

FOR IMMEDIATE RELEASE

June 8, 2000

Contact: Robert E. Taylor
(202) 653-6772 V/TDD (202) 653-8896

NEW PROGRAM FOCUSES MSPB RESOURCES ON COMPLEX AND PRECEDENTIAL CASES

The Merit Systems Protection Board (MSPB) is testing a new program to expedite the processing of certain cases decided at headquarters so that the 3-member Board can focus its resources on complex and precedential cases. The purpose of the program is to identify non-meritorious petitions for review (PFRs) that can be disposed of quickly. Petitions for review of initial decisions issued by MSPB judges account for the vast majority of the 3-member Board's caseload. Of 2,125 cases decided in FY 1999, almost 2,000 were PFRs; over half (54 percent) were denied because they did not meet the criteria for review.

Under the expedited processing program, the Office of the Clerk of the Board will prepare the analysis and a proposed final decision on a PFR identified as non-meritorious and forward it directly to the Board for its review within 35 days of the date the PFR was received. Prior to the initiation of the expedited processing program, *all* PFRs docketed at headquarters by the Clerk were sent to the Office of Appeals Counsel (OAC), where attorneys review initial decisions and case records, conduct additional research and analysis, and prepare proposed decisions for the Board's consideration.

There are eight criteria for selection of a PFR for expedited processing, as follows:

- The PFR is patently non-meritorious or otherwise fails to prosecute the appeal;
- The PFR is clearly procedurally deficient because the party failed to respond to or make a filing required by a deficiency notice or order;
- The PFR concerns a matter that is clearly not within the Board's purview;
- The PFR is clearly untimely with no attempt by the party to show good cause.
- The PFR fails to meet timeliness or jurisdiction requirements, and no justification is offered or there is no response to an opportunity to show cause why the PFR should not be dismissed;
- The PFR clearly makes no attempt to meet the criteria for Board review set forth in the Board's regulations;
- The PFR attempts to meet the criteria for Board review set forth in the Board's regulations but clearly fails to do so; and
- The PFR raises issues of timeliness or jurisdiction, and justification is offered but is clearly without merit.

"This program allows the Board to focus its resources where they are needed and eliminates a time-consuming process where it is not warranted," said Acting Board Chairman Beth S. Slavet. "At the same time, we are being extremely careful to ensure fair processing of *all* cases. It is important to understand that a PFR will be selected for expedited processing only where it *clearly* meets one or more of the designated criteria. If the review in the Clerk's office does not indicate that a PFR meets one or more of the criteria for the program, it will be sent to the Office of Appeals Counsel for regular processing. There will be no 'marginal' calls."

The Board first instituted expedited PFR processing as a 6-month pilot program in March 1999. During the pilot period, the Clerk of the Board's staff reviewed 767 PFRs and selected 91 (12 percent) for expedited processing. These cases were completed in an average of 54 days, compared to an average processing time for all PFRs processed in FY 1999 of 222 days.

"Given the success of the expedited PFR processing pilot program, the Board continued it beyond the end of the pilot period," said Acting Chairman Slavet. "Now we are making some changes to further refine the program. We have expanded the criteria for selection of a PFR for expedited processing. We are also detailing senior attorneys on a rotating basis from OAC to the Clerk of the Board. The sole responsibility of the detailed attorney is to review PFRs and identify those that meet the criteria for expedited processing. We intend to evaluate the program again after 6 months, with input from the detailed OAC attorneys, to determine whether to make it permanent or make further modifications."

The Board is an independent, quasi-judicial agency with responsibility for deciding Federal employee appeals from personnel actions taken against them and for protecting the integrity of the civil service and other Federal merit systems. The Board also conducts studies of the civil service and other merit systems and reviews significant actions of the Office of Personnel Management.