The Office of Personnel Management (Agency) hereby respectfully submits a notice to the Board and to the parties in the consolidated appeal of Aguzie, et al. v. OPM, Nos. DC-0731-09-0261-R-1, DC-0731-09-0260-R-1, AT-0731-09-0240-1-1, and CI-0731-09-0578-1-1.
Honorable William D. Spencer  
Clerk of the Board  
U.S. Merit Systems Protection Board  
1615 M Street, NW  
Washington, DC 20419

Re: Aguie, et al. v. OPM, Nos. DC-0731-09-0261-R-1, DC-0731-09-0260-R-1,  
AT-0731-09-0240-I-1, and CH-0731-09-0578-I-1.

Dear Mr. Spencer:

In connection with the above-referenced appeals, the Office of Personnel Management  
wishes to bring to the Board's and the parties' attention certain regulations, which counsel  
discovered in the course of preparing for oral argument, and upon which OPM may rely  
at the oral argument. The regulations, which are set forth at 5 C.F.R. § 22.1(c) (1946  
§§ 05.2, 05.4(a), (d)-(e), 9.102(a), 22.101(a) (1960 Cum. Supp.); 5 C.F.R.  
§§ 22.103(b)(1)-(2), 22.201(b) (1963 Cum. Supp.); 5 C.F.R. §§ 5.2, 5.4(a), (d)-(c),  
that the Civil Service Commission continuously regulated suitability actions as actions  
distinct from adverse actions initiated by agencies, subject to distinct procedural  
requirements, since at least 1946. OPM cites this history in support of the arguments in  
its briefs that such distinction is deeply rooted in the civil service laws and that when it  
enacted the Civil Service Reform Act, Congress did not intend to relegate OPM-initiated  
suitability actions to the procedures established at Chapter 75 for agency-initiated adverse  
actions.

Respectfully submitted,

Elaine Kaplan  
General Counsel  

Enclosure