaining dispute threatens to deprive the country of essential transportation

services. When so notified by the NMB, the President may appoint an Emergency Board which temporarily prevents the work stoppage and provides a public report on potential resolution of the dispute.

A national railroad strike "would force many industrial operations to curtail or cease production immediately." (Dept. of Transportation Impact Report). DOT studies further estimate that a prolonged national strike could result in layoffs of approximately one million workers and halt the transportation of over a billion dollars of freight shipments per day. Another DOT report concluded that a "strike of even a few days" at a particular single railroad would "cause significant disruptions in manufacturing and shipping operations", as well as "shutdowns and massive layoffs in many industries" in a longer strike. Domestic movements of bulk military components have been identified by the Department of Defense as largely limited to transportation by railroad. Labor disruptions in the airline industry, particularly at multiple carriers, would imperil the expeditious transportation of persons and material the U.S. economic system depends on. Our national defense capabilities rely on U.S. airlines participating in the Civil Reserve Air Fleet and providing military charter services.

The quadrennial round of bargaining among most of the largest U.S. railroads (class I's) commenced in November 1994 and already is portending significant difficulties. Litigation over basic bargaining procedures (multi-employer vs. carrier-by-carrier) has been filed in multiple courts. The parties' proposed amendments to their existing labor agreements are substantial and potentially contentious. Over 140,000 railroad employees are directly affected by these negotiations.

Issue #2--Can the program be accomplished as well or better at the state or local level?

Response--No. The integrated nationwide transportation networks in the U.S. airline and railroad industries require federal level mediation. The collective bargaining process under the RLA is based on company-wide rather than local bargaining. Accordingly, RLA bargaining and NMB mediation usually affect employees in numerous states simultaneously. If mediation is devolved to the state or local level, fragmented employment practices could lead to significant conflicts and inefficiencies. In addition, consolidated federal level mediation for these industries is necessary to ensure that multiple airlines or railroads are not inadvertently released from mediation leading to concurrent strikes.

Issue #3--Are there ways to cut costs or improve performance by introducing competition?

Response--No. Specialized expertise and continuity are essential to mediation in the airline and railroad industries. A permanent mediation body with such capabilities is necessary to ensure that the national interest in the free flow of commerce in the two key transportation industries is safeguarded adequately. The fundamental Executive Branch character of minimizing interruptions to airline and railroad operations precludes delegating such sensitive authority to a government corporation or similar institution. While the NMB has maintained high standards of neutrality, confidentiality and ethics in providing its mediation services, such standards may not be assured with a contractor.

Issue #4--How can NPR principles be applied to this program?

Response--The NMB has been proactive in utilizing NPR principles. Improvements and changes under NPR reinvention approaches are progressing on several fronts. For example, the Board implemented a number of customer proposals in the NMB's September 1994 Customer Service Plan. The agency also mounted a series of intensive internal reviews with its employees, as well as seeking broad-based recommendations for improvement from labor, management and neutrals. Measures to ensure that the mediation process remains attuned to customer requirements through regular contacts with customer representatives are in place.

Communications support for the NMB's geographically dispersed staff of mediators has been upgraded by efficient technology. Board mediators have been professionally empowered and have substantial discretion in applying varying mediation approaches as they determine the cases require. NMB mediation services may be invoked by a simple one-page form and they otherwise involve minimal administrative burden on the public.

Program--Employee Representation Proceedings:

Issue #1--Is this program critical to the agency's mission?

Response--Yes. NMB representation activities facilitate dispute resolution by ensuring that potentially disruptive disputes about who represents employees for collective bargaining purposes are resolved peacefully. NMB representation responsibilities include protecting the freedom of organization; determining and certifying representatives of employees; and ensuring that the process occurs without interference, influence or coercion. The certification process enhances the stability of the collective bargaining relationship. Peaceful resolution of representation disputes is crucial to the airline and railroad industries because of the central role they play in the U.S. transportation system and in supporting national defense.

The NMB has the duty to "investigate" representation disputes using a secret ballot election or "any other appropriate method." (45 U.S.C. §152, Ninth) This duty is a critical and uniquely governmental function. Absent the order imposed upon labor representation in the airline and railroad industries by the RLA, national transportation of freight and/or passengers could grind to a halt with each dispute. Disputes at one carrier can, and have, when not isolated under the Act, spread rapidly through the industries. The nationwide scope of the railroad and airline industries has historically and consistently resulted in the development of company-wide representation and bargaining. The Board's practice of certifying system-wide representatives has prevented fragmented representation and enhanced labor relations and operational stability.

Issues #2&3--Can the program be accomplished as well or better at the state or local level? Are there ways to improve performance by introducing competition?

Response--No. Given the national scope of these industries, transferring the resolution of representation disputes to states or other entities is infeasible. Doing so would fragment bargaining relationships. Fragmented bargaining relationships increase the risk of strikes or labor unrest. Providing different representation, under different rules, administered by different localities, could make the nation's air and rail carriers vulnerable to strikes at any point along the system. The parties have, since enactment of the RLA, preferred a national scheme for resolution of such disputes. Subjecting the representation function to competition is not workable because the duties of adjudication and investigation inherent in the representation process require continuity, neutrality and established trust which competition can not assure.

Issue #4--How can NPR principles be applied to this program?

Response--The NMB is actively applying the principles of NPR to the representation process by (1) delegating certain certifications and dismissals to the staff level; (2) implementing time deadlines detailed in the Board's Customer Service Plan; (3) automating its balloting system; (4) automating case tracking; and (5) reevaluating the entire representation process based upon the recommendations of the Board's customers. In addition, the NMB has assisted other agencies at the state and federal level regarding advances in automated mail balloting procedures.

Program--Arbitration Services:

Issue #1--Is this program critical to the agency's mission?

Response--Yes. The arbitration of disputes concerning the interpretation of collective bargaining agreements is an integral part of the comprehensive RLA process for resolving labor-management disputes and minimizing disruptions to commerce. The net result is that the RLA's arbitration process greatly facilitates the mediation and representation functions of the agency. Since the parties cannot lawfully strike over contract interpretation disputes, effective arbitration processes are necessary as a practical matter to avoid unauthorized disruptions. In addition, the Federal Railroad Safety Act, as amended in 1988, provides for the resolution of various safety related disputes involving railroad employees under the RLA's arbitration procedures. Deregulation has subjected both the airline and railroad industries to increased market pressures and promoted greater competition. The resulting increased tensions between labor and management have led to greater potential for disruptions caused by unresolved disputes over the interpretation of their labor contracts. Unlike other industries, collective bargaining agreements negotiated under the RLA infrequently have fixed durations. Accordingly, the construction of agreements subject to the RLA assumes greater importance and the parties place increased reliance on the contract interpretation process, including arbitration.

Issue #2--Can the program be accomplished as well or better at the state or local level?

Response--No. Since airlines and railroads frequently operate over more than one state or local level, the resolution of a dispute must be applied consistently within all of the states and localities in which the company operates. To accomplish that objective, as well as to avoid a costly duplication of effort, the arbitral tribunals must have carrier-wide authority.

Issue #3--Is there any way to cut costs or improve performance by introducing competition?

Response--No, the introduction of competition in this area of the RLA will not improve the resolution of contract interpretation disputes or reduce costs. Industrial peace and stability has been provided by the Board's administration of the arbitration process for over 60 years. Based on the Dunlop Commission report and other input from the program's customers, the requisite confidence of the labor-management parties would not be available through competitive servicing. The NMB has an ongoing evaluation process with the parties to identify areas for enhanced efficiencies. This process already has been highly successful, resulting in substantial cost savings and improvements in the prompt disposition of disputes (see also issue #4).

Issue #4--How can NPR principles be applied to this program?

Response--The NMB already has applied NPR principles. For example, arbitrators were converted from federal (WAE) employees to independent contractors; federal employees handling arbitration services were reduced from 64 to 7 (89% reduction); and the square footage of office space was reduced from 42,000 to under 4,000 square feet (90% reduction). To further reduce "red tape" and simplify processing, the Board has been working directly with a committee of arbitrators. Recent automation of the NMB's administrative procedures has empowered employees to accomplish more with less. The Board is working with the parties to utilize other alternative dispute resolution methods, such as precedent-setting boards, expedited arbitration, grievance mediation and prioritizing cases by issue. A time limit has been imposed on arbitrators which requires that all proposed decisions be issued within six months from the hearing. This approach will result in an increase in the timeliness and quantity of arbitration decisions and a reduction in the volume of pending cases.

Options Summary-All Programs

Option 1 - Terminate Programs:

See discussions to the contrary in issues 1-4 above. Only identifiable advantage is the cost savings listed below.

Option 2 - Major Restructuring:

Not feasible. See discussions in issues 1-4 above.

Summary of Cost Information:

Cost savings (in thousands) and FTE reductions--

Option 1 (Terminate Programs):

Mediation Services/Emergency Disputes	FY 1996 Program Levels in Budget	Estimated Resulting Levels for FY 1996	Estimated Resulting Levels for FY 2000	5-Year Cumulative (FY 1996-2000)
Discretionary Budget Authority	\$4,784	-0-	-0-	\$23,920
Discretionary Budget Outlays	\$4,525	-0-	-0-	\$22,625
Mandatory Outlays	-0-	-0-	-0-	-0-
Governmental Receipts	-0-	-0-	-0-	-0-
FTE Changes	40	-0-	-0-	

Employee Representation Proceedings	FY 1996 Program Levels in Budget	Estimated Resulting Levels for FY 1996	Estimated Resulting Levels for FY 2000	5-Year Cumulative (FY 1996-2000)
Discretionary Budget Authority	\$1,316	-0-	-0-	\$6,580
Discretionary Budget Outlays	\$1,248	-0-	-0-	\$6,240
Mandatory Outlays	-0-	-0-	-0-	-0-
Governmental Receipts	-0-	-0-	-0-	-0-
FTE Changes	11	-0-	-0-	

Arbitration Services	FY 1996 Program Levels in Budget	Estimated Resulting Levels for FY 1996	Estimated Resulting Levels for FY 2000	5-Year Cumulative (FY 1996-2000)
Discretionary Budget Authority	\$2,833	-0-	-0-	\$14,165
Discretionary Budget Outlays	\$2,680	-0-	-0-	\$13,400
Mandatory Outlays	-0-	-0-	-0-	-0-
Governmental Receipts	-0-	-0-	-0-	-0-
FTE Changes	7	-0-	-0-	

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NATIONAL MEDIATION BOARD

Federal Funds

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SALARIES AND EXPENSES

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Treasury balance	857	1,094	1,555
74.40 Obligated balance, end of year: Unpaid obligations:			
Treasury balance	-1,094	-1,555	-2,035
90.00 Outlays	7,722	8,058	8,453

Mediator services.—The Board mediates disputes over wages, hours, and working conditions for some 746 rail and air carriers and approximately 795,000 employees in the two industries.

The Board also provides technical assistance to enable labor and industry representatives to explore informally the relevant economic and noneconomic problems that condition collective bargaining in the railroad and airline industries.

Mediation cases:	1994 actual	1995 est.	1996 est.
Pending, start of year	122	112	132
Received during year	59	100	100
Closed during year	69	80	80
Pending, end of year	112	132	152

Employee Representation.—The Board investigates representation disputes involving the various crafts or classes of railroad and airline employees to determine their choice of representatives for the purpose of collective bargaining.

Representation cases:	1994 actual	1995 est.	1996 est.
Pending, start of year	21	22	22
Received during year	103	70	70
Closed during year	102	70	70
Pending, end of year	22	22	22
Freedom of Information Act (FOIA) requests received	49	60	60
Investigation cases closed	63	40	40

Emergency disputes.—When the parties fail to resolve their disputes through mediation, they are urged to submit their differences to arbitration. If neither mediation nor voluntary arbitration is successful, the President, when notified of disputes which threaten to seriously interrupt service, may appoint emergency boards to investigate and report on the disputes under section 160 of the Railway Labor Act (RLA).

General and special funds—Continued

SALARIES AND EXPENSES—Continued

Such reports usually serve as a basis for resolving the disputes.

The Northeast Rail Service Act of 1981 amended the Railway Labor Act by adding a new emergency dispute procedure covering disputes between a publicly funded and operated commuter carrier and its employees. The 1981 Act requires the Board to appoint the public members of factfinding panels on Conrail.

Boards/panels created:	1994 actual	1995 est.	1996 est.
Emergency (sec. 160)	1	3	2
Emergency (sec. 159a)	2	4	2
Factfinding Panels	0	1	1
Arbitration Boards	5	15	15
Arbitration Panels (PL 102-29)	1	1	0
Airline SBA Panels	127	125	125
ICC-LPP Panels	7	16	16

Arbitration under sections 3 and 7 of the RLA.—Railroad employee grievances resulting from disputes over the interpretation or application of collective bargaining contracts may be brought for settlement to the National Railroad Adjustment Board (NRAB). The divisions of the Board are composed of an equal number of carrier and union representatives compensated by the party or parties they represent. Public Law 89-456 provides for the adjustment of disputes involving grievances resulting from interpretation or application of bargaining agreements in the railroad industry otherwise referable to the NRAB.

Administrative direction and support for the public law boards, special boards of adjustment, and the NRAB are provided by Federal employees who are compensated by the National Mediation Board.

	1994 actual	1995 est.	1996 est.
Public law boards caseload:			
Pending, start of year	7,445	6,898	6,198
Received during year	3,092	2,800	2,500
Closed during year	3,639	3,500	3,400
Pending, end of year	6,898	6,198	5,298
Special boards of adjustment caseload:			
Pending, start of year	1,602	1,328	1,228
Received during year	1,058	1,000	900
Closed during year	1,332	1,100	1,000
Pending, end of year	1,328	1,228	1,128
Number of boards convened:			
Special boards of adjustment	79	80	80
Public law boards	405	410	410
NRAB caseload:			
Pending, start of year	1,851	2,036	1,936
Received during year	1,168	800	800
Closed during year	1,983	900	850
Pending, end of year	2,036	1,936	1,886

¹ Includes 773 cases withdrawn or decided by the parties.

² Includes 70 cases withdrawn or decided by the parties.

³ Includes 849 awards of referees, 6 awards by NRAB members, and 128 cases withdrawn.

Object Classification (in thousands of dollars)

Identification code 95-2400-0-1-505	1994 actual	1995 est.	1996 est.
Personnel compensation:			
11.1 Full-time permanent	3,207	3,500	3,704
11.5 Other personnel compensation	4	41	37
11.8 Special personal services payments	1,895	2,206	2,292
11.9 Total personnel compensation	5,106	5,747	6,033
12.1 Civilian personnel benefits	597	696	728
13.0 Benefits for former personnel	9	5	5
21.0 Travel and transportation of persons	504	572	592
22.0 Transportation of things	13	14	10
23.1 Rental payments to GSA	697	708	726
23.3 Communications, utilities, and miscellaneous charges	124	164	177
24.0 Printing and reproduction	52	56	56
25.1 Advisory and assistance services	75	95	120
25.2 Other services	286	258	268
25.3 Purchases of goods and services from Government accounts	221	76	63
26.0 Supplies and materials	72	74	84
31.0 Equipment	203	54	71

99.9 Total obligations 7,959 8,519 8,933

Personnel Summary

Identification code 95-2400-0-1-505	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment	52	58	58

NATIONAL SCIENCE FOUNDATION

Federal Funds

General and special funds:

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881) [L]; services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; [\$2,280,000,000] \$2,454,000,000, of which not to exceed [\$225,430,000] \$235,000,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, [1996] 1997: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivity shall be reduced proportionally: *Provided further*, That [amounts appropriated in prior fiscal years for the United States Polar Research Programs, the United States Antarctic Logistical Support Activities, and the Critical Technologies Institute shall be transferred to and merged with this appropriation and remain available until expended] amounts made available under this heading may be used to supplement the amounts available for construction under the heading, "Major Research Equipment".

[Of the amounts made available under Public Law 103-124, \$35,000,000 are rescinded.]

Further, for the foregoing purposes related to the national defense only (polar operations support), \$62,600,000, to become available on October 1, 1996, and remain available until expended. (Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995.)

Program and Financing (in thousands of dollars)

Identification code 49-0100-0-1-999	1994 actual	1995 est.	1996 est.
Program by activities:			
Direct program:			
00.01 Biological sciences	287,879	300,955	323,960
00.02 Computer and information science and engineering	239,525	259,558	275,570
00.03 Engineering	296,726	319,882	344,160
00.05 Geosciences	404,159	419,505	451,480
00.06 Mathematical and physical sciences	617,880	645,590	698,280
00.07 Social, behavioral and economic sciences	98,210	113,801	122,870
00.09 U.S. Polar Research Program	158,377	159,006	172,280
00.10 U.S. Antarctic Logistical Support Activities	64,100	62,600	62,600
00.11 Critical Technologies Institute	1,500	2,000	2,800
00.12 Major Research Equipment	17,043		
00.91 Subtotal, direct program	2,185,399	2,282,897	2,454,000
01.01 Reimbursable program	153,829	175,000	175,000
10.00 Total obligations	2,339,228	2,457,897	2,629,000
Financing:			
17.00 Recovery of prior year obligations	-2,428		
21.40 Unobligated balance available, start of year: Treasury balance	-5,528	-37,897	
24.40 Unobligated balance available, end of year: Treasury balance	37,897		
25.00 Unobligated balance expiring	360		

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F

Divider Title: _____

FEDERAL MEDIATION AND CONCILIATION SERVICE

DESCRIPTION: Established in 1947, the FMCS assists parties to labor disputes in industries affecting commerce to settle their disputes through conciliation and mediation. Assists labor and management in the mediation and prevention of disputes, other than those involving rail and air transportation, whenever such disputes threaten to cause substantial interruption of interstate commerce or a major impairment of the national defense. Makes mediation and conciliation services available to Federal agencies and organizations representing Federal employees in the resolution of negotiation disputes. Provides mandatory mediation and, where necessary, impartial boards of inquiry to assist in resolving labor disputes involving private nonprofit health care institutions. Has 193 Commissioners of Mediation in 79 locations organized into nine districts.

FY 1996 BUDGET PROPOSAL: The FY 95 budget was \$31.344 million. The FY 96 budget proposal is \$33.540 million -- an increase of \$1.97 million. The FY 95 FTE was 302. The FY 96 FTE is 296 -- a decrease of 6.

AGENCY PROPOSAL: The agency states that performance of its four mission areas (Mediation, Arbitration, Grants Program -- FY 96 \$1.75 million, and Alternative Dispute Resolution) are fundamental missions of the Federal government. While some State bodies perform similar missions within their states, it is not uniform activity. Many rely on FMCS for services. With the public's growing intolerance of litigation, the FMCS sees an increased need for their services. Interagency agreement income has risen almost 400% since 1988 as more agencies come to the FMCS with work.

DECISION OPTIONS:

- A Accept the FMCS proposal and support their reinvention initiatives.
- B Reduce the Federal mission areas of the FMCS: Mediation, Arbitration, Grants Program, and Alternative Dispute Resolution.
- C. Terminate and create a new agency combining National Mediation Board, and Federal Mediation and Conciliation Service.

ADVISORY GROUP RECOMMENDATION: C

RATIONALE:

Both agencies work the area of mediation -- The National Mediation Board for the rail and airline industries and the Federal Mediation and Conciliation Service for general mediation and alternate dispute resolution. Terminating both and creating a new agency along the lines of the Federal Mediation and Conciliation Service, incorporating a fee for service concept, could simplify the Federal presence across the nation while providing "one-stop shopping" for mediation customers.

This would require legislation. There may be considerable opposition to the idea.

STEERING COMMITTEE RECOMMENDATION

TO: The National Performance Review

FROM: Federal Mediation and Conciliation Service

RE: NPR Phase II Option Paper

DATE: February 23, 1995

I. OVERVIEW

The Federal Mediation and Conciliation Service (FMCS) was created as an independent agency in 1947 by enactment of the Taft-Hartley amendments to the National Labor Relations Act, 29 U.S.C. 151 et seq. Since Taft Hartley, FMCS's charter has been expanded by a variety of subsequent statutory enactments, as discussed below. Today, FMCS has 302 authorized full-time equivalents (down from its high of 575 in 1977). It employs 193 Commissioners of mediation in 79 locations organized into nine different geographical districts. The remaining professional and support staff work in the Agency's legally mandated Washington, D.C. headquarters. FMCS should be considered one integrated operational unit.

For purposes of this Option Paper, FMCS treats as its key functions the following: Mediation, Arbitration, Labor-Management Cooperation Grants Program, and Alternative Dispute Resolution. The Agency provides these services to the public by several methods. Its fiscal year 1995 budget appropriation is \$31,344,000 including a specific \$1,750,000 appropriation for the labor-management cooperation grants program.

Critical to the analysis contained in this paper are the following: (1) the Constitutional role of the federal government and the core functions it has assumed historically include regulating interstate commerce and stabilizing the national economy. FMCS contributes to the performance of each of these functions.¹ (2) FMCS, an independent, neutral agency, is not a regulatory agency. Rather, it provides direct assistance to labor organizations, businesses, and government agencies, at their request, on a strictly voluntary basis. Thus, the question of regulatory reinvention is inapposite to FMCS. However, as set forth below, FMCS assistance to federal government agencies in regulatory negotiation procedures furthers the goals of regulatory reform. (3) FMCS restructuring, reinvention or reengineering initiatives are already substantially underway, having begun within 30 days after the appointment of its new Director; and federalism initiatives or performance partnerships are already practiced.

¹ The constitutionality of the National Labor Relations Act was upheld by the Supreme Court in 1937 as a proper exercise of the Constitutional commerce power. Before the passage of the federal labor laws, the law governing labor relations was left largely to the separate states, primarily developed by state courts on a case by case basis. There was great variance in the law between states.

II. MISSION AND GOALS

A. Mediation Programs

The Taft-Hartley Act, the enabling legislation, directs FMCS,

in order to prevent or minimize interruptions of the free flow of commerce growing out of labor disputes, to assist parties to labor disputes in industries affecting commerce to settle such disputes through conciliation and mediation. [Section 203.]

The Taft-Hartley Act, reiterating national labor policy spelled out in the National Labor Relations Act of 1935, states clearly:

It is the policy of the United States that—sound and stable industrial peace and the advancement of the general welfare, health, and safety of the best interest of employers and employees can most satisfactorily be secured by the settlement of issues between employers and employees through the processes of conference and collective bargaining between employers and the representatives of their employees.[Sec.201(a).]

Mediation activity on the part of the federal government dates from 1913 and the establishment of the U.S. Department of Labor. The Secretary of Labor was the nation's chief labor mediator and appointed Commissioners of Conciliation to promote industrial peace. With the passage of Taft-Hartley, FMCS was created as an independent agency of government to sever any connection to DOL and maintain an independent group of neutral mediators. This tradition of independence, neutrality and acceptability to both labor and management exists to this day and is integral to national policy favoring free collective bargaining.

Since 1947 FMCS's charter has been expanded by several subsequent statutory enactments. The 1974 health care amendments to Taft-Hartley extended FMCS responsibility to prevent or minimize work stoppages and economic distress in that rapidly growing industry. The Postal Reorganization Act of 1979, occasioned by the postal strike of 1978, prohibited strikes and provided FMCS with a key role in the dispute settlement process for the U.S. Postal Service and the unions representing its approximately 600,000 employees.²

In 1978 Congress passed the Labor-Management Cooperation Act as an amendment to Taft Hartley, expanding the mediation activities engaged in by the Agency. It directs FMCS to "encourage and support the establishment and operation of joint labor-management activities conducted by plant, area, and industrywide committees to improve

² Throughout its history, FMCS has responded to specific public concerns. For example, it was authorized by Executive Order to mediate disputes when missile sites construction became important for the "race to the moon." After World War II, it was authorized to mediate and provide fact-finding and voluntary arbitration services in disputes involving the production of atomic energy materials.

labor management relationships, job security and organizational effectiveness" [section 203(e)], or for the purpose of "enhancing economic development or involving workers in decisions affecting their jobs including improving communication with respect to subjects of mutual interest and concern." [section 205A(a)(1).] Through this activity mediators work with labor and management to address many of the issues being faced by the federal government today: customer service, competitiveness, productivity, employment security.

Historically, FMCS has provided mediation services through its mediation staff to labor and management parties in the private, federal and non-federal public sectors. While Taft-Hartley governs only private sector parties (excluding the railroad and airline industries), and specifically excludes governmental entities from its coverage, it nonetheless transferred to FMCS all functions previously performed by the Department of Labor's Conciliation Service. That Service provided mediation, arbitration and technical assistance to labor and management in the private, federal, and state and local sectors. FMCS therefore continued to perform these functions in those sectors.

FMCS was specifically authorized first by Executive Order and then by the Federal Service Labor-Management Relations Statute of 1978 to provide mediation and other services for the collective bargaining of two million non-postal federal employees and the United States Government.

FMCS participated in the NPR workgroup on reform of federal labor-management relations which recommended Presidential Executive Order 12871. The Order, issued October 1, 1993, directed the formation of labor-management partnerships in federal executive departments. The Order's guidance dictates a major role for FMCS as a nationwide trainer and facilitator of federal partnership efforts to accomplish Phase I NPR goals of empowering employees. FMCS immediately engaged in a performance partnership with the Federal Labor Relations Authority (FLRA) to familiarize agency and union leaders with partnership goals and activities. In FY 1994, over 500 federal partnership training activities were conducted by FMCS. The Executive Order also appointed the FMCS Director to the National Partnership Council (NPC), the body directed to promote the development of partnerships throughout the executive branch. FMCS serves as one of the key participants on the NPC Planning Committee which acts as staff to the President's NPC.

While no statute expressly mandates FMCS involvement in state and local labor disputes, the Agency cooperates with state and local mediation agencies in resolution of those disputes. It has assisted some states or localities in the design of mediation systems and the training of mediators. Also, FMCS mediators provide assistance in a number of states, e.g., Illinois, Alaska, and Nebraska, where the collective bargaining laws mention FMCS as a source of mediation services. In other states, the parties jointly request and have received FMCS assistance where the laws mention mediation without providing any service, e.g., Vermont, where insufficient mediation services are provided, e.g., Ohio and Iowa, or where the laws do not mention mediation at all, e.g., Oklahoma. This mix of

responsibilities is consistent with the NPR goals of federalism and performance partnerships. Opportunities for expanded performance partnerships with state and local entities could be explored – e.g., swapping FMCS services for state and local commitment to educational opportunities for their citizens in new methods of conflict resolution and labor-management cooperation at state educational institutions.

B. Arbitration Services

The Taft-Hartley Act also requires FMCS to make available "full and adequate governmental facilities" for voluntary arbitration, as well as mediation and conciliation. [Section 201(b).] National labor policy as expressed in Taft Hartley favors arbitration as the desirable method for peaceful resolution of industrial disputes. The great majority of all collective bargaining agreements provide for final and binding arbitration of disputes that arise under the contract. Arbitration has substantially replaced court action to enforce contractual rights. Also, arbitration agreements are usually a quid pro quo for an agreement not to strike over contract grievances.

Since 1947, FMCS has provided labor and management parties with arbitration services by maintaining a roster of about 1700 private arbitrators, qualified under specific criteria, including demonstrated experience in collective bargaining and labor-management issues. Upon request, FMCS furnishes to the parties a panel of names of arbitrators for their selection. FMCS is the only national provider of arbitrators exclusively for resolution of labor-management disputes.

C. Labor-Management Cooperation Grants Program

The 1978 Labor Management Cooperation Act amendments to Taft-Hartley authorized FMCS to provide grant funds to establish new or expand existing labor management committees in the public and private sectors throughout the United States. Through this program, joint approaches to collaborative labor-management relations and innovative problem-solving are funded. Since 1981, FMCS has awarded more than \$10.9 million to 187 labor management committee grant applicants. It received 726 applications requesting more than \$53 million over the same period. While authorized at \$10 million a year, the program's appropriation has not exceeded the \$1.75 million authorized in FY 1995.

D. Alternative Dispute Resolution Program

Through its alternative dispute resolution program, FMCS helps to reduce government-wide litigation costs and improve federal government operations, regulatory procedures and relationships with the public. Drawing on its conflict resolution skills, FMCS has helped in resolution of disputes outside of the labor-management arena since the Director was asked by Congress to mediate a land dispute between the Navajo and Hopi Tribes in the 1970s.

In 1990 two pieces of legislation expanded FMCS's role as resource and provider in "alternative dispute resolution" (ADR). The Administrative Dispute Resolution Act of 1990 required that each federal agency develop a policy for institutionalizing mediation and other forms of conflict resolution as an alternative to costly litigation and provide ADR training to appropriate staff. The Negotiated Rulemaking Act of 1990 encouraged all agencies to use the regulatory negotiations process in developing agency rules. Both Acts authorize FMCS to provide consultation, training systems design and third party neutral services to all federal agencies.³

No funds have ever been appropriated for FMCS activities in alternative dispute resolution. As a result, FMCS performs this work through interagency reimbursement agreements.

With the public growing more intolerant of litigation as a means of resolving conflict and of regulation, the demand for this ADR work grows steadily. FMCS interagency agreement income for ADR has risen almost 400% since 1988. This figure could increase dramatically in the next few years, even handling only a portion of the federal requests for assistance received each year. This ADR work clearly furthers NPR goals by reducing government litigation procedures and costs, by facilitating regulatory reform, in particular by giving customers a voice in the regulatory process, and by using our expertise across agency boundaries in partnerships with other federal agencies. On an ad hoc basis, FMCS has entered into reimbursement agreements with states to provide ADR services. This furthers the NPR goals of federalism and performance partnerships.

FMCS mediators have also contributed their conflict resolution skills and expertise to provide schoolyard mediation services to city school boards. The problems of violence in our nation's classrooms, in our workplaces, and in our communities are well documented. It is certainly in our nation's best interest for federal mediators to introduce school children to problem solving and conflict resolution skills. We have performed important work in this arena in several urban settings, including Detroit, Baltimore and Los Angeles.

³ In 1991 President Bush issued an Executive Order on the reduction in civil litigation underlining the duty of all executive agencies to use alternative dispute resolution processes to avoid costly and time consuming litigation. To illustrate FMCS ADR work, the agency has provided training to EEO counselors in federal agencies; conducted regulatory negotiations on air safety standards; mediated Department of Health and Human Services age discrimination claims; designed ADR systems, conducted training and facilitated settlements for the Departments of Labor, Education, Interior, Housing and Urban Development, Transportation, Defense-U.S. Air Force, Equal Employment Opportunity Commission, Federal Deposit Insurance Corporation, Internal Revenue Service, the Department of Justice, General Services Administration, Office of Personnel Management, Resolution Trust Corporation, Tennessee Valley Authority, Food and Drug Administration, Federal Aviation Administration and Fish and Wildlife Service.

F. FMCS REINVENTION BLUEPRINT

In December 1992, the Director of FMCS initiated a strategic planning process by assembling The Mediator Task Force on the Future of FMCS and empowering it to make recommendations to the Director on the agency mission, goals and policies for the future leading to the development of a strategic action plan by which to achieve these.

The Task Force heard from a variety of customers, including representatives of labor, business, and government, as well as several academic experts and private practitioners who compete with various aspects of FMCS work. Based on this input and their own deliberations, the Task Force identified areas for improvement. In its Report issued in July 1993, the Task Force concluded that, to enable FMCS to "work better and cost less," FMCS "should transform itself into a model high performance workplace, which is customer-driven and strives for continuous improvement. It will have to vigorously examine every aspect of the way its organization is structured, work is performed and services are delivered." (Report at page 3.) (Copies attached.)

The Report considered who the Agency's customers are likely to be into the year 2000, what services those customers will require, and how the Agency should equip itself to deliver those services.

To prepare for the future, FMCS as an agency should acquire the knowledge, skills and abilities to remain a major contributor to both the labor relations and conflict resolution systems....At the same time, the Agency will have to continuously assess what services it realistically can deliver on a quality basis. Appropriately, it would deliver all of these services. It will have to explore ways to leverage its resources and take advantage of revenue generating opportunities, such as international activities, ADR work and others. FMCS should develop appropriate alliances and partnerships with other organizations in order to extend its reach. At a minimum, the Agency must have sufficient expertise about current trends to be able to advise the parties meaningfully about them, even if ultimately it cannot deliver the hands-on service. [Report, Executive Summary, at page 4.]

As a centerpiece of the future strategic vision for FMCS, the Task Force identified eight core competencies which the Agency should achieve by the year 2000.⁴ (Report, at pages 41-43.) The ability of mediators to perform professionally in these competencies will position the Agency to meet customer demands in the year 2000 and beyond with responsive, high quality service. Lastly, the Task Force made recommendations which "hopefully will enable FMCS to 'work better and cost less,' and meet the future successfully." The recommendations encompassed agency work design, organizational structure, leadership, delivery and support systems, staffing, selection, training and

⁴ These are: expertise in collective bargaining and labor management relations; assistance to the parties in the negotiation of collective bargaining agreements; processes to improve labor management relationships; facilitation and problem solving; processes to improve organizational effectiveness; design and implementation of conflict resolution systems; education, advocacy and outreach; knowledge, skill and ability in information systems.

professional development, evaluation and rewards, internal communications and external relationships, and FMCS union-management relations. (Report, pages 45-54.)

After receipt of the Task Force's report, the Director of FMCS assembled a group to develop a strategic plan to implement the vision for the future described by the Task Force. That planning group assigned a number of subjects (technology, rewards and evaluations, customer service/survey, resource clearinghouse, and training and professional development) to task committees composed of mediators and other professional staff for further study. Those task committees have made their recommendations, and the strategic action plan, which will be completed within the next few weeks, will outline goals/objectives, a strategy for achieving the goals, resource allocation, responsibilities, and time lines.

As the attached charts indicate (attachments A through C), FMCS is in compliance with streamlining initiatives begun in 1993. FTE levels of FMCS have been, and will continue to be, reduced by approximately five FTE's per year for the six year period of the streamlining initiatives. Supervisors and headquarters staff will be reduced significantly. Supervisory ratio, which was above the 15 to 1 goal of the NPR in 1993, will continue to rise.

Salary and benefit savings from fewer FTE's are estimated to be approximately \$400,000 per year with a total annual reduction at the end of the six year draw down of approximately \$2,400,000, and a cumulative savings over six years of \$8,400,000.⁵

Critical to the Agency's restructuring initiatives will be its technology modernization plan (see attachment D), a functional assessment of every administrative function, appropriate reengineering or work redesign, and strategic use of information technology to leverage our resources and streamline operations.

III. Assessment of Key Functions

The Agency's draft strategic action plan calls for customer focus groups to be undertaken by the beginning of March 1995 and a customer survey to be conducted during fiscal year 1995. The Agency will be conducting focus groups on Friday, February 24: one in Philadelphia for labor and management customers, one in St. Louis for labor customers, and one in Los Angeles for management customers. Also on the 24th, it will conduct a focus group in Washington, D.C with customers of the Alternative Dispute Resolution program. A series of one-on-one phone interviews with customers of the Labor-Management Grants Program have just been conducted.

⁵ Total salary and benefit costs may continue to increase due to pay raises, period step increases, and promotion costs, but the figures listed above related to the net reduction in FTE's.

The purpose of the focus groups is to seek customer input on the questions posed by NPR II, and to elicit general information from these customers about their awareness, knowledge and experience with FMCS services, satisfaction with those services, and their needs from FMCS. Unfortunately, given the demanding time frame, the Agency did not have the time to complete those focus groups and study the reports before preparing this paper. However, our Task Force interaction with customers, as well as our daily interactions with customers, provided input for our answers to the questions posed.

1. Is this critical to the agency's mission?

Mediation: It is fundamental and critical to the agency's statutory mission.

Arbitration: It is fundamental and critical to the agency's statutory mission.

Grants Program: It is fundamental and critical to the agency's statutory mission.

Alternative Dispute Resolution: It is fundamental and critical to the agency's statutory mission and actually furthers the NPR goals.

2. If no, can it be privatized or terminated? -- N/A

3. If yes, can it be done as well or better at the state or local level?

Mediation: Some states do provide some mediation services, but these are generally not useful or beneficial for resolution of disputes affecting interstate commerce, multi-state employers, or the federal government. While public sector disputes could be handled at the state or local level, there are few viable state mediation services.

Arbitration: A few states do provide arbitration panels, but a wider array of choices are available to the parties with a federal roster. Since provision of arbitration services is key to the statutory scheme for resolution of industrial disputes, it is appropriately handled at the federal level.

Grants Program: No. The appropriated amount for this program is far too small to be divided between the states. There are economies of scale in operating this program on the federal level. The grants do affect interstate commerce, e.g., grants to industrywide committees covering numerous states. There is no state or local body with the knowledge and expertise in this subject comparable to that possessed by FMCS. Nor do the states have the field structure to assist and support the operation of the funded labor-management committees comparable to the FMCS field mediation staff covering all 50 states.

Alternative Dispute Resolution: No. States or localities could not resolve disputes involving federal agencies. While they could resolve strictly state or local disputes, many of these involve disputes between states, or have interstate aspects. While FMCS does provide ADR services to states, this work (de minimis on a yearly basis) is reimbursable to FMCS and is provided solely at the request of a state agency.

4. If yes, devolve to states, localities, or individuals?

Some work of the type performed by FMCS does devolve to states, localities, or individuals already. But, that is only where there is an available state or local agency or individual to provide the service, and where the parties opt for that service, or the services of a private practitioner, instead of FMCS. The function can't be devolved in a vacuum. In a number of instances, FMCS has helped states establish their own mediation and ADR services. Absent an available or viable state or local mediation service, an alternative to devolution would be to charge the state for services sought by public sector labor and government parties from FMCS. While this is an option, it is difficult to determine how we could collect or enforce payment by the states.

5. If no, is there any way to cut costs or improve performance by introducing competition?

Mediation: There is already competition by a few state agencies and some private consultants. The cost implications of using private practitioners for the vast majority of small or medium sized American businesses and their employees' labor representatives would be prohibitive. Certainly most "mom and pop" operations, or even mid-sized businesses, could never afford the \$4000 per day being paid by major league baseball and the players union to former FMCS Director William J. Usery, now a private mediator.

There is private competition in providing federal partnership training, but this is far more expensive for the federal government than using FMCS services. FMCS is considering charging other government agencies for its federal partnership training.

Another financing option, mentioned above, is charging states for FMCS public sector mediation assistance. There are both pros and cons to this option (e.g., preventing "freeloading" on the federal government by states which do not provide their own viable mediation services; the difficulty in administering such a mechanism).

Arbitration: There is already competition provided by the American Arbitration Association, which charges for its services, and by a few state mediation agencies. But, FMCS is the only national service providing arbitration panels exclusively for resolution of labor-management disputes comprised entirely of experts in resolving those disputes. A financing option that is being considered is charging a modest user fee for each panel

provided. This practice has been considered in the past but never adopted.

Grants Program: There is no comparable competition in awarding grants. The FMCS program is clearly a worthwhile national investment in workplace innovations which promote national economic interests in competitiveness, organizational effectiveness, productivity, employment security. In addition, the grants provide recipients with seed money, conditioned on their raising matching funds.

Alternative Dispute Resolution: There is competition in providing ADR services, but FMCS reimbursable expenses charged to federal agencies for this work are considerably lower than what the federal government would have to pay to private practitioners. A major purpose for this ADR work is to reduce government costs. (ADR systems design work also entails evaluation of the results to analyze cost savings.)

FEDERAL MEDIATION AND CONCILIATION SERVICE

Arbitration Services

If the Federal Mediation and Conciliation Service were to charge user fees for the Arbitration Services program, it is estimated that two additional FTEs would be needed for book-keeping/accounting. Costs of this program could be fully covered by the user fees.

	<u>FY 1996 program levels in Budget</u>	<u>Estimated resulting levels for FY 1996</u>	<u>Estimated resulting levels for FY 1996</u>	<u>Estimated resulting levels for FY 2000</u>	<u>5-Year Cumulative Savings to Government (FY 1996-2000)</u>
Discretionary Budget Authority	\$683,000	0	0	0	\$3,415,000
Discretionary Budget Outlays	675,000	0	0	0	3,375,000
Mandatory Outlays	0	0	0	0	0
Government Receipts	0	0	0	0	0
FTE Changes	12	14	14	14	N/A

Prepared
2-23-95

ATTACHMENTS

FEDERAL MEDIATION AND CONCILIATION SERVICE

FTE and STREAMLINING - FY 1993 TO FY 1999

	<u>Base 1993</u>	<u>FY 1994</u>	<u>FY 1995</u>	<u>FY 1996</u>	<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 1999</u>
FTEs	312	307	300*	296	291	286	281
Supervisors	19	19	18	18	17	17	16
Supervisory Ratio	16.4	16.2	16.8	16.4	17.1	16.8	17.6
Headquarters Staff	34	34	33	33	32	32	31
Personnel Specialists	4	4	4	3	3	3	3
Budget Specialists	1	1	1	1	1	1	1
Acquisition Specialists	2	2	2	2	2	2	2
Accountants & Auditors	8	8	8	8	7	7	7
Organizational Layers	3	3	3	3	3	3	3

* In FY 1995, two full-time equivalents had been requested for reimbursable agreements under the FMCS Alternative Dispute Resolution Program for a total of 302 full-time equivalents.

** FMCS currently has 81 employees in its national office. However, included in this number are employees involved in distinct program work, rather than in managerial or administrative work. Of this number there are 13 employees involved in Arbitration Services, 8 involved in Notice Processing (dispute mediation notices from labor-management clients), 4 involved in Alternative Dispute Resolution, and 3 involved in the Labor-Management Cooperation Program. These employees, while located in the national office, are not counted as "headquarters staff" because of the programmatic nature of their work. The programs are not an integral part of headquarters operations, but employees are colocated in Washington. These programs are scheduled for streamlining also. The supervisors in these offices have been counted under the target population "supervisors."

Prepared
08-29-94

FEDERAL MEDIATION AND CONCILIATION SERVICE
Streamlining - FY 1993-1999

	<u>Base 1993</u>	<u>FY 1994*</u>	<u>FY 1995*</u>	<u>FY 1996</u>	<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 1999</u>
Span of Control	15.6	15.4	15.8	16.4	16.2	16.8	17.6
Organizational Layers	3	3	3	3	3	3	3
<u>NPR target populations:</u>							
- Headquarters staff*	34	34	33	33	32	32	31
- Supervisors	20	20	19	18	18	17	16
- Personnel specialists	4	4	4	3	3	3	3
- Budget specialists	1	1	1	1	1	1	1
- Acquisition specialists	2	2	2	2	2	2	2
- Accountants and Auditors	<u>6</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>6</u>
TOTALS	67	67	65	63	62	61	59

* FMCS currently has 81 employees in its national office. However, included in this number are employees involved in distinct program work, rather than in managerial or administrative work. Of this number there are 13 employees involved in Arbitration Services, 8 involved in Notice Processing (dispute mediation notices from labor-management clients), 4 involved in Alternative Dispute Resolution, and 3 involved in the Labor-Management Cooperation Program. These employees, while located in the national office, are not counted as "headquarters staff" because of the programmatic nature of their work. The programs are not an integral part of headquarters operations, but employees are colocated in Washington. These programs are scheduled for streamlining also. The supervisors in these offices have been counted under the target population "supervisors."

Prepared
06-27-94

FEDERAL MEDIATION AND CONCILIATION SERVICE
Full-time Equivalent Profile FY 1993-1999

	<u>Base 1993</u>	<u>FY 1994*</u>	<u>FY 1995*</u>	<u>FY 1996</u>	<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 1999</u>
Mediation-PM,PI and ADR	240	237	232	232	230	227	223
Arbitration Services	13	13	13	11	10	9	9
Management and Administrative Support	56	54	52	50	49	48	47
Labor-Mgmt Grants Program	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>2</u>	<u>2</u>	<u>2</u>
End of Year Ceiling	312	307	300**	296	291	286	281
Annual Salary/Benefit Savings (in thousands of dollars)***		-\$366	-\$520	-\$302	-\$384	-\$390	-\$396
Recurring Salary/Benefit Savings (in thousands of dollars)***			-\$886	-\$1,188	-\$1,572	-\$1,962	-\$2,358
FTE Reduction from Previous Year	-3	-5	- 7	- 4	- 5	- 5	- 5
FTE Cumulative Reduction	-3	-8	- 15	-19	-24	-29	-34

* Figures in the President's FY 1995 Budget

** In FY 1995, two full-time equivalents had been requested for reimbursable agreements under the FMCS Alternative Dispute Resolution Program for a total of 302 full-time equivalents.

*** Total salary and benefit costs may continue to increase due to pay raises, period step increases, and promotion costs, but the figures listed above related to the net reduction in FTEs.

Prepared
02-22-95

FEDERAL MEDIATION AND CONCILIATION SERVICE

UNITED STATES GOVERNMENT
WASHINGTON, D.C. 20427

January 24, 1995

MEMORANDUM

TO: FMCS Task Force Implementation Committee

FROM: FMCS Technology Committee

SUBJECT: Technology Strategic Action Plan

Enclosed you will find the final report of the Technology Committee including our recommendations for a final strategic action plan.

In a recent court action, a number of small retailers filed suit against a large nationwide retailer for "unfairly" discounting prices to a point where the small retailers could not compete. The courts found that no unfair activity had taken place and threw the lawsuit out of court. When asked what the large retailer did that the small businessmen did not do, the small businessmen said that the large retailer had a sophisticated database of every product as well as every transaction which took place in their company across the entire nation and that because of this information technology they could take a "snapshot" of any part of their operation 24 hours a day and could react to that snapshot almost instantly. Sales, inventory, slow moving items occupying valuable shelf space, ordering, shipping, personnel management and almost every other phase of running the business could all be monitored and attended to at will. They had achieved a sales statistical process analysis system, through information technology, which allowed them to beat any other retailer. They would continue to lead all others until another came along with a better system and a similar focus.

Our major focus is on information technology since it plays a major role in driving our mission in the field and in supporting it at the national office. As a result of a survey of the entire field staff of professionals and program clericals we have determined that the "information" technology will include other methods of communication in addition to computers. The committee is well aware of the current state of our agency budget as well as the possibility of scarce resources in the next several years. Because of these limitations we focused on what has been accomplished already and what can be extended in the near term and what should be added to our information resources over the next two years. (A copy of the survey instrument and the results are attached to this report)

What we recommend is that we work toward achieving "*resource leverage*" by *concentrating* existing resources on key strategic goals; by *efficiently accumulating* resources; by *complementing* resources of one type with those of another to create a higher value; by *conserving* resources wherever possible and by *recovering* our resources rapidly by minimizing the time between expenditure for the technology resource and payback. Such a strategy has been formulated by Gary Hamel and C.K. Prahalad whose *Harvard Business*

STRATEGIC ACTION PLAN FOR FMCS TECHNOLOGY

"Reinventing government is an enormous, complex undertaking that begins with leadership, not technology. Yet information technology (IT)—because it can help break down bureau and agency boundaries—can be a powerful tool for reinvention."

National Performance Review 1993

VISION:

To improve agency mission performance through the careful strategic use of information management technology.

* * *

Strategic information management involves defining our mission based on customer (both internal and external) needs; exploring core processes which accomplish that mission; identifying and understanding the key decisions that guide discrete mission delivery processes; supporting those decisions with the right information available to the right people at the right time and using the right technology to collect, process and disseminate that information in a way which provides constant improvement in the delivery of services to all customers.

GOALS AND OBJECTIVES:

Small agencies such as the Federal Mediation and Conciliation Service (FMCS) whose service mission dictates devoting the majority of its resources to personnel and their support, travel and expense are particularly worthy candidates for strategic information management (managing information and information technology to contribute in a positive way to improvements in mission performance). In order to accomplish this task we recommend the following:

STRATEGY:

- o Pay close attention to our survey of the field mediators and their support staff which ascertained their level of information technology knowledge and interest. We believe that the following can be undertaken immediately and will contribute to achieving greater technology resource leverage.

- o Implement no technology without proper familiarization and training to assure competency and introduce an escalating training schedule for each person who will be an end user. Training is not optional but will be required if the technology is introduced. If competency is not attained and utilized the resource should be moved to someone who will use it.

- o Make training an ongoing part of each employees regular job and establish a training budget for each district and national office with individual training plans developed jointly by employee and supervisor or manager each year and monitored quarterly.

- o Involve workers and leaders of departments where technology planning, change and introduction is contemplated to provide ownership and buy-in.

- o Study the implications of the need for privacy and confidentiality of electronic information gathered in connection with the mediation activities of the Service and make recommendations for rules or legislation to protect these needs.

- o Consult with the Clearinghouse Task Force to coordinate related proposals to avoid duplication and conserve resources. Expand and publicize the electronic mediator information system (library)

The committee recommends that the clearinghouse committee include the following subjects for consideration on an electronic bulletin board or mediator information system: PM programs (Instructor Info, Participants manuals, associated handouts, video, handouts, different exercises with an order process-on line or by mail); Software downloading; Personnel info (i.e. bulletins, thrift info, memos, clips, PM Coordinator info); Training availability info; Strike Report; Significant case report; Conference schedules; speeches; training or conference agendas; forms; discussion groups; travel information bulletins; good and welfare notices (births & deaths).

- o Look at the creation of databases which could serve as "virtual departments" that will give internal and external customers access to important information and services without the need for additional staff. This is maximum leverage of resources.

- o As a result of significant interest expressed in the field questionnaires, move as quickly as possible toward standardizing features available on mediator telephones (e.g. voice mail, call waiting, conferencing.)

communications from the mainframe to client servers is complete and the in house local area network is operational and ready to receive E-mail software to enable near total electronic communication in the national office. Extension of communications to the field has been facilitated by the mediator case management pilot program now used by some 40 field mediators daily and the addition of this capability to all stations will bridge a significant communications gap with the field mediators.

Much more can be accomplished at little additional expenditure of current resources by the much needed redirection and commitment to the full use of existing technology and the careful addition of new technology.

EVALUATION, MONITORING, FINE TUNING AND CONTINUOUS IMPROVEMENT:

The standing Technology Team can serve as the agency tool for carrying out the above functions concomitant with its responsibilities in evaluation, monitoring and fine tuning technological advances. It will be incumbent on the Team to stay up-to-date on the latest technological advances related to our strategic information management task. Regular process and technology audits should be conducted to make sure that stagnation has not set in and the Team will study other enterprises, in the private as well as the public sector, in order to assess the usefulness of transferring processes or technologies which will add value to our agency.

Through these steps and the careful planning, acquisition, training and continuing assessment of new or reengineered processes or new technology introduction which provide added value to our agency, we will achieve the ability to continuously improve.

COMMITTEE

**Kevin Buffington
Norm Beattie
Dan Funkhouser**

**Jerry Allen
Barbara Bailey
Brian Flores**

**Judy Crumley
Oleh Korotko
Steve Loeffler**

Attachments: Survey Instrument
Survey Results
Travel Manager
Comdex Report

Personnel Summary

Identification code 65-0100-0-1-403	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment	199	205	201

FEDERAL MEDIATION AND CONCILIATION
SERVICE

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor [Management Relations Act, 1947 (29 U.S.C. 171-180, 182-183), including hire of passenger motor vehicles; [and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a);]

for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), [\$31,344,000] \$33,290,000; including \$1,500,000, to remain available through September 30, 1997, for activities authorized by the Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a): Provided, That notwithstanding 31 U.S.C. 3302, fees charged for special training activities up to full-cost recovery shall be credited to and merged with this account, and shall remain available until expended. (Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1)

Program and Financing (in thousands of dollars)

Identification code 93-0100-0-1-505	1994 actual	1995 est.	1996 est.
Program by activities:			
Direct program:			
00.02 Dispute mediation and preventive mediation, public information	21.154	21.434	22.963
00.03 Arbitration services	642	650	683
00.04 Management and administrative support	7.382	7.480	7.864
00.05 Boards and panels	8	30	30
00.05 Labor-management cooperation project	1.026	1.750	1.750
00.91 Total direct program	30.212	31.344	33.290
01.01 Reimbursable program	242	230	250
10.00 Total obligations	30.454	31.574	33.540
Financing:			
25.00 Unobligated balance expiring	29		
39.00 Budget authority (gross)	30.483	31.574	33.540
Budget authority:			
Current:			
40.00 Appropriation	30.241	31.344	33.290
Permanent:			
68.00 Spending authority from offsetting collections	242	230	250
Relation of obligations to outlays:			
71.00 Total obligations	30.454	31.574	33.540
Obligated balance, start of year:			
72.10 Receivables from other government accounts	-31	-17	
72.40 Unpaid obligations: Treasury balance	3.194	3.338	3.608
Obligated balance, end of year:			
74.10 Receivables from other government accounts	17		
74.40 Unpaid obligations: Treasury balance	-3.338	-3.608	-3.986
77.00 Adjustments in expired accounts	-159		
87.00 Outlays (gross)	30.137	31.287	33.162
Adjustments to gross budget authority and outlays:			
88.00 Offsetting collections from Federal sources	-242	-230	-250
00.00 Budget authority (net)	30.241	31.344	33.290
00.00 Outlays (net)	29.895	31.057	32.912

The Federal Mediation and Consolidation Service (FMCS) provides assistance to parties in labor disputes in industries affecting commerce through conciliation and mediation.

Dispute mediation.—The Service assists labor and management in mediation and prevention of disputes, other than those involving rail and air transportation, whenever such disputes threaten to cause a substantial interruption of interstate commerce or a major impairment to the national defense. The Service also makes mediation and conciliation services available to Federal agencies and organizations representing Federal employees in the resolution of negotiation disputes. The Service provides mandatory mediation and, where necessary, impartial boards of inquiry to assist in resolving labor disputes involving private nonprofit health care institutions. The workload shown below includes assignments closed in both the private and public sectors.

MEDIATION WORKLOAD DATA

	1992 actual	1993 actual	1994 actual	1995 estimate	1996 estimate
Cases in process at beginning of year	7.272	7.547	7.276	7.025	7.000
Mediation assignments	25.038	24.536	22.184	22.200	22.200
Mediation assignments closed	24.763	24.807	22.435	22.225	22.200
Cases in process at end of year	7.547	7.276	7.025	7.000	7.000
Total mediation conferences conducted	20.129	20.468	22.435	22.400	22.400

Preventive mediation, public information, and educational activities.—Through its preventive mediation program, the Service initiates and develops labor-management committees, training programs, conferences, and specialized workshops dealing with issues in collective bargaining. Mediators also participate in public information and educational activities such as lectures, seminars, and conferences.

Arbitration services.—The Service assists parties in disputes in utilizing the arbitration process for the resolution of disputes arising under or in the negotiation of collective bargaining agreements in the private and public sectors.

ARBITRATION SERVICES WORKLOAD DATA

	1992 actual	1993 actual	1994 actual	1995 estimate	1996 estimate
Number of panels issued	33.772	32.259	31.610	31.600	31.600
Number of arbitrators appointed	13.037	12.231	11.640	11.600	11.600

Management and administrative support.—This activity provides for overall management and administration, policy planning, research and evaluation, and employee development.

Boards and panels.—Provision is made for ad hoc use of labor relations experts, individually or in panels, in support of the mediation function, for boards of inquiry appointed by the President in emergency disputes, and for boards of inquiry in which the Director of the FMCS may appoint in a contract dispute involving health care institutions.

Labor-management cooperation project.—The Labor Management Cooperation Act of 1978 (29 U.S.C. 175a) authorizes the Service to carry out this program of contracts and grants to support the establishment and operation of plant, area, and industry labor-management committees.

Alternative Dispute Resolution (ADR) Projects.—FMCS assists other federal agencies providing mediation and technical assistance in the area of ADR. ADR projects reduce litigation costs and speed federal processes. FMCS is funded for this work through interagency reimbursable agreements.

ALTERNATIVE DISPUTE RESOLUTION (ADR) WORKLOAD DATA

	1992 actual	1993 actual	1994 actual	1995 estimate	1996 estimate
Number of ADR Projects	23	25	50	55	60

Object Classification (in thousands of dollars)

Identification code 93-0100-0-1-505	1994 actual	1995 est.	1996 est.
Direct obligations:			
Personnel compensation:			
11.1 Full-time permanent	18.166	18.297	19.035

General and special funds—Continued

SALARIES AND EXPENSES—Continued

Object Classification (in thousands of dollars)—Continued

Identification code 93-0100-0-1-505	1994 actual	1995 est.	1996 est.
11.3 Other than full-time permanent	111	125	125
11.5 Other personnel compensation	198	170	170
11.9 Total personnel compensation	18,475	18,592	19,330
12.1 Civilian personnel benefits	3,869	4,082	4,167
13.0 Benefits for former personnel	263	.....	.....
21.0 Travel and transportation of persons	1,825	1,494	2,019
22.0 Transportation of things	19	1	1
23.1 Rental payments to GSA	3,141	3,550	3,639
23.3 Communications, utilities, and miscellaneous charges	891	909	994
24.0 Printing and reproduction	59	56	58
25.2 Other services	707	587	651
26.0 Supplies and materials	298	196	245
31.0 Equipment	159	114	686
41.0 Grants, subsidies, and contributions	769	1,500	1,500
99.0 Subtotal, direct obligations	30,212	31,344	33,290
99.0 Reimbursable obligations	242	230	250
99.9 Total obligations	30,454	31,574	33,540

Personnel Summary

Identification code 93-0100-0-1-505	1994 actual	1995 est.	1996 est.
Direct:			
1001 Total compensable workyears: Full-time equivalent employment	301	302	296
Reimbursable:			
2001 Total compensable workyears: Full-time equivalent employment .....	.....	.....	.....

FEDERAL MINE SAFETY AND HEALTH
REVIEW COMMISSION

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), [\$6,200,000] \$6,467,000. (Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995.)

Program and Financing (in thousands of dollars)

Identification code 95-2800-0-1-554	1994 actual	1995 est.	1996 est.
Program by activities:			
00.01 Commission review	2,771	3,173	3,345
00.02 Administrative law judge determinations	2,886	3,027	3,122
10.00 Total obligations	5,657	6,200	6,467
Financing:			
25.00 Unobligated balance expiring	185	.....	.....
40.00 Budget authority (appropriation)	5,842	6,200	6,467
Relation of obligations to outlays:			
71.00 Total obligations	5,657	6,200	6,467
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance	704	647	688
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	-647	-688	-724
77.00 Adjustments in expired accounts	-165	.....	.....
90.00 Outlays	5,549	6,159	6,431

The Commission reviews and decides contested enforcement actions of the Secretary of Labor on mine safety legislation. The Commission also adjudicates claims by miners and miners' representatives concerning their rights under law. The

Commission holds factfinding hearings and issues orders of firming, modifying, or vacating the Secretary's enforcement actions.

SELECTED WORKLOAD DATA

Commission review activities:	1994 actual	1995 est.	1996 est.
Cases pending beginning of year	47	57	70
Cases called for review	105	93	93
Cases decided	95	80	91
Administrative law judge activities:			
Cases pending beginning of year	7,254	8,028	8,548
New cases received	5,080	5,100	5,100
Cases decided	4,306	4,580	4,650

Object Classification (in thousands of dollars)

Identification code 95-2800-0-1-554	1994 actual	1995 est.	1996 est.
Personnel compensation:			
11.1 Full-time permanent	3,354	4,011	4,212
11.3 Other than full-time permanent	25	25	25
11.8 Special personal services payments	27	40	25
11.9 Total personnel compensation	3,406	4,076	4,262
12.1 Civilian personnel benefits	646	684	749
21.0 Travel and transportation of persons	139	139	140
22.0 Transportation of things	11	11	11
23.1 Rental payments to GSA	602	602	609
23.3 Communications, utilities, and miscellaneous charges	87	95	104
24.0 Printing and reproduction	35	35	36
25.2 Other services	488	471	466
26.0 Supplies and materials	122	72	75
31.0 Equipment	121	15	15
99.9 Total obligations	5,657	6,200	6,467

Personnel Summary

Identification code 95-2800-0-1-554	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment	53	60	60

FEDERAL RETIREMENT THRIFT INVESTMENT
BOARD

Federal Funds

General and special funds:

PROGRAM EXPENSES

Program and Financing (in thousands of dollars)

Identification code 26-5290-0-2-803	1994 actual	1995 est.	1996 est.
Program by activities:			
00.01 Administrative expenses	31,654	38,972	41,674
00.02 Fiduciary insurance	90	95	100
10.00 Total obligations	31,744	39,067	41,774
Financing:			
60.25 Budget authority (appropriation) (special fund, indefinite)	31,744	39,067	41,774
Relation of obligations to outlays:			
71.00 Total obligations	31,744	39,067	41,774
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance	4,861	8,175	8,175
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	-8,175	-8,175	-8,175
77.00 Adjustments in expired accounts	-929	.....	.....
90.00 Outlays	27,501	39,067	41,774

The Federal Retirement Thrift Investment Board is responsible for managing the Thrift Savings Fund. The Thrift Savings Fund is a special tax-deferred savings fund established by the Federal Employees' Retirement System Act of 1986. Due to the fiduciary nature of the Thrift Savings Fund, the Fund is not included in the totals of the Federal budget.

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Divider Title: _____

PENSION BENEFIT GUARANTY CORPORATION

DESCRIPTION: PBGC's chief activity is to administer insurance programs guaranteeing the payment of benefits when private pension plans fail. It is a wholly owned government corporation created in 1974 as part of a federal response to financial failures of companies having seriously underfunded pension plans, most notably the Studebaker Corporation. Last year the Congress passed the Retirement Protection Act to strengthen pension funding and the pension insurance system.

FY 1996 BUDGET PROPOSAL: Proposed FY96 budget authority is \$2,260 million, an increase of \$339,000,000 from FY95. Estimated FY96 FTE is 731, an increase of 44 FTE from FY95. PBGC receives no funds from general revenues; revenue comes from premiums, investments, and recoveries from employers who sponsored terminated pension plans. PBGC's revenue exceeded its expenditures by \$1 billion in FY95.

AGENCY PROPOSAL: The Agency believes there is a Federal role because the commercial insurance industry will not and can not guarantee huge pension underfunding. Furthermore, even if it could, the Federal government would ultimately be responsible for any underfunding. Also, if privatized, the Agency's surplus would be removed from the budget, increasing the deficit by a current \$1 billion and a current investment in Treasury securities of \$7.3 billion would be shifted to other debt instruments. Finally, devolving to the states would subject plans to 50 pension guarantee programs with the consequent administrative burdens and confusion.

The Agency offers four (4) options. Option 1 is to increase its current reinvention effort and make other changes, including reducing the reliance on outside contractors to administer pension plans. Option 2 would require legislative changes to provide greater administrative authority in the area of personnel and procurement, and provide for a single, non-limitation budget. Option 3 suggests operating as a private corporation with government attributes, similar to Fannie Mae. This Option would put PBGC off budget, increasing the Federal deficit and eliminating government operational control and broad policy authority, while continuing government liability. Option 4 recommends simplifying the guarantee process by passing legislation. This would require extensive changes to the retirement benefit structure, raising concerns with employer and labor groups.

The Agency recommends either Option 1 or 2.

DECISION OPTIONS:

- A Continue to reinvent and reduce outside contracting.
- B Make legislative changes to increase administrative and procurement flexibility.
- C Review practical privatization options and select the best approach.
- D Change the benefit process dramatically.
- E No change; maintain funding and operations as indicated in the proposed FY96 budget

ADVISORY GROUP RECOMMENDATION: C

RATIONALE: Using the Fannie Mae model has considerable appeal. The current PBGC as a wholly owned federal corporation causes the government to bear substantial risk. Currently, there is no way to know whether it is being properly compensated for that risk. The private marketplace would be the proper place to assess and value that risk.

This option would need significant further study beyond the current level to flesh out the pros/cons.

STEERING COMMITTEE DECISION

PENSION BENEFIT GUARANTY CORPORATION

I. OVERVIEW

Function - The Pension Benefit Guaranty Corporation is a government corporation. The Corporation's chief activity is to administer insurance programs guaranteeing the payment of benefits when private pension plans fail. The PBGC was created in 1974 as part of a broad federal response to a series of financial failures by the sponsors of seriously underfunded pension plans, most notably the Studebaker Corporation. The PBGC is responsible for the benefits of 441,000 people whose plans have failed. We insure the benefits of 41 million people in 58,000 plans.

Last year, Congress passed the Retirement Protection Act, an Administration initiative to strengthen pension funding and the pension insurance system.

Budget - The PBGC receives no funds from general revenues. The Corporation's income comes from premiums, investments, and recoveries from employers who sponsored terminated pension plans. The PBGC's income exceeds its expenditures, so it generally shows as a \$1 billion surplus on the Federal budget. For FY 1996 the PBGC has requested \$140.5 million for operating expenses, up only 2 percent from 1995, despite an increased workload.

Organization - Over three-quarters of the Corporation's operating budget, \$107 million, goes for benefit administration and loss prevention. Twenty Seven million dollars (\$27 million) is allocated to management of the Corporation's multi-billion dollar finances. Six million dollars (\$6 million) is for general management support. The Corporation has 687 FTEs.

In response to an increasing number of private pension plan failures in the past few years, the PBGC has turned to outside contractors for much of its work. Fifty five percent of its operating budget is allocated to private contractors. The Corporation's analysis shows that this allocation is not always cost effective since many legal, actuarial, benefits administration, and computer support services must be purchased at substantially higher commercial rates. The FY 96 budget requests 58 additional FTEs to replace contractor support, with an annual savings of \$2.8 million.

II. MISSION AND GOALS

The Corporation's mission is to encourage private pension plans; protect pension benefits; provide timely payments of benefits when plans terminate; and maintain premiums and costs at the lowest levels consistent with statutory responsibilities. The PBGC's difficulties in meeting its mission were addressed in 1993 and 1994 through the passage of legislation, improved financial management including the first "clean" audit in the PBGC's history, and ambitious reinvention efforts.

The reinvention program generates savings through organizational and process streamlining in the short-term, and technology improvements over the long-term. One of the reinvention programs -- the "missing participant program -- was given a Vice Presidential Hammer Award.

III. ASSESSMENT OF KEY FUNCTIONS

The PBGC's key functions simply cannot be eliminated. We must pay and protect pension benefits and we must manage our finances. There can be no more Studebakers.

Focus groups and town hall meetings with plan participants bear this out. Their primary concerns are the continued payment of benefits after plan termination in the short-term and the financial solvency of the PBGC in the long-term.

Our work simply cannot be assigned to the private sector. The commercial insurance industry will not and cannot guarantee huge pension underfunding. Even if responsibility were to be shifted to the private sector, the Federal government would remain ultimately responsible.

Nor can our responsibilities be passed on to State and local governments. The pension system is established and regulated by Federal law. Subjecting pension plans to pension guarantee programs of 50 individual States would create enormous administrative burdens and confusion.

There is opportunity for cutting costs and improving performance by continued reinvention or increased privatization. The options follow.

IV. OPTIONS

Option 1 - Increase Reinvention Activity

The PBGC would implement the reforms included in the Retirement Protection Act and continue NPR initiatives. In addition, we would do the following:

1. Administratively simplify PBGC benefit determination procedures: The law has a complex structure for determining what each individual beneficiary is to receive; so it can take years to process a pension plan. Changes would include more reliance on employer calculations and simplified methods of dealing with complex plan provisions.

2. Accelerate technological improvements, bringing more processing efficiencies in the near-term.
3. Further cut contracting costs by selective increases in FTE.

These steps should generate savings of the magnitude sought in the long-term budget proposals (see attachment).

Option 2 - Enhance Administrative Authority Legislatively

The PBGC would be given greater administrative authority, similar to that which some other government corporations have with respect to personnel and procurement (eg. FDIC). In addition, PBGC would have a single, non-limitation budget.

Freeing the agency of personnel ceilings and streamlining procurement will most certainly save money. At OMB's behest, the PBGC studied \$40 million of contract expenditures (more than half of its contracts) and concluded that net expenses would be lowered by 20 percent if we had in-house flexibility.

Option 3 - Make PBGC a Government Sponsored Enterprise

Like Fannie Mae, the PBGC would be given the authority to operate as a private corporation with certain governmental attributes in keeping with a more limited social purpose. This option could provide for more flexibility in administrative matters, but putting the PBGC off-budget would increase the Federal deficit by over \$1 billion per year. Also, the government could lose operational control and broad policy authority, while ultimately being liable for losses.

Option 4. Legislatively Simplify the PBGC's Guarantee.

The Corporation's guarantee could be dramatically simplified, assuring faster service and less costly operations. This option may be difficult to achieve since it would mean revamping the retirement benefit structure. This would raise concerns of employer and labor groups.

V. RECOMMENDATION

We recommend that Options 1 and 2 be pursued. Reinvention efforts should be accelerated with the PBGC taking steps to administratively smooth out its guarantee operations. Legislation should be sought giving the Corporation more management flexibility authority.

SUMMARY COST INFORMATION
(\$ in millions)

	<u>FY 1996 Estimate</u>	<u>FY 2000 Estimate</u>	<u>5 Year Savings</u>	<u>Deficit Impact</u>
<u>Option 1</u>				
Outlays	\$ 1,170	\$ 1,794	\$ 6	\$ -6
Receipts	\$ 2,260	\$ 2,618	x	
FTE	731	700	31	

Assumes Middle Class Tax Cut % reductions for FY 1997-2000 on PBGC's Limitation (administrative) budget (\$12M in FY 1996).

<u>Option 2</u>				
Outlays	\$ 1,170	\$ 1,783	\$ 42	\$ -42
Receipts	\$ 2,260	\$ 2,618	x	
FTE	731	x	731	

Assumes FY 1997 implementation. Additional savings are due to budget, personnel, FTE ceiling and procurement reforms.

<u>Option 3</u>				
Outlays	\$ 1,170	x	\$ 6,335	\$ 4,350
Receipts	\$ 2,260	x	\$-10,685	
FTE	731	x	731	

Assumes FY 1997 implementation. All outlays and receipts are off-budget. Deficit impact includes cumulative difference between outlays/receipts. In addition, \$7.3 billion of PBGC investments in FY 1996 Treasury securities could be shifted to other debt instruments.

General and special funds—Continued—

SALARIES AND EXPENSES—Continued

Program and Financing (in thousands of dollars)—Continued

Identification code 16-1700-0-1-601	1994 actual	1995 est.	1996 est.
72.40 Obligated balance, start of year: Unpaid obligations:			
Treasury balance	12,687	12,280	13,066
74.40 Obligated balance, end of year: Unpaid obligations:			
Treasury balance	-12,280	-13,066	-14,846
77.00 Adjustments in expired accounts	82		
87.00 Outlays (gross)	64,478	69,525	80,402
Adjustments to gross budget authority and outlays:			
88.40 Offsetting collections from: Non-Federal sources	-111	-1,000	-1,000
89.00 Budget authority (net)	63,959	69,311	81,182
90.00 Outlays (net)	64,367	68,525	79,402

Enforcement and compliance.—Conducts criminal and civil investigations, and performs audits to ensure compliance with the fiduciary provisions of the Employee Retirement Income Security Act (ERISA) and the Federal Employees' Retirement System Act of 1986 (FERSA). Assures compliance with applicable accounting, auditing and actuarial standards. Provides compliance assistance to the public.

	1994 actual	1995 est.	1996 est.
Plan reviews and investigations conducted	3,584	3,368	3,285
Inquiries received:			
Field offices ¹	74,784	92,000	92,000

Policy, regulations and public services.—Conducts research and policy and legislative analysis. Promulgates regulations and interpretations. Issues individual and class exemptions from regulations. Discloses government-required reports and provides compliance assistance to the public.

	1994 actual	1995 est.	1996 est.
Exemptions, variances, determinations, interpretations, and regulations issued	1,419	1,395	1,385
Inquiries received:			
National office ¹	83,160	93,000	93,000

¹ Inquiries received at field and national offices represent the total number of inquiries received.

Program oversight.—Provides policy direction, leadership and management of the pension and employee benefits program. Provides administrative support including budget, personnel administration, labor relations and technical training.

Object Classification (in thousands of dollars)

Identification code 16-1700-0-1-601	1994 actual	1995 est.	1996 est.
Direct obligations:			
Personnel compensation:			
11.1 Full-time permanent	27,518	29,890	30,592
11.3 Other than full-time permanent	552	183	190
11.5 Other personnel compensation	783	202	210
11.9 Total personnel compensation	28,853	30,275	30,992
12.1 Civilian personnel benefits	5,950	6,025	6,180
21.0 Travel and transportation of persons	1,478	1,899	1,955
22.0 Transportation of things	13	68	70
23.1 Rental payments to GSA	3,956	4,072	3,682
23.3 Communications, utilities, and miscellaneous charges	336	519	533
24.0 Printing and reproduction	350	315	324
25.2 Other services	4,260	8,356	18,842
25.3 Purchases of goods and services from Government accounts	14,479	15,240	15,988
25.5 Research and development contracts	2,138	1,954	2,011
26.0 Supplies and materials	471	248	255
31.0 Equipment	1,594	340	350
99.0 Subtotal, direct obligations	63,878	69,311	81,182
99.0 Reimbursable obligations	111	1,000	1,000
99.9 Total obligations	63,989	70,311	82,182

Personnel Summary

Identification code 16-1700-0-1-601	1994 actual	1995 est.	1996 est.
Total compensable workyears:			
1001 Full-time equivalent employment	575	621	608
1005 Full-time equivalent of overtime and holiday hours	2	2	2

PENSION BENEFIT GUARANTY CORPORATION

Federal Funds

Public enterprise funds:

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to incur such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, to make such contracts and commitments without regard to year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, [] 1996, for such Corporation: *Provided*, That not to exceed \$11,493,000 \$12,043,000 shall be available for administrative expenses of the Corporation: *Provided further*, That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation. (*Department of Labor Appropriations Act, 1995.*)

Program and Financing (in thousands of dollars)

Identification code 16-4204-0-3-601	1994 actual	1995 est.	1996 est.
Program by activities:			
00.01 Administrative expenses	33,853	11,463	12,043
00.02 Services related to terminations	98,943	126,258	128,496
00.03 Benefit payments	739,884	834,950	1,060,970
00.04 Financial assistance	3,878	4,480	4,570
00.05 Loss on sale of government securities	142,861		
10.00 Total obligations	1,019,419	977,151	1,206,079
Financing:			
17.00 Recovery of prior year obligations	-2,487		
Unobligated balance available, start of year:			
21.47 Authority to borrow	-100,000	-100,000	-100,000
21.90 Treasury balance	-1,160	-1,571	-1,571
21.91 U.S. Securities: Par value	-4,371,815	-4,800,449	-5,743,806
Unobligated balance available, end of year:			
24.47 Authority to borrow	100,000	100,000	100
24.90 Treasury balance	1,571	1,571	1,571
24.91 U.S. Securities: Par value	4,800,449	5,743,806	6,797,543
68.00 Budget authority (gross): Spending authority from offsetting collections	1,445,977	1,920,508	2,259,816
Relation of obligations to outlays:			
71.00 Total obligations	1,019,419	977,151	1,206,079
72.91 Obligated balance, start of year: U.S. Securities: Par value	150,471	106,446	144,801
74.91 Obligated balance, end of year: U.S. Securities: Par value	-106,446	-144,801	-181,398
78.00 Adjustments in unexpired accounts	-2,487		
87.00 Outlays (gross)	1,060,957	938,796	1,169,482
Adjustments to gross budget authority and outlays:			
Offsetting collections from:			
Interest on U.S. securities	-59,100	-438,180	-519,620
Non-Federal sources:			
88.40 Premium income	-995,636	-975,500	-1,130,830
88.40 Other income	-1,652		
88.40 Benefit payment reimbursements	-287,984	-380,570	-480,870
88.40 Reimbursements from trust funds	-101,605	-126,258	-128,496
88.90 Total, offsetting collections	-1,445,977	-1,920,508	-2,259,816
89.00 Budget authority (net)			
90.00 Outlays (net)	-385,019	-981,712	-1,090,334

Status of Direct Loans (in thousands of dollars)

Identification code 16-4204-0-3-601	1994 actual	1995 est.	1996 est.
Cumulative balance of direct loans outstanding:			
Disbursements: Direct loan disbursements	3,878	4,480	4,570
Write-offs for default: Direct loans	-3,878	-4,480	-4,570

This wholly owned government corporation administers programs of mandatory insurance to prevent loss of pension benefits under covered private, defined-benefit pension plans if single-employer plans terminate or if multiemployer plans are unable to pay benefits. Terminated plans are taken over by the Corporation. The Corporation assumes control of their assets, administers them in a trust fund held in a private bank, and takes responsibility for paying benefits. The Corporation also provides repayable assistance to insolvent multi-employer plans when necessary to pay benefits and to forestall termination and subsequent Corporation responsibility to pay benefits.

Plans terminated during year:	1994 actual	1995 est.	1996 est.
With sufficient assets	3,953	4,000	4,000
With insufficient assets	115	130	170
Government trusteeships at end of year	1,854	2,004	2,234
Regulations issued	9	19	19

Administrative expenses subject to limitation.—Provides resource management, executive direction, and other support functions.

Services related to terminations.—Provides for needed but unpredictable costs related to benefits administration services, actuarial services, investment management and a share of other administrative costs arising from pension plan terminations.

Benefit payments.—Checks are issued when due to pay plan participants and other beneficiaries in plans which have terminated.

Payees in Government trusteeships receiving monthly benefits from the Corporation	1994 actual	1995 est.	1996 est.
	174,200	207,900	237,100

Financial assistance.—If multiemployer-sponsored plans become insolvent, the Corporation gives repayable loans to enable the plans to continue paying benefits. Financial assistance to an insolvent plan is made only after the plan takes a series of prescribed steps to place the plan on a sound financial basis.

Financing.—The primary source of financing is annual premiums paid by sponsors of ongoing covered plans, which vary according to the plans' funding level. Other sources of financing include assets from terminated plans, investment income, and amounts due the Corporation from the sponsors of terminating plans. Also, the Corporation is authorized to borrow up to \$100 million from the U.S. Treasury.

Operating results.—The following tables show the status of the Corporation's trust funds and the Corporation's operating results.

STATUS OF TRUST FUNDS

(In thousands of dollars)

Assets:	1993 actual	1994 actual	1995 est.	1996 est.
Cash	143,109	370,400	370,400	370,400
Investments	2,831,164	2,935,190	3,669,890	4,259,040
Receivables:				
Due from Pension Benefit Guaranty Corporation	5,478,167	5,641,260	6,220,330	6,785,580
Due from employers—terminated plans	23,383	172,180	424,780	428,170
Due from employers—probable terminations	511,000	332,720	16,220	54,560
Assets of pretrusted plans	72,583	107,100	425,970	0
Assets of plans—probable terminations	1,190,100	1,200,780	289,020	0
Other assets	222,647	162,920	152,910	162,920
Total assets	10,472,153	10,922,550	11,579,520	12,360,670

Liabilities:

Estimate of future benefits—terminated plans	7,671,657	8,166,780	10,890,710	12,336,060
Estimate of future benefits—probable terminations (net)	2,699,800	2,699,220	664,200	—
Other liabilities	100,696	56,550	24,610	24,610
Total liabilities	10,472,153	10,922,550	11,579,520	12,360,670

CHANGE IN CORPORATION'S LIABILITY UNDER TERMINATED PLANS

(In thousands of dollars)

	1994 actual	1995 est.	1996 est.
Liability, beginning of year	5,682,050	4,475,547	5,861,370
Liability incurred due to plan terminations	169,719	1,356,210	927,510
(New liabilities assumed)	542,030	2,979,790	1,665,010
(Plan assets acquired)	411,040	1,246,030	658,110
(Recoveries from employers, net)	(38,730)	377,560	79,390
Operating loss of trust fund	(924,320)	483,990	567,810
Benefit payments	(451,902)	(454,377)	(571,)
Adjustment to prior year	—	—	—
Liability, end of year	4,475,547	5,861,370	6,785,580

Statement of Operations (in thousands of dollars)

Identification code 16-4204-0-3-601	1993 actual	1994 actual	1995 est.	1996 est.
Revenue:				
1101 Premium income	911,271	995,636	975,500	1,130,1
1101 Investment income	1,257,565	-563,582	438,180	519,620
1101 Other income	10,652	16,674	—	—
Expense:				
1102 Trust fund operating loss	-1,288,946	924,320	-483,990	-567,810
1102 Net liability due to plan terminations	-293,651	-169,719	-1,356,210	-927,510
1102 Provision for pending terminations	-475,391	460,975	806,760	358,970
1102 Change in allowance for uncollectible financial assistance	-50,032	-56,947	-11,990	-12
1102 Administrative expenses	-28,706	-29,405	-11,394	-12,043
1191 Total revenues	2,179,488	448,728	1,413,680	1,650,450
1192 Total expenses	-2,136,726	1,129,224	-1,056,824	-1,160,933
1199 Net operating income or loss	42,762	1,577,952	356,856	489,517

Balance Sheet (in thousands of dollars)

Identification code 16-4204-0-3-601	1993 actual	1994 actual	1995 est.	1996 est.
ASSETS:				
Federal assets:				
1101 Fund balances with Treasury	1,140	1,551	1,551	1,551
Investments in US securities:				
1102 Treasury securities, par	4,536,911	5,271,886	6,253,597	7,343,931
1103 Treasury securities, unamortized discount(-)/premium(+)	64,091	-253,024	-253,024	-253,024
1106 Receivables, net	29,854	84,425	9,187	3,612
Non-Federal assets:				
1201 Investments in non-Federal securities, net	28,403	43,426	43,426	43,426
1206 Receivables, net	32,026	37,330	37,330	37,330
1207 Advances and prepayments	22	24	25	26
Net value of assets related to pre-1992 direct loans receivable and acquired defaulted guaranteed loans receivable:				
1601 Direct loans, gross	18,331	22,227	26,707	31,277
1602 Interest receivable	9,081	11,286	13,491	15,696
1603 Allowance for estimated uncollectible loans and interest (-)	-27,412	-33,513	-40,198	-46,973
1699 Value of assets related to direct loans	—	—	—	—
Other Federal assets:				
1801 Cash and other monetary assets	20	20	20	20

Public enterprise funds—Continued

PENSION BENEFIT GUARANTY CORPORATION FUND—Continued

Balance Sheet (in thousands of dollars)—Continued

Identification code 16-4204-0-3-601	1993 actual	1994 actual	1995 est.	1996 est.
1803 Property, plant and equipment, net	728	3,173	3,180	3,180
1901 Other assets	341,799	-138,021	-97,422	-88,412
1999 Total assets	5,034,994	5,050,790	5,997,870	7,091,640
LIABILITIES:				
Non-Federal liabilities:				
2201 Accounts payable	363,524	288,794	463,490	502,490
2206 Pension and other actuarial liabilities	7,163,247	5,804,820	6,220,330	6,785,580
2999 Total liabilities	7,526,771	6,093,614	6,683,820	7,288,070
NET POSITION:				
3300 Cumulative results of operations	-2,491,777	-1,042,825	-685,970	-196,430
3999 Total net position	-2,491,777	-1,042,825	-685,970	-196,430
4999 Total liabilities and net position	5,034,994	5,050,789	5,997,850	7,091,640

Object Classification (in thousands of dollars)

Identification code 16-4204-0-3-601	1994 actual	1995 est.	1996 est.
Personnel compensation:			
11.1 Full-time permanent	33,491	35,311	37,928
11.3 Other than full-time permanent	558	471	485
11.5 Other personnel compensation	2,231	1,257	1,257
11.9 Total personnel compensation	36,280	37,039	39,670
12.1 Civilian personnel benefits	7,084	7,425	8,269
13.0 Benefits for former personnel	83		
21.0 Travel and transportation of persons	747	894	921
22.0 Transportation of things	9	7	7
23.2 Rental payments to others	10,128	10,400	10,829
23.3 Communications, utilities, and miscellaneous charges	850	1,050	1,092
24.0 Printing and reproduction	248	359	370
25.1 Advisory and assistance services	310	320	330
25.2 Other services	69,262	75,660	74,328
25.3 Purchases of goods and services from government accounts	1,599	1,624	1,673
26.0 Supplies and materials	926	1,023	1,054
31.0 Equipment	5,270	1,920	1,996
Investments and loans:			
33.0 Investments and loans	3,878	4,480	4,570
33.0 Loss on sale of gov't securities	142,861		
42.0 Insurance claims and indemnities	739,884	834,950	1,060,970
99.9 Total obligations	1,019,419	977,151	1,206,079

Personnel Summary

Identification code 16-4204-0-3-601	1994 actual	1995 est.	1996 est.
Total compensable workyears:			
5001 Full-time equivalent employment	707	687	731
5005 Full-time equivalent of overtime and holiday hours	14	14	14

EMPLOYMENT STANDARDS ADMINISTRATION

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, [\$248,667,000] \$275,401,000, together with [\$1,059,000] \$1,669,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(h)(4) and (5) and 44(j) of the Longshore and Harbor Workers' Compensation Act: *Provided*, That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid to the Secretary of Labor, in accordance with the terms of the Con-

sent Judgment in Civil Action No. 91-0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): *Provided further*, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under Title I of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1801 et seq. (5 U.S.C. 8101-50, 8171(a)(2); 8 U.S.C. 1101(a), 1184(c), 1324; 15 U.S.C. 1671-77; 20 U.S.C. 951-63; 29 U.S.C. 31-42, 201-19, 251-62, 553, 793; 1802, 1813(a), 2001 et seq.; 30 U.S.C. 934, 934a; 33 U.S.C. 901-50; 38 U.S.C. 2012; 40 U.S.C. 267a, 267c; 41 U.S.C. 35-45, 328-33, 351-57; 42 U.S.C. 1651-54, 1701-17, 2000e nt.; 43 U.S.C. 1333(c); title 36 of the District of Columbia Code; 59 Stat. 1263; 64 Stat 1268; Executive Order 11136 of January 3, 1964; Department of Labor Appropriations Act, 1995.)

Program and Financing (in thousands of dollars)

Identification code 16-0105-0-1-505	1994 actual	1995 est.	1996 est.
Program by activities:			
Direct program:			
00.01 Enforcement of wage and hour standards	96,801	101,071	116,943
00.02 Federal contractor EEO standards enforcement	56,095	58,928	63,831
00.03 Federal programs for workers' compensation	101,173	105,330	112
00.04 Program direction and support	11,506	11,820	12
00.91 Subtotal direct program	265,575	277,149	305,725
01.01 Reimbursable program	2,538	2,170	2
10.00 Total obligations	268,113	279,319	307,725
Financing:			
25.00 Unobligated balance expiring	1,112		
39.00 Budget authority (gross)	269,225	279,319	307,725
Budget authority:			
Current:			
40.00 Appropriation	236,802	248,667	275,401
40.76 Cash awards reduction pursuant to P.L. 103-333		-732	
43.00 Appropriation (total)	236,802	247,935	275,401
68.00 Permanent:			
Spending authority from offsetting collections	32,423	31,384	32,324
Relation of obligations to outlays:			
71.00 Total obligations	268,113	279,319	307,725
72.40 Obligated balance, start of year: Unpaid obligations:			
Treasury balance	21,508	21,211	22,921
74.40 Obligated balance, end of year: Unpaid obligations:			
Treasury balance	-21,211	-22,921	-26,164
77.00 Adjustments in expired accounts	403		
87.00 Outlays (gross)	268,813	277,609	304,482
Adjustments to gross budget authority and outlays:			
Offsetting collections from:			
88.00 Federal sources	-29,885	-29,214	-30,324
88.40 Non-Federal sources	-2,538	-2,170	-2,000
88.90 Total, offsetting collections	-32,423	-31,384	-32,324
89.00 Budget authority (net)	236,802	247,935	275,401
90.00 Outlays (net)	236,390	246,225	272,158

Enforcement of wage and hour standards.—The Wage and Hour Division works to obtain and encourage compliance with the minimum wage, overtime, child labor, and other employment standards under the Fair Labor Standards Act, Migrant and Seasonal Agricultural Worker Protection Act, the Family and Medical Leave Act, certain provisions of the Immigration and Nationality Act, the wage garnishment provisions in title III of the Consumer Credit Protection Act, the Employee Polygraph Protection Act, and the whistleblower provisions of several environmental protection statutes. Prevailing wages are determined and employment standards enforced under various Government contract wage standards. In 1996 approximately 359,000 persons are expected to be aided under the

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Divider Title: _____

RAILROAD RETIREMENT BOARD

DESCRIPTION: RRB administers comprehensive retirement-survivor and unemployment-sickness benefit programs for the nation's railroad workers and their families. Through the Railroad Retirement Act, RRB provides annuities to individuals who have completed at least 10 years of creditable service in the railroad industry and meet other standard benefit stipulations. RRB also provides occupational disability and survivor annuities. RRB also provides placement services and unemployment benefits under the Railroad Unemployment Insurance Act. RRB has an elaborate field structure which includes 87 field offices, five regional offices, and a headquarters office in Chicago, IL.

FY 1996 BUDGET PROPOSAL: RRB has a total budget authority in FY 1996 of approximately \$15.047 billion, an increase of approximately \$147 million over FY 1995 levels. RRB has an FY 1996 budget of \$86.5 million for the Railroad Unemployment Insurance Trust Fund, a decrease of \$631,000 from FY 1995 levels. The FY 1996 FTE level is 1,445, a decrease of 197 FTE from FY 1995 levels.

AGENCY PROPOSAL: The Board was split on the recommendation. The Majority (Chairman and Management member) propose transfer of the RRB. The Minority member proposes to maintain an independent Board. The Minority member states his report is the unedited version prepared by the RRB staff. In addition, Board's IG submitted a report proposing a streamlined organizational structure and changes in the field service delivery system. The stated objective of the IG proposals are reductions in FTE and improved customer service.

DECISION OPTIONS:

- A. No change. Fund at FY 1996 levels.
- B. Accept the Majority report. Transfer the Board to SSA intact.
- C. Accept the Minority report and maintain RRB as an independent agency and fund at FY 1996 levels.
- D. Accept the IG report. Maintain as a independent agency. Adopt streamlining measures described by RRB's IG. Scale back regional and field operations.

ADVISORY GROUP RECOMMENDATION: B

RATIONALE: The current situation dictates keeping the RRB intact. The Board can realize some cost and FTE savings through internal streamlining and reorganization as proposed by the IG. Yet with transfer, the RRB beneficiaries would join the larger community served by SSA. Current distinctions -- my RRB vice the SSA -- will diminish over time. Access to service by RRB beneficiaries would improve. The number of field offices available would increase from about 90 to over 1,500 and as well as access to the enormous resources of the SSA.

The action would require legislation. Railroad labor will fight this proposal at every opportunity.

STEERING COMMITTEE RECOMMENDATION:



UNITED STATES OF AMERICA
RAILROAD RETIREMENT BOARD
844 NORTH RUSH STREET
CHICAGO, ILLINOIS 60611-2092
FEB 24 1995

BOARD MEMBERS:

GLEN L. BOWER, CHAIRMAN
V.M. SPEAKMAN, JR., LABOR MEMBER
JEROME F. KEVER, MANAGEMENT MEMBER

The National Performance Review
750 17th Street, N.W.
Suite 200
Washington, D.C. 20006

ATTN: Marv Voskhul, Jay Friedman, Jerry Nikolaus

Gentlemen:

Enclosed please find the Option Paper for the Railroad Retirement Board, as requested in your memorandum dated February 17, 1995. This document was approved by a majority of the three-member Board. All of the programs administered by the RRB can be transferred to other federal or state agencies. Benefit programs, in nearly all industries, are the subject of labor-management negotiations rather than contained in federal law.

We hope you find these documents responsive to your request and helpful in your deliberations. If you have any questions or need further information, please feel free to contact Kenneth Boehne, Director of Administration, at (312) 751-4930.

Sincerely,

Glen L. Bower

Glen L. Bower

Jerome F. Kever

Jerome F. Kever

V.M. Speakman Jr.

V. M. Speakman, Jr. (Dissenting)

Dissenting Opinion and
team members' report
under separate cover

Enclosure



Railroad Retirement Board

Option Papers NPR Phase II

Overview

The Railroad Retirement Board (RRB) is an independent agency in the executive branch of the Federal Government administering comprehensive retirement, survivor, disability, and unemployment and sickness benefit programs for the nation's railroad workers and their families, under the Railroad Retirement and Railroad Unemployment Insurance Acts. In connection with the retirement program, the RRB has administrative responsibilities under the Social Security Act for certain benefit payments and railroad workers' Medicare coverage.

During fiscal year 1994, retirement-survivor benefits of almost \$8 billion were paid to over 870,000 beneficiaries, while unemployment-sickness benefits of \$66 million were paid to over 40,000 claimants. Agency administrative expenses have historically averaged one percent of benefit payments.

Origins.--The RRB was created by New Deal legislation enacted in the mid-1930's to consolidate and federalize the nation's private railroad pension plans, which were then far more developed than pension plans in other industries but had been adversely affected by the Great Depression. Rail unemployment insurance legislation followed at the end of the decade because of administrative problems that interstate rail employment caused the new State unemployment insurance plans.

Organization and Staff.--The RRB is headed by three members appointed by the President of the United States, with the advice and consent of the Senate. One member is appointed upon the recommendation of railroad employers, one is appointed upon the recommendation of railroad labor organizations and the third, who is the Chairman, is appointed to represent the public interest. Reporting to the Board are the General Counsel, Director of Programs and Director of Administration. Reporting to them are a total of 20 headquarters bureaus and/or offices. The RRB currently employs about 1,100 full-time equivalent employees in its Chicago headquarters. A field office staff of approximately 400 employees in 90 locations throughout the United States provides direct services to customers. Administrative costs in the current fiscal year are approximately \$94,000,000.

Mission and Goals

The RRB's mission is to administer the retirement/survivor and unemployment/sickness insurance benefit programs for railroad workers and their families under the Railroad Retirement Act, the Railroad Retirement Tax Act and the Railroad Unemployment Insurance Act. The RRB also administers some aspects of the Medicare program for qualified railroad retirement beneficiaries, and has other administrative responsibilities under the Social Security Act and the Internal Revenue Code.

While the railroad retirement program has remained separate from the social security system, the two programs are closely coordinated with regard to earnings credits, benefit payments, and taxes. Legislation enacted in 1974 restructured railroad retirement benefits into two tiers, so as to coordinate them more fully with social security benefits. The first tier is based on combined railroad retirement and social security credits, using social security benefit formulas. The second tier is based on railroad service only and is comparable to the pensions paid over and above social security benefits in other industries. The unemployment and sickness benefit program operates independently of the Federal/State systems.

In carrying out its mission, the RRB strives to pay benefits to the right people, in the right amounts, in a timely manner, treat every person who comes into contact with the agency with courtesy and concern, and respond to all inquiries promptly, accurately and clearly. The performance goals we plan to meet by fiscal year 2000 are to:

- Meet or exceed the timeliness standards in the RRB's Customer Service Plan for processing retirement, survivor and disability annuity payments.
- Complete all processing for mass adjustments, such as annual cost-of-living increases to the retirement, survivor and disability benefit rolls, within 6 months of the adjustment, and to improve the average time for processing post-award adjustments.
- Maintain the accuracy of retirement, survivor and disability payments above 99.6 percent, and strive for and continuously move toward 100 percent accuracy.
- Meet or exceed the standards in the RRB's Customer Service Plan for processing unemployment and sickness insurance benefits by sending a claim form or making a decision within 15 days of receiving an application, and paying or making a decision within 15 days of receiving a subsequent biweekly claim form.
- Maintain the accuracy of unemployment and sickness insurance benefit payments above 99 percent, and strive for and continuously move toward 100 percent accuracy.

Assessment of Key Functions

Assessment of the key functions for the agency as a whole follows. Assessments of major programs, individually, are attached. In summary, customer surveys and focus groups have indicated that these programs are critical to the agency's mission. Customers have been very satisfied with the service rendered by the agency.

The Railroad Retirement Board recognizes that all its services are financed by our customers: the railroad workers and employers. They are entitled to expect high-quality services, responsive to their needs, provided efficiently at a reasonable cost. This has been recognized in the adoption of the following Policy Statement on Quality:

In carrying out our mission, the Railroad Retirement Board will strive to pay benefits to the right people, in the right amounts, in a timely manner, treat every person who comes into contact with the agency with courtesy and concern, and respond to all inquiries promptly, accurately, and clearly. The Railroad Retirement Board will maintain a work environment characterized by teamwork, respect, and a commitment to doing the job right the first time.

This Customer Service Plan is centered on the following principles of public service: standards, openness, accessibility and accountability. In arriving at this plan, we have considered the findings of a customer satisfaction survey, the results of focus group research, and the responses received on point-of-service evaluation forms. This Customer Service Plan will be published nationally and posted in each office of the RRB in order to communicate these standards to our customers and to reinforce them with our employees. There is a clear presumption that our service will progressively improve as our operations become more efficient. The plan will be reviewed and updated periodically as we gain more experience with it and as we compare our service with the best in the private sector.

U.S. Railroad Retirement Board

Customer Service Plan



U.S. Railroad Retirement Board

844 North Rush Street
Chicago, Illinois 60611-2092

RRB Form IB-3

September 1994

Decision Tree for the Railroad Retirement Board as a Whole

Programs

The Railroad Retirement Board (RRB) administers the provisions of the Railroad Retirement and Railroad Unemployment Insurance Acts as well as certain provisions of the Medicare program. It pays retirement and survivor benefits to railroad employees and their families and unemployment or sickness insurance benefits to railroad employees only.

Are these programs critical to the agency's mission based on "customer" input?

Yes. These programs are the agency's mission. Transfer of these programs to other entities is possible, and would eliminate the agency. Customer surveys and focus groups show that customers are very satisfied with the delivery of the programs.

Can the programs be administered as well or better at the State or local level?

Our response to this question varies with each program.

A. No. The Railroad Retirement/Survivor Benefit Program, while transferrable to Federal or private entities, cannot be administered as well or better at the State or local level.

B. No. The Disability Benefit Program, also transferrable to a Federal entity, cannot be administered as well or better at the State or local level.

C. No. The RRB Medicare Program, also transferrable to another Federal agency, cannot be administered as well or better at the State or local level.

D. Yes. The Railroad Unemployment Insurance Act program could be replaced with the unemployment insurance programs of the various States.

Is there any way to cut costs or improve performance by introducing competition?

Yes. Obtain legislative authority to transfer or contract out those adjudicative functions that are currently governmental. There are governmental and private entities with substantially similar functions. Transfer could benefit the government by:

- Eliminating an independent agency from the Federal system,
- Removing Federal involvement from private sector matters,
- Eliminating disparate treatment between railroad and other taxpayers,
- Eliminating administrative costs,
- Eliminating functional redundancy, and
- Achieving economies of scale.

How can NPR principles be applied to put customers first, cut red tape and empower employees?

The RRB is aggressively pursuing NPR principles by carrying out its streamlining plans and its reengineering efforts, by implementing recommendations advanced by an in-house task force to improve the timeliness and quality of claims processing, and by implementing specific cost saving suggestions. Customer surveys and focus groups gave high marks to the service provided by the employees of the RRB.

OPTION 1 TERMINATE THE RAILROAD RETIREMENT BOARD¹

PRO

- Eliminate independent agency from the Federal system.
- If tier 2 is privatized, removes Federal Government involvement in railroad labor/management issues by removing such items from the Federal sector.
- If the rest of the programs are transferred to other agencies, this will potentially increase service to the public and reduce administrative overhead to the extent that functions are transferred to agencies that have more resources at their disposal.
- Eliminates disparate treatment between railroad beneficiaries and other Americans.

CON

- If privatized, Congress would need to address the issues of ERISA coverage and the unfunded liability².
- Customer surveys and focus group reports indicate customers are very satisfied with current service.

¹ Aspects of this concept are addressed in various scenarios presented in the options papers attached.

² If the railroad retirement system were to be privatized with ERISA coverage, an unfunded actuarial accrued liability estimated at \$37.6 billion under ERISA standards would be created which would need to be amortized. In addition to the normal cost of 6.46 percent of taxable pay, the unfunded actuarial accrued liability would have to be amortized by level annual payments over a 30-year period. If this unfunded actuarial accrued liability were to be funded by railroad management and labor, the current combined railroad retirement tax rate would initially need to be increased from 21 percent to 31 percent. After 30 years the contribution rate would drop to the 6.46 percent normal cost rate. The unfunded actuarial accrued liability reflects the amount needed together with future contributions at the normal cost rate to fully fund benefits for current and former employees.

Under its existing structure, the system's ability to meet its obligations at the current 21 percent tax rate is illustrated in annual cash flow projections and summarized in the calculation of the actuarial surplus/deficiency based on the following assumptions over a 75-year period: (1) ERISA standards would not have to be applied (2) the current 21 percent combined employer/employee contribution rate would continue, and (3) taxes of both current and future employees, as well as other sources of income to the retirement system, would be used to fund all benefit and administrative costs. Under these assumptions, the actuarial surplus/deficiency of the railroad retirement system under current law as of September 30, 1994, would range from a deficiency of \$3.0 billion to a surplus of \$15.3 billion, depending on the employment assumption used. Under the moderate employment assumption, there is a surplus of \$5.9 billion.

Summary Cost Information^a - Option 1

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	333,359	<u>d/</u>	0	0	<u>d/</u>
Discretionary Budget Outlays	333,359	<u>d/</u>	0	0	<u>d/</u>
Mandatory Outlays	11,398,000 ^b	<u>d/</u>	0	0	<u>d/</u>
Governmental Receipts	12,200,400	<u>d/</u>	0	0	<u>d/</u>
FTE Changes	1,393 ^c	<u>d/</u>	0 (-1,335)	0 (-1146)	<u>d/</u>

a/ Administrative funds include the Limitation on Administration and the Special Management Improvement Fund but exclude \$6.7 million for the Limitation on the Office of Inspector General and an estimated \$3.7 million to be reimbursed by the Health Care Financing Administration (HCFA) for Medicare activities. Funding of administrative expenses is provided through a transfer of funds from the Railroad Retirement Account (RRA), the Social Security Equivalent Benefit Account (SSEB), the Railroad Retirement Supplemental Account (RR SUP), and the Railroad Unemployment Insurance Account (RUIA).

b/ Includes outlays for the RRA, the SSEB, the RR SUP, and the RUIA. SSEB outlays include the repayment of the financial interchange advances.

c/ Excludes 44 FTE's to be reimbursed by HCFA for Medicare activities.

d/ Undetermined. Presumes termination in FY 1996.

OPTION 2 RESTRUCTURE THE RAILROAD RETIREMENT BOARD³

PRO

- Maintain agency where customers are very satisfied with service as shown by results of customer surveys and focus group reports.
- Retain program expertise and systems to accomplish mission without interruptions in service to customers.

CON

- Perpetuate independent agency in the Federal system.
- Fail to capitalize on economies of scale offered by transfer of functions elsewhere.
- Maintain inappropriate Federal government involvement in railroad labor/management issues.

³ Restructuring the RRB includes carrying out streamlining plans, reengineering efforts, automation plans, cost saving suggestions, and specific improvements in the timeliness and quality of claims processing. It also involves reducing the agency-wide staffing level by over 300 additional employees.

Summary Cost Information^a - Option 2

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	333,359	333,359	314,558	260,957	1,484,389
Discretionary Budget Outlays	333,359	333,359	314,558	260,957	1,484,389
Mandatory Outlays ^b	11,398,000	11,398,400	11,550,000	12,050,100	58,592,700
Governmental Receipts	12,200,400	12,200,400	12,420,900	13,099,600	63,232,900
FTE Changes ^c	1,393	1,393 (0)	1,335 (-58)	1,146 (-247)	6,336 (-629)

a/ Administrative funds include the Limitation on Administration and the Special Management Improvement Fund but exclude \$6.7 million for the Limitation on the Office of Inspector General and an estimated \$3.7 million to be reimbursed by the Health Care Financing Administration (HCFA) for Medicare activities. Funding of administrative expenses is provided through a transfer of funds from the Railroad Retirement Account (RRA), the Social Security Equivalent Benefit Account (SSEB), the Railroad Retirement Supplemental Account (RR SUP), and the Railroad Unemployment Insurance Account (RUIA).

b/ Includes outlays for the RRA, the SSEB, the RR SUP, and the RUIA. SSEB outlays include the repayment of the financial interchange advances.

c/ Excludes 44 FTE's to be reimbursed by HCFA for Medicare activities.

Decision Tree "A"-- The Retirement/Survivor Benefit Program

Program

The Railroad Retirement Board administers a comprehensive program of retirement and survivor benefits for eligible railroad workers and their families. In addition, the agency has administrative responsibilities under the Social Security Act for certain benefit payments.

Is the program critical to the agency's mission based on "customer" input?

Yes. The administration of these programs is the agency's mission. Without these programs, there is no need for the agency.

Can the program be administered as well or better at the State or local level?

No. The railroad retirement program is similar to a multi-employer pension plan. The administration of a multi-employer private pension plan by a State or local governmental agency is unprecedented. Such a transfer to the State or local level would involve the development of 50 State agencies created for the sole purpose of administering a multi-employer private pension plan. In addition, an oversight bureaucracy would be needed to coordinate financing and to ensure consistency.

Is there any way to cut costs or improve performance by introducing competition?

Yes. Responsibility for tier 1 could be transferred to the Social Security Administration. The remainder of these program responsibilities could be transferred to a private multi-employer pension plan.

How can NPR principles be applied to put customers first, cut red tape and empower employees?

These principles are being actively pursued along two fronts. A benchmarking study is currently underway to compare the initial retirement age and service annuity application process to the “best-in-business” of organizations performing analogous functions. The study team has identified benchmarking partners and will be conducting site visits during March 1995. A final report, describing the performance gaps identified with recommendations and action plans to close those gaps, will be issued after the site visits. A second effort underway is being conducted by an in-house Reengineering Team. This team is about to begin a review of the entire claims handling process, covering all benefit programs, to determine whether any Reengineering principles can be applied. The agency has already conducted comprehensive self analyses in increasing the effectiveness and efficiency of processes. There are action plans in place to implement recommendations made by a Streamlining Task Force and a Task Force on Timeliness and Quality. A separate set of recommendations resulting in cost saving initiatives is also being implemented.

OPTION A-1 TERMINATE THE RETIREMENT/SURVIVOR BENEFIT PROGRAM

PRO

- End Federal involvement in the administration of industrial pension program payments in excess of social security equivalent benefits such as non-recompensed tier 1, tier 2, supplemental annuities, and vested dual benefits.
- Eliminates disparate treatment between railroad beneficiaries and other Americans.

CON

- Over 800,000 retired employees and dependents are now on the Board's rolls, and current rail employees have been paying for coverage they are counting on for old age and disability protection.
- Tier 1 (Social Security equivalent) benefits would still need to be administered, either as a part of SSA or through a private administrator.
- Customer surveys and focus groups demonstrate that the beneficiaries and workers are very satisfied with current service.

Summary Cost Information - Retirement/Survivor Benefit Program - Option A-1
Administrative Receipts and Expenditures^a
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	59,842	f/	0	0	f/
Discretionary Budget Outlays	59,842	f/	0	0	f/
Mandatory Outlays	.....	.....	.....	.....	.....
Governmental Receipts ^b	.....	.....	.....	.....	.....
FTE Changes	894	f/	0 (-851)	0 (-727)	f/

Summary Cost Information - Retirement/Survivor Benefit Program - Option A-1
Trust Fund Receipts and Expenditures
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority ^c	210,500	f/	0	0	f/
Discretionary Budget Outlays ^c	210,500	f/	0	0	f/
Mandatory Outlays ^d	9,628,700	f/	0	0	f/
Governmental Receipts ^e	10,360,900	f/	0	0	f/
FTE Changes	.....	.....	.....	.....	.....

Summary Cost Information - Retirement/Survivor Benefit Program - Option A-1
Trust and Administrative Fund Receipts and Expenditures^a
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	270,342	f/	0	0	f/
Discretionary Budget Outlays	270,342	f/	0	0	f/
Mandatory Outlays ^d	9,628,700	f/	0	0	f/
Governmental Receipts ^e	10,360,900	f/	0	0	f/
FTE Changes	894	f/	0 (-851)	0 (-727)	f/

Development of accurate costs and savings derived would require coordination with SSA to determine their conversion and on going operational costs, with the Department of the Treasury to determine the budgetary impact of trust fund transfers from the Federal sector to the private sector, and with industry representatives to determine the costs of establishing insurance contracts, Taft-Hartley trust funds or private pension plans.

FOOTNOTES - Option A-1

- a/ Administrative funds include the Limitation on Administration and the Special Management Improvement Fund. Excludes \$6.7 million for the Limitation on the Office of Inspector General.
- b/ Funding of administrative expenses provided through a transfer of funds from the Railroad Retirement Account (RRA), the Social Security Equivalent Benefit Account (SSEB) and the Railroad Retirement Supplemental Account (RR SUP).
- c/ Represents the funding authority and outlay of vested dual benefit payments.
- d/ Includes outlays for the RRA, the SSEB and the RR SUP. SSEB outlays include the repayment of the financial interchange advances.
- e/ Does not reflect the potential Amtrak restructuring. The loss of 5,500 Amtrak employees would result in a reduction of annual tier 2 payroll taxes to the RRA, with an initial reduction of approximately \$40 million.
- f/ Undetermined. Presumes termination in FY 1996.

OPTION A-2 PRIVATIZE THE RETIREMENT/SURVIVOR BENEFIT PROGRAM

PRO

- End Federal involvement in an industrial pension program by privatizing non-social security equivalent benefits, supplemental annuities, and vested dual benefits through contracts with insurance carriers, the establishment of a private sector Taft-Hartley trust fund, or individually negotiated private pension plans.
- Provide greater leeway in setting the administrative budget and determining internal operations by converting the RRB to a private sector corporation, or quasi-governmental corporation, to administer the non-social security equivalent benefits, supplemental annuities, and vested dual benefits.
- Eliminates functional redundancy between Federal agencies (e.g., SSA).

CON

- Congress would need to address the issues of ERISA coverage and unfunded liability.
- One-time costs will be incurred for the privatization and transfer of functions.
- Costs to administer current systems are very low in comparison to benefits paid and are borne primarily by the railroad industry through payroll taxes.
- Customer surveys and focus groups show that beneficiary and employee customers are very satisfied with current service.

Summary Cost Information - Retirement/Survivor Benefit Program - Option A-2
Administrative Receipts and Expenditures^a
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	59,842	f/	0	0	f/
Discretionary Budget Outlays	59,842	f/	0	0	f/
Mandatory Outlays	.....	.....	.....	.....	.....
Governmental Receipts ^b	.....	.....	.....	.....	.....
FTE Changes	894	f/	0 (-851)	0 (-727)	f/

Summary Cost Information - Retirement/Survivor Benefit Program - Option A-2
Trust Fund Receipts and Expenditures
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority ^c	210,500	f/	0	0	f/
Discretionary Budget Outlays ^c	210,500	f/	0	0	f/
Mandatory Outlays ^d	9,628,700	f/	0	0	f/
Governmental Receipts ^e	10,360,900	f/	0	0	f/
FTE Changes	.....	.....	.....	.....	.....

Summary Cost Information - Retirement/Survivor Benefit Program - Option A-2
Trust and Administrative Fund Receipts and Expenditures^a
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	270,342	f/	0	0	f/
Discretionary Budget Outlays	270,342	f/	0	0	f/
Mandatory Outlays ^d	9,628,700	f/	0	0	f/
Governmental Receipts ^e	10,360,900	f/	0	0	f/
FTE Changes	894	f/	0 (-851)	0 (-727)	f/

FOOTNOTES - Option A-2

- a/ Administrative funds include the Limitation on Administration and the Special Management Improvement Fund. Excludes \$6.7 million for the Limitation on the Office of Inspector General.
- b/ Funding of administrative expenses provided through a transfer of funds from the Railroad Retirement Account (RRA), the Social Security Equivalent Benefit Account (SSEB) and the Railroad Retirement Supplemental Account (RR SUP).
- c/ Represents the funding authority and outlay of vested dual benefit payments.
- d/ Includes outlays for the RRA, the SSEB and the RR SUP. SSEB outlays include the repayment of the financial interchange advances.
- e/ Does not reflect the potential Amtrak restructuring. The loss of 5,500 Amtrak employees would result in a reduction of annual tier 2 payroll taxes to the RRA, with an initial reduction of approximately \$40 million.
- f/ Undetermined. Presumes privatization in FY 1996.

OPTION A-3 TRANSFER RETIREMENT/SURVIVOR BENEFIT PROGRAM TO THE SOCIAL SECURITY ADMINISTRATION

PRO

- Reduce overhead and coordination costs.
- Provide increased service by transferring social security equivalent benefit functions to SSA to be administered as part of Title II.
- Provide more field office locations.
- Reduce overhead --and improve coordination-- by combining the RRB with SSA as a Program Service Center for the administration of the unique benefit provisions of the Railroad Retirement Act.
- Reduce functional redundancies between Federal agencies.

CON

- One-time costs will be incurred for transfer of functions and systems to SSA.
- Customer surveys and focus groups indicate that the beneficiary and employee customers are very satisfied with the program.

Summary Cost Information - Retirement/Survivor Benefit Program - Option A-3
Administrative Receipts and Expenditures^a
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	59,842	e/	0	0	e/
Discretionary Budget Outlays	59,842	e/	0	0	e/
Mandatory Outlays	.....	.....	.....	.....	.....
Governmental Receipts ^b	.....	.....	.....	.....	.....
FTE Changes	894	e/	0	0	e/

Summary Cost Information - Retirement/Survivor Benefit Program - Option A-3
Trust Fund Receipts and Expenditures
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority ^c	210,500	e/	0	0	e/
Discretionary Budget Outlays ^c	210,500	e/	0	0	e/
Mandatory Outlays ^d	9,628,700	e/	0	0	e/
Governmental Receipts	10,360,900	e/	0	0	e/
FTE Changes	.....	.....	.....	.....	.....

Summary Cost Information - Retirement/Survivor Benefit Program - Option A-3
Trust and Administrative Fund Receipts and Expenditures^a
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	270,342	e/	0	0	e/
Discretionary Budget Outlays	270,342	e/	0	0	e/
Mandatory Outlays ^d	9,628,700	e/	0	0	e/
Governmental Receipts	10,360,900	e/	0	0	e/
FTE Changes	894	e/	0 (-851)	0 (-727)	e/

Based on information developed by the Commission on Railroad Retirement Reform in 1990 and information provided by SSA to that Commission, SSA estimated that the first-year conversion costs for the social security equivalent benefits would range from 1,000 to 1,800 workyears or \$32.5 million to \$56.5 million. SSA has also estimated that, on an ongoing basis, the processing of railroad retirement beneficiary claims would require 300 to 600 full-time employees; this would increase its administrative costs by \$9 million to \$18 million annually. Its administrative costs would, however, be offset by the administrative transfers made by SSA in the financial interchange.

FOOTNOTES - Option A-3

a/ Administrative funds include the Limitation on Administration and the Special Management Improvement Fund. Excludes \$6.7 million for the Limitation on the Office of Inspector General.

b/ Funding of administrative expenses provided through a transfer of funds from the Railroad Retirement Account (RRA), the Social Security Equivalent Benefit Account (SSEB) and the Railroad Retirement Supplemental Account (RR SUP).

c/ Represents the funding authority and outlay of vested dual benefit payments.

d/ Includes outlays for the RRA, the SSEB and the RR SUP. SSEB outlays include the repayment of the financial interchange advances.

e/ Undetermined. Presumes transferred in FY 1996.

OPTION A-4 MAJOR RESTRUCTURING OF THE RETIREMENT/SURVIVOR BENEFIT PROGRAM

PRO

- Savings will accrue over time as both personnel and overhead are significantly reduced.
- Customer needs are better served through the more efficient and effective use of personnel, systems, and equipment.

CON

- Automation programs will require long-term commitment of resources.
- Continued separate retirement/survivor system for railroad employees operated by a Federal agency.

Summary Cost Information - Retirement/Survivor Benefit Program - Option A-4 Administrative Receipts and Expenditures^a (in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	59,842	59,842	57,957	54,372	284,500
Discretionary Budget Outlays	59,842	59,842	57,957	54,372	284,500
Mandatory Outlays ^b	.....	.....	.....	.....	.....
Governmental Receipts	.....	.....	.....	.....	.....
FTE Changes	894	894 (0)	851(-43)	727 (-167)	4036 (-434)

Summary Cost Information - Retirement/Survivor Benefit Program - Option A-4
Trust Fund Receipts and Expenditures
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority ^c	210,500	210,500	196,100	153,000	908,500
Discretionary Budget Outlays ^c	210,500	210,500	196,100	153,000	908,500
Mandatory Outlays ^d	9,628,700	9,628,700	9,758,600	10,181,500	49,504,200
Governmental Receipts ^e	10,360,900	10,360,900	10,541,200	11,056,000	53,503,900
FTE Changes	.....	.....	.....	.....	.....

Summary Cost Information - Retirement/Survivor Benefit Program - Option A-4
Trust and Administrative Fund Receipts and Expenditures^a
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	270,342	270,342	254,057	207,372	1,193,000
Discretionary Budget Outlays	270,342	270,342	254,057	207,372	1,193,000
Mandatory Outlays ^d	9,628,700	9,628,700	9,758,600	10,181,500	49,504,200
Governmental Receipts ^e	10,360,900	10,360,900	10,541,200	11,056,000	53,503,900
FTE Changes	894	894	851 (-43)	727 (-167)	4,036 (-434)

FOOTNOTES - Option A-4

- a/ Administrative funds include the Limitation on Administration and the Special Management Improvement Fund. Excludes \$6.7 million for the Limitation on the Office of Inspector General.
- b/ Funding of administrative expenses provided through a transfer of funds from the Railroad Retirement Account (RRA), the Railroad Social Security Equivalent Benefit Account (SSEB) and the Railroad Retirement Supplemental Account (RR SUP).
- c/ Represents the funding authority and outlay of vested dual benefit payments.
- d/ Includes outlays for the RRA, the SSEB and the RR SUP. SSEB outlays include the repayment of the financial interchange advances.
- e/ Does not reflect the potential Amtrak restructuring. The loss of 5,500 Amtrak employees would result in a reduction of annual tier 2 payroll taxes to the RRA, with an initial reduction of approximately \$40 million.

Decision Tree "B"-- The Disability Benefit Program

Program

The RRB administers a program of disability benefits for eligible railroad workers and their families. Active railroad employees, and their surviving spouses and children, are eligible for a disability annuity based on a finding of total and permanent disability from all employment, using similar eligibility requirements as found under the Social Security Act. Also, if the eligibility requirements are met, railroad occupational disabilities can be awarded to employees.

Is the program critical to the agency's mission based on "customer" input?

Yes. The administration of the disability benefit programs is one of the essential missions of this agency.

Can the program be administered as well or better at the State or local level?

No. The railroad retirement program is similar to a multi-employer pension plan. The administration of a multi-employer private pension plan by a State or local governmental agency is unprecedented. Such a transfer to the State or local level would involve the development of 50 State agencies created for the sole purpose of administering a multi-employer private pension plan. In addition, an oversight bureaucracy would be needed to coordinate financing and to ensure consistency. Under some options, State agencies could be used in a limited capacity to make disability determinations.

Is there any way to cut costs or improve performance by introducing competition?

Yes. Responsibility for the disability benefit programs could be transferred to SSA and/or other entities. Since SSA already administers a disability program for a much larger population, significant economies of scale should be achieved.

How can NPR principles be applied to put customers first, cut red tape and empower employees?

SSA recently completed a Reengineering study of its disability program. The Bureau of Disability and Medicare Operations is reviewing that study to determine whether any recommendations are applicable to the RRB. A second effort underway is being conducted by an in-house Reengineering Team. This team is about to begin a review of the entire claims handling process, covering all benefit programs, to determine whether any Reengineering principles can be applied.

Additionally, the RRB recently awarded a contract to a private firm to perform medical examinations and submit reports following strict guidelines within a contract-mandated time frame. The examinations covered under this nationwide contract are performed at a pre-determined cost, effective for the life of the contract. The quality, timeliness and cost containment features of this contract have resulted in real administrative gains.

Emphasis continues to be placed on implementing paperless on-line systems and fully utilizing available technologies to control and track the workload to ensure the right work is getting done in the right order. These advances, coupled with the previously mentioned contract, have empowered employees to approve or withhold payment for services rendered based on their quality review of the examination report. This puts more decision making at the employee level while ensuring a high quality product.

OPTION B-1 TERMINATE THE DISABILITY BENEFIT PROGRAM

PRO

- RRB would realize an annual reduction of 50 FTE's and \$2 million in contract costs.

CON

- Disability program must be performed somewhere unless eliminated by legislation.
- Customer surveys and focus groups show that the customers are very satisfied with the current program.

Summary Cost Information - Disability Benefit Program^a - Option B-1
Administrative Receipts and Expenditures^b
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	13,968	f/	0	0	f/
Discretionary Budget Outlays	13,968	f/	0	0	f/
Mandatory Outlays ^c	.....	.....	.....	.....	.....
Governmental Receipts	.....	.....	.....	.....	.....
FTE Changes	208	f/	0 (-199)	0 (-171)	f/

Summary Cost Information - Disability Benefit Program - Option B-1
Trust Fund Receipts and Expenditures
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority ^d	29,500	f/	0	0	f/
Discretionary Budget Outlays ^d	29,500	f/	0	0	f/
Mandatory Outlays ^e	1,700,400	f/	0	0	f/
Governmental Receipts	1,806,700	f/	0	0	f/
FTE Changes	.....	.....	.....	.....	.....

Summary Cost Information - Disability Benefit Program - Option B-1
Trust and Administrative Fund Receipts and Expenditures^a
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	43,468	f/	0	0	f/
Discretionary Budget Outlays	43,468	f/	0	0	f/
Mandatory Outlays ^e	1,700,400	f/	0	0	f/
Governmental Receipts ^e	1,806,700	f/	0	0	f/
FTE Changes	208	.....	0 (-199)	0 (-171)	f/

Since the work must be performed somewhere, there are undetermined "savings" associated with eliminating the program. Savings, however, may result from handling of the work through other means as identified in Option B-2.

FOOTNOTES - Option B-1

- a/ Includes disabled employees and survivors, regardless of age.
- b/ Administrative funds include the Limitation on Administration. Excludes \$6.7 million for the Limitation on the Office of Inspector General.
- c/ Funding of administrative expenses provided through a transfer of funds from the Railroad Retirement Account (RRA), the Social Security Equivalent Benefit Account (SSEB), and the Railroad Retirement Supplemental Account (RR SUP).
- d/ Represents the funding authority and outlay of vested dual benefit payments.
- e/ Includes outlays for the RRA, the SSEB and the RR SUP. SSEB outlays include the repayment of the financial interchange advances.
- f/ Undetermined. Presumes termination in FY 1996.

**OPTION B- 2 TRANSFER PORTIONS OR ALL OF THE DISABILITY BENEFIT PROGRAM
TO THE SOCIAL SECURITY ADMINISTRATION (SSA)**

PRO

- Reduces number of federal agencies involved in administering disability retirement benefits by transferring the tier 1 portion of the total and permanent disability annuity provisions for employees and survivors to the SSA. **or**
- Reduces number of federal agencies involved in administering disability retirement benefits by transferring the tier 1 and tier 2 (and unrecompensed tier 1) portions of the total and permanent disability annuity provisions to SSA, **or**
- Reduces government overhead costs by combining the RRB with SSA as a Program Service Center for the administration of the unique provisions of the Railroad Retirement Act.
- Increases coordination in the payment of benefits.
- Increases coordination of disability determinations.

CON

- Customer surveys and focus groups show that the customers are very satisfied with the current program.

Summary Cost Information - Disability Benefit Program^a - Option B-2
Administrative Receipts and Expenditures^b
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	13,968	f/	0	0	f/
Discretionary Budget Outlays	13,968	f/	0	0	f/
Mandatory Outlays ^c	.....	.....	.....	.....	.....
Governmental Receipts	.....	.....	.....	.....	.....
FTE Changes	208	f/	0 (-199)	0 (-171)	f/

Summary Cost Information - Disability Benefit Program - Option B-2
Trust Fund Receipts and Expenditures
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority ^d	29,500	f/	0	0	f/
Discretionary Budget Outlays ^d	29,500	f/	0	0	f/
Mandatory Outlays	1,700,400	f/	0	0	f/
Governmental Receipts	1,806,700	f/	0	0	f/
FTE Changes	.....	.....	.....	.....	.....

Summary Cost Information - Disability Benefit Program - Option B-2
Trust and Administrative Fund Receipts and Expenditures
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	43,468	f/	0	0	f/
Discretionary Budget Outlays	43,468	f/	0	0	f/
Mandatory Outlays ^c	1,700,400	f/	0	0	f/
Governmental Receipts	1,806,700	f/	0	0	f/
FTE Changes	208	f/	0 (-199)	0 (-171)	f/

Cost/saving estimates would require coordination with SSA to determine its conversion and on-going operational costs and with the Department of the Treasury to determine the budgetary impact of trust fund transfers from the RRB to SSA.

FOOTNOTES - Option B-2

- a/ Includes disabled employees and survivors, regardless of age.
- b/ Administrative funds include the Limitation on Administration. Excludes \$6.7 million for the Limitation on the Office of Inspector General.
- c/ Funding of administrative expenses provided through a transfer of funds from the Railroad Retirement Account (RRA), the Social Security Equivalent Benefit Account (SSEB) and the Railroad Retirement Supplemental Account (RR SUP).
- d/ Represents the funding authority and outlays of vested dual benefit payments.
- e/ Includes outlays for the RRA, the SSEB, and the RR SUP. SSEB outlays include the repayment of the financial interchange advance.
- f/ Undetermined. Presumes transfer in FY 1996.

OPTION B-3 PRIVATIZE PORTIONS OF THE DISABILITY BENEFIT PROGRAM

PRO

- Reduces government overhead costs by converting the RRB to a private sector, or quasi-government corporation, to administer the occupational disability annuity program, **or**
- Reduces RRB involvement in the disability retirement program by requiring the railroad industry (management and labor) to establish a method to administer the occupational disability provisions, through contracts with insurance carriers, establishment of a private sector Taft-Hartley trust fund, or privately negotiated plans, **or**
- Reduces RRB involvement (and FTE's and overhead) in administering disability retirement benefits by amending the Railroad Retirement Act to allow the RRB to use the same State agencies used by SSA for the determination of total and permanent disability.

CON

- Customer surveys and focus groups show that the customers are very satisfied with the program.
- Increases coordination and potential contract costs in dealing with State agencies.

Summary Cost Information - Disability Benefit Program^a - Option B-3
Administrative Receipts and Expenditures^b
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	13,968	f/	0	0	f/
Discretionary Budget Outlays	13,968	f/	0	0	f/
Mandatory Outlays ^c	.....	.....	.....	.....	.....
Governmental Receipts	.....	.....	.....	.....	.....
FTE Changes	208	f/	0 (-199)	0 (-171)	f/

Summary Cost Information - Disability Benefit Program - Option B-3
Trust Fund Receipts and Expenditures
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	29,500	f/	0	0	f/
Discretionary Budget Outlays	29,500	f/	0	0	f/
Mandatory Outlays	1,700,400	f/	0	0	f/
Governmental Receipts	1,806,700	f/	0	0	f/
FTE Changes	.....	.....	.....	.....	.....

Summary Cost Information - Disability Benefit Program - Option B-3
Trust and Administrative Fund Receipts and Expenditures
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	43,468	f/	0	0	f/
Discretionary Budget Outlays	43,468	f/	0	0	f/
Mandatory Outlays	1,700,400	f/	0	0	f/
Governmental Receipts	1,806,700	f/	0	0	f/
FTE Changes	208	f/	0 (-199)	0 (-171)	f/

FOOTNOTES - Option B-3

- a/ Includes disabled employees and survivors, regardless of age.
- b/ Administrative funds include the Limitation on Administration. Excludes \$6.7 million for the Limitation on the Office of Inspector General.
- c/ Funding of administrative expenses provided through a transfer of funds from the Railroad Retirement Account (RRA), the Social Security Equivalent Benefit Account (SSEB) and the Railroad Retirement Supplemental Account (RR SUP).
- d/ Represents the funding authority and outlay of vested dual benefit payments.
- e/ Includes outlays for the RRA, the SSEB and the RR SUP. SSEB outlays include repayment of financial interchange advances.
- f/ Undetermined. Presumes privatization in FY 1996.

OPTION B-4 RESTRUCTURE THE DISABILITY BENEFIT PROGRAM

PRO

- Customer surveys and focus groups show that the customers are very satisfied with the current program.
- RRB will continue to realize greater internal administrative efficiencies through use of on-line applications.
- Administrative costs will continue to be controlled as a result of a recently awarded contract with a private firm.

CON

- Continuation of a separate disability benefit program administered by a small independent Federal agency.

Summary Cost Information - Disability Benefit Program^a - Option B-4
Administrative Receipts and Expenditures^b
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	13,968	13,968	13,584	12,744	66,624
Discretionary Budget Outlays	13,968	13,968	13,584	12,744	66,624
Mandatory Outlays ^c	.....	.....	.....	.....	.....
Governmental Receipts	.....	.....	.....	.....	.....
FTE Changes	208	208 (0)	199 (-9)	171 (-37)	943 (-97)

Summary Cost Information - Disability Benefit Program - Option B-4
Trust Fund Receipts and Expenditures
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority ^d	29,500	29,500	27,900	23,000	131,500
Discretionary Budget Outlays ^d	29,500	29,500	27,900	23,000	131,500
Mandatory Outlays ^e	1,700,400	1,700,400	1,723,700	1,798,800	8,744,200
Governmental Receipts	1,806,700	1,806,700	1,838,700	1,928,000	9,329,400
FTE Changes	.....	.....	.....	.....	.....

Summary Cost Information - Disability Benefit Program - Option B-4
Trust and Administrative Fund Receipts and Expenditures
(in thousands of dollars)

	FY 1996 program levels in budget	Estimated resulting levels for FY 1996	Estimated resulting levels for FY 1997	Estimated resulting levels for FY 2000	5-year cumulative (FY 1996-2000)
Discretionary Budget Authority	43,468	43,468	41,484	35,744	198,124
Discretionary Budget Outlays	43,468	43,468	41,484	35,744	198,124
Mandatory Outlays	1,700,400	1,700,400	1,723,700	1,798,800	8,744,200
Governmental Receipts	1,806,700	1,806,700	1,838,700	1,928,000	9,329,400
FTE Changes	208	208 (0)	199 (-9)	171 (-37)	943 (-97)

RRB would continue to realize savings through increased efficiency in the administration of the disability benefit program. These include cost containment in the area of developing medical evidence and the increased use of on-line applications.

FOOTNOTES - Option B-4

- a/ Includes disabled employees and survivors, regardless of age.
- b/ Administrative funds include the Limitation on Administration. Excludes \$6.7 million for the Limitation on the Office of Inspector General.
- c/ Funding of administrative expenses provided through a transfer of funds from the Railroad Retirement Account (RRA), the Social Security Equivalent Benefit Account (SSEB) and the Railroad Retirement Supplemental Account (RR SUP). Excludes 44 FTE's to be reimbursed by HCFA for Medicare activities.
- d/ Represents the funding authority and outlay of vested dual benefit payments.
- e/ Includes outlays for the RRA, the SSEB and the RR SUP. SSEB outlays include the repayment of the financial interchange advances.