



April 2024

# NATIONAL MEDIATION BOARD

Agency Should Take  
Steps to Regularly  
Update Its Plans and  
Policies and Ensure  
Staff Receive  
Necessary Training

# GAO Highlights

Highlights of [GAO-24-106828](#), a report to congressional committees

## Why GAO Did This Study

NMB was created by a 1934 amendment to the Railway Labor Act. It plays a critical role in helping airline and railway carriers resolve labor disputes to avoid work stoppages and prevent disruptions to interstate commerce.

The FAA Modernization and Reform Act of 2012 includes a provision for GAO to evaluate NMB programs and activities every 2 years. Between 2013 and 2022, GAO issued five reports that included a total of 18 recommendations. As of the start of this review in May 2023, NMB had implemented 14 of those recommendations.

This sixth report examines (1) the extent to which NMB has taken actions to implement the four remaining recommendations from GAO's prior reports; and (2) any other challenges NMB faces in key management areas and in overseeing its operations.

GAO reviewed relevant federal laws and regulations and examined NMB documents, plans, policies, and practices. GAO also interviewed officials from NMB, an NMB advisory group, the NLRB IG, and NMB's independent financial auditor.

## What GAO Recommends

GAO is making four recommendations to NMB to establish procedures to (1) regularly update its workforce and succession plan, (2) regularly update its training policy, (3) ensure staff with additional roles receive necessary training, and (4) ensure its personnel policies are complete and up to date. NMB agreed with GAO's recommendations.

View [GAO-24-106828](#). For more information, contact John D. Sawyer at (202) 512-7215 or [sawyerj@gao.gov](mailto:sawyerj@gao.gov).

April 2024





# NATIONAL MEDIATION BOARD

## Agency Should Take Steps to Regularly Update Its Plans and Policies and Ensure Staff Receive Necessary Training

### What GAO Found

The National Mediation Board (NMB), which facilitates labor relations for railroads and airlines, has implemented two of GAO's four remaining recommendations from past reports. Specifically, NMB has updated its privacy policy and developed a process to track issues raised by the National Labor Relations Board (NLRB) Inspector General's (IG) office, which operates a hotline on NMB's behalf. However, NMB has not yet fully implemented the other two recommendations. NMB has not updated its continuity of operations plan, a key component of an information security program. The agency also continues to use two cloud services that are not federally approved. By not fully implementing these recommendations, NMB is increasingly vulnerable to information security risks to its data and systems.

### Status of GAO Recommendations to the National Mediation Board

Status	 Implemented	 Not fully implemented	 Not fully implemented	 Implemented
Issue area	<b>Information privacy</b>	<b>Information security</b>	<b>Cloud services authorizations</b>	<b>Tracking issues</b> (From NLRB Inspector General)
Year made	2013	2013	2020	2022

Source: GAO analysis of National Mediation Board information. | GAO-24-106828 NLRB= National Labor Relations Board

In addition, NMB faces challenges related to its workforce planning, training, and personnel policies.

- NMB has no procedures for regularly reviewing and updating its workforce and succession plan. NMB has had difficulty filling its many vacant positions, and more than half of NMB's current staff are eligible for retirement within the next 5 years. NMB has initiated efforts to update the plan, but without procedures for keeping it up to date, NMB will not be positioned to effectively manage its workforce needs.
- NMB lacks procedures for regularly updating its training policy. Moreover, some officials have been assigned essential duties outside of their primary expertise but received little training related to these roles. Without procedures to keep NMB's training policy up to date, and sufficient training for officials with essential additional roles, NMB cannot ensure all officials have the knowledge and skills required to meet the agency's mission.
- NMB also lacks procedures for ensuring its personnel policies are complete and updated. Without such procedures, NMB risks operating without needed policies or being out of compliance with federal regulations.

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# Contents

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Letter		1
	Background	4
	Executive Branch Oversight of NMB	7
	Prior GAO Reviews and Recommendations	7
	NMB Has Implemented Two of GAO's Four Open Recommendations, but Needs to Improve Its Information Security and Cloud Services	7
	NMB Lacks Sufficient Procedures for Assessing Workforce Needs, Ensuring Adequate Staff Training, and Updating Personnel Policies	10
	Conclusions	15
	Recommendations	16
	Agency Comments	16
Appendix I	GAO Contact and Staff Acknowledgments	19
Figure		
	Figure 1: Organization of the National Mediation Board, as of November 2023	5

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## Abbreviations

EEO	Equal Employment Opportunity
FedRAMP	Federal Risk and Authorization Management Program
FISMA	Federal Information Security Modernization Act
IG	Inspector General
NLRB	National Labor Relations Board
NMB	National Mediation Board
OMB	Office of Management and Budget
OPM	Office of Personnel Management

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April 26, 2024

### Congressional Committees

For 90 years, the National Mediation Board (NMB) has played a vital role in preventing disruption to interstate commerce by providing a variety of services to the airline and railway industries to help resolve labor disputes and avoid work stoppages that could severely affect the U.S. economy. Established by a 1934 amendment to the Railway Labor Act, NMB conducts employee representative elections and offers mediation, alternative dispute resolution, and arbitration services to approximately 100 commercial airlines, over 500 railroads, and their employees and unions, providing stability to the U.S. transportation sector.<sup>1</sup> As an independent federal agency, NMB currently has 51 full-time equivalent staff positions and had a fiscal year 2023 budget of just over \$15 million.

The FAA Modernization and Reform Act of 2012 further amended the Railway Labor Act and includes a provision for us to evaluate and audit the programs, operations, and activities of NMB every 2 years.<sup>2</sup> We previously issued five reports that included a total of 18 recommendations directed at improving NMB's management and oversight.<sup>3</sup> This sixth report examines:

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<sup>1</sup>The Railway Labor Act was enacted in 1926 to provide a framework for ensuring harmonious railroad labor relations and was amended in 1936 to also cover the airline industry. The act establishes several key principles, including the requirement to “exert every reasonable effort” to settle disputes to avoid interruption to commerce or to the operation of any railroad or airline, and procedures for resolving disputes over pay, rules, or working conditions during collective bargaining, as well as disputes resulting from the interpretation or application of existing collective bargaining agreements. 45 U.S.C. §§ 152, First, Sixth, 153 and 155.

<sup>2</sup>Pub. L. No. 112-95, § 1004, 126 Stat. 11, 147 (creating 45 U.S.C. § 165).

<sup>3</sup>GAO, *Rail and Air Labor Relations: National Mediation Board Made Progress on GAO Recommendations but Needs to Address Management Issues*, [GAO-22-105266](#) (Washington, D.C.: Apr. 25, 2022); *National Mediation Board: Additional Actions Needed to Fully Implement Prior GAO Recommendations and Improve Agency Management and Oversight*, [GAO-20-236](#) (Washington, D.C.: Feb. 14, 2020); *National Mediation Board: Progress Made on GAO Recommendations, but Actions Needed to Address Management Challenges*, [GAO-18-301](#) (Washington, D.C.: Mar. 22, 2018); *National Mediation Board: Progress Made on Some GAO Recommendations to Strengthen Operations, but Key Controls Continue to Be Needed*, [GAO-16-240](#) (Washington, D.C.: Feb. 12, 2016); and *National Mediation Board: Strengthening Planning and Controls Could Better Facilitate Rail and Air Labor Relations*, [GAO-14-5](#) (Washington, D.C.: Dec. 3, 2013).

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1. the extent to which NMB has taken actions to fully implement open recommendations from GAO's prior reports, and
  2. any challenges NMB faces in key management areas and in overseeing its operations.

To address both of our objectives, we reviewed relevant federal laws, regulations, and guidance, along with our previous work. We analyzed NMB policies and plans in several key management areas such as workforce planning, staff training, and information privacy and security. We also conducted interviews with NMB Board members and officials. Because NMB does not have its own Inspector General (IG), we interviewed the National Labor Relations Board's (NLRB) Inspector General, with whom NMB has a memorandum of understanding to operate a waste, fraud, and abuse hotline on NMB's behalf. We also interviewed NMB's independent financial auditor and members of the Dunlop II Group, an independent advisory group to NMB made up of rail and air industry and labor representatives.

To determine whether NMB's actions fully implement our open recommendations, we reviewed relevant documentation and interviewed NMB Board members and officials. We assessed actions NMB has taken since our last report in 2022 related to information security, information privacy, the use of information technology cloud services, and efforts to track issues raised through the hotline. We reviewed NMB's privacy policy as well as other agency documents, such as privacy impact assessments and security assessment reports. We used previously identified criteria to evaluate NMB's progress, such as relevant provisions of the Federal Information Security Modernization Act of 2014 (FISMA);<sup>4</sup> the Office of Management and Budget's (OMB) 2011 memorandum on Security Authorization of Information Systems in Cloud Computing Environments;<sup>5</sup> OMB Circular A-123 on Management's Responsibility for Enterprise Risk Management and Internal Control;<sup>6</sup> Agency Guide for Federal Risk and

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<sup>4</sup>The Federal Information Security Management Act of 2002 (FISMA 2002) established information security program and evaluation requirements for federal agencies. Pub. L. No. 107-347, 116 Stat. 2899, 2946. FISMA 2002 was largely superseded by the Federal Information Security Modernization Act of 2014 (FISMA 2014). Pub. L. No. 113-282, 128 Stat. 3073. In this report, we use "FISMA" to refer to the 2014 act and to those provisions of the 2002 act that were either incorporated into the 2014 act or that were unchanged and continue in full force and effect.

<sup>5</sup>Office of Management and Budget Memorandum, *Security Authorization of Information Systems in Cloud Computing Environments* (Washington, D.C.: Dec. 8, 2011).

<sup>6</sup>Office of Management and Budget Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control* (July 15, 2016).

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Authorization Management Program (FedRAMP) Authorizations;<sup>7</sup> and Standards for Internal Control in the Federal Government.<sup>8</sup>

We describe the status of NMB’s actions to address our open recommendations as either “implemented” or “not fully implemented.” We use the term “implemented” to describe those recommendations on which NMB has taken sufficient actions to fully address the intent of the recommendation. Conversely, we use the term “not fully implemented” to indicate additional actions are needed to address the cited deficiency.

To identify any challenges NMB currently faces in its programs and operations, we reviewed relevant documentation, such as NMB’s most recent 5-year strategic plan, its annual Performance and Accountability Reports, congressional budget justification documents, agency workforce planning documents and data, training and other policies, and internal controls documentation. We interviewed NMB Board members, the agency’s General Counsel, and its department directors about any management challenges they are facing. We also interviewed knowledgeable parties outside of NMB, as described above. We evaluated the information we obtained against criteria including an OMB circular on budget preparation,<sup>9</sup> Office of Personnel Management (OPM) guidance on workforce planning,<sup>10</sup> relevant federal regulations,<sup>11</sup> and Standards for Internal Control in the Federal Government.<sup>12</sup>

We conducted this performance audit from May 2023 to April 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that

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<sup>7</sup>FedRAMP, *Agency Guide for FedRAMP Authorizations: How to Functionally Reuse an Existing Authorization* Version 2.0 (Washington, D.C.: Dec. 7, 2017). FedRAMP is a government-wide program that provides authorizations for use of cloud services. As an executive agency that uses a cloud service approved through FedRAMP, NMB is subject to related requirements.

<sup>8</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

<sup>9</sup>Office of Management and Budget Circular No. A-11, *Preparation, Submission, and Execution of the Budget* (Washington, D.C.: August 2023).

<sup>10</sup>Office of Personnel Management, *Workforce Planning Guide* (Washington, D.C.: November 2022).

<sup>11</sup>See 5 C.F.R. § 410.201.

<sup>12</sup>[GAO-14-704G](#)

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the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

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### NMB's Organization and Mission

NMB is a small independent federal agency originally created to promote labor relations within the rail industry. In 1936, the Railway Labor Act was amended to include the airline industry.<sup>13</sup> NMB is led by a three-member Board, with each member appointed by the President and confirmed by the Senate for a term of 3 years.<sup>14</sup> The agency has six offices that are grouped by function and report directly to the Board (see fig. 1). Specifically, there are:

- three program offices: Legal Affairs, Mediation Services, and Arbitration Services, and
- three support offices: Administration Services, Fiscal Services, and Information Services

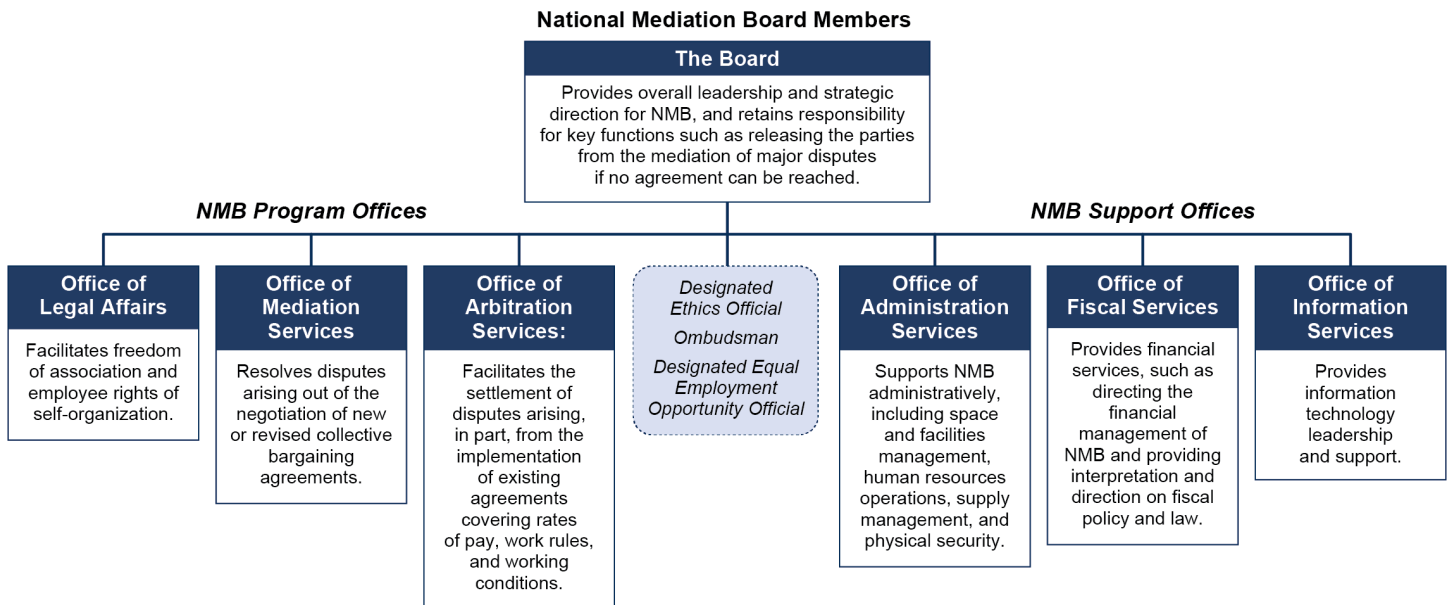
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<sup>13</sup>Pub. L. No. 74-487, 49 Stat. 1189.

<sup>14</sup>No more than two members of the board can be from the same political party, and although generally appointed for 3 years, board members can serve until a successor is confirmed and enters office. See 45 U.S.C. § 154, First. Board members are required to designate a chairman annually. 45 U.S.C. § 154, Second.



**Figure 1: Organization of the National Mediation Board, as of November 2023**



Source: National Mediation Board (NMB). | GAO-24-106828

NMB’s mission is to facilitate labor relations in the airline and railroad industries. Such efforts are aimed at:

- avoiding interruption to commerce or to the operation of any air or rail carrier,
- facilitating the orderly determination of employee representation in the airline and railroad industries through representation elections, and
- facilitating the settlement of disputes related to pay, work rules, and working conditions, and the agreements covering these issues.

To fulfill its mission, NMB operates three program areas.

- **Representation.** Rail and air carrier employees select employee representatives through secret-ballot elections that are conducted by NMB. NMB is charged with resolving any disputes concerning representation of a specific craft or class<sup>15</sup> of employees through

<sup>15</sup>A craft or class consists of those employees who perform the same duties or functions at a given carrier, such as locomotive engineers or pilots.

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its Office of Legal Affairs. NMB has sole jurisdiction to decide these disputes.<sup>16</sup>

- **Mediation and Alternative Dispute Resolution.** The Railway Labor Act provides for mediation to resolve disputes between management and labor during collective bargaining negotiations.<sup>17</sup> When rail or air carriers and unions cannot reach agreement on the terms of a new or revised collective bargaining agreement, such as working conditions or pay rates, either party can apply for NMB's mediation services to resolve their differences. Once NMB receives an application for mediation, it will add it to its docket and assign a mediator to the case.<sup>18</sup> NMB's Office of Mediation Services also offers Alternative Dispute Resolution services, such as grievance mediation, to parties as a voluntary and alternative way to resolve disputes between carriers and unions that have previously filed for grievance arbitration.<sup>19</sup>
- **Arbitration.** The Railway Labor Act also offers grievance arbitration to help resolve disagreements between carriers and unions over how to interpret and apply provisions of existing collective bargaining agreements.<sup>20</sup> NMB's Office of Arbitration Services does not directly review and decide cases; instead, the conflicting parties can select an agreed-upon arbitrator from a list of registered arbitrators that the agency maintains, who then reviews and decides the case.

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<sup>16</sup>45 U.S.C. § 152, Ninth.

<sup>17</sup>45 U.S.C. § 155, First.

<sup>18</sup>After parties enter into mediation, the NMB Board determines when further mediation will not help the parties reach agreement and releases the parties to voluntary but binding arbitration. If parties do not agree to binding arbitration, there is a 30-day cooling off period, after which parties can try to reach an agreement again. If no agreement is reached, and NMB determines the dispute substantially threatens essential transportation in any section of the country, NMB notifies the President, who may establish a Presidential Emergency Board to try to resolve the dispute. See 45 U.S.C. § 160. If no Presidential Emergency Board is created or if such a Board is unable to resolve the dispute, parties may engage in "self-help" such as a lockout or strike, unless Congress intervenes to legislatively mandate a settlement.

<sup>19</sup>The Alternative Dispute Resolution process differs from the mediation process in that it is entirely voluntary and either party can end the process at any time and file for arbitration.

<sup>20</sup>45 U.S.C. § 153, First (i).

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## Executive Branch Oversight of NMB

Federal law does not establish an Inspector General for NMB, nor is the agency subject to oversight by the Inspector General of another agency. However, since 2018, NMB has had a memorandum of understanding with the Inspector General of the National Labor Relations Board (NLRB) to monitor a hotline on NMB's behalf and to bring issues of fraud, waste, and abuse to its attention. In addition, like other federal agencies, NMB is subject to oversight from the Office of Management and Budget and the Office of Personnel Management.

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## Prior GAO Reviews and Recommendations

Over the course of our five previous NMB reviews (in 2013, 2016, 2018, 2020, and 2022), we made a total of 18 recommendations in key agency oversight and management areas.<sup>21</sup> As of the start of this review, NMB had implemented 14 of these recommendations in areas including the agency's organizational climate, its travel and telework policies, and its backlog in rail arbitration cases, among others. NMB had not fully implemented the remaining four recommendations.

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## NMB Has Implemented Two of GAO's Four Open Recommendations, but Needs to Improve Its Information Security and Cloud Services

Since our 2022 report, NMB has taken actions to fully implement our recommendations on (1) information privacy and (2) tracking issues raised by the NLRB IG.

**Information Privacy.** In 2013, we recommended that the Chairman of NMB should establish a privacy program that includes conducting privacy impact assessments and issuing system of record notices for systems that contain personally identifiable information.

**Status: Implemented**

Source: GAO analysis and GAO-14-5. | GAO-24-106828

When we issued our last report on NMB in April 2022, NMB had partially addressed our recommendation to establish an information privacy program. At that time, we found that NMB was following three of the four key information privacy practices laid out in federal law but had not fully updated its policies and procedures for information privacy protections. In particular, we reported that the agency's privacy policy reflected outdated roles and responsibilities. For example, the privacy policy included responsibilities for a Chief of Staff and an Assistant Chief of Staff for administration, both of which were positions the agency had previously eliminated. Effective August 14, 2023, NMB implemented a new privacy policy that removed references to positions that no longer exist and

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<sup>21</sup>See [GAO-22-105266](#), [GAO-20-236](#), [GAO-18-301](#), [GAO-16-240](#), and [GAO-14-5](#) for more information.

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reassigned responsibilities previously assigned to those positions to other NMB officials.

**Track and Address Issues from NLRB Inspector General.** In 2022, we recommended that the Chairman of NMB should develop a systematic process to track and address issues reported through the NLRB IG hotline or otherwise communicated to NMB by the NLRB IG.

**Status: Implemented**

Source: GAO analysis and GAO-22-105266. | GAO-24-106828

In August 2023, NMB developed a process for tracking all phone calls and emails to the NMB hotline monitored by the NLRB Inspector General. NMB outlined this process in an Office of Legal Affairs memo and developed an associated document that allows it to collect and track information on:

- the date the call or email was received;
- the reason for the call or email;
- whether waste, fraud, or abuse was alleged;
- actions taken by NMB in response to the call; and,
- whether the agency considers the issue resolved.

NMB needs to take additional actions to fully implement our two remaining recommendations on information security and the use of its cloud services.

**Information Security.** In 2013, we recommended that the Chairman of NMB should develop and fully implement key components of an information security program in accordance with FISMA.

**Status: Not fully implemented**

Source: GAO analysis and GAO-14-5 and GAO-22-105266. | GAO-24-106828

In April 2022, we reported that NMB had taken some steps to establish key information security practices but had not fully implemented this recommendation. Specifically, we found that NMB was following five of eight key information security practices laid out in the Federal Information Security Modernization Act of 2014 (FISMA), such as developing and documenting an information technology security policy.

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As of July 2023, NMB had shown that it had conducted testing and evaluation of all its major information systems, as required by FISMA. NMB has also improved its risk assessments by including discussion of the likelihood and impact of identified risks, including those arising from the processing of personal information. However, NMB continues to use a continuity of operations plan that is out of date. The plan, dated March 2016, assigns important continuity duties to a Chief of Staff and an Assistant Chief of Staff for Administration, which, as noted earlier, were positions the agency eliminated. In February 2024, NMB officials told us that the agency is in the process of updating its continuity of operations plan. Maintaining an up-to-date continuity of operations plan is a key information security practice because it describes the steps that an agency will take to ensure it can continue to operate in the event of an emergency or system disruption.

**Cloud Services Authorization.** In 2020, we recommended that the Chairman of NMB should document NMB's authorizations for its use of cloud services approved through FedRAMP and submit the authorizations to the FedRAMP Program Management Office.

**Status: Not fully implemented**

Source: GAO analysis and GAO-20-236. | GAO-24-106828

As of March 2023, most of NMB's cloud services had been FedRAMP-approved, indicating they met the federal government's standards for security. However, NMB continues to use two cloud services that are not FedRAMP-approved. These two services are used by NMB to allow its information services staff to remotely access other staff computers to provide technical assistance and provide equal employment opportunity-related training to NMB staff. According to NMB officials, the agency is currently in the process of acquiring a replacement for one of these services, and it continues to seek an alternative to the other but has not yet been able to find a FedRAMP-approved alternative that meets the agency's requirements. Without additional actions to implement these two open recommendations in information security and cloud services, NMB remains vulnerable to information security risks to its data and systems.

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## NMB Lacks Sufficient Procedures for Assessing Workforce Needs, Ensuring Adequate Staff Training, and Updating Personnel Policies

### NMB Does Not Have Procedures for Regularly Reviewing and Updating Its Workforce and Succession Plan

NMB has not updated its workforce and succession plan since October 2014, and agency officials told us they have no procedures in place to regularly update this plan, despite facing significant workforce challenges. NMB currently has a high number of both vacant positions and retirement-eligible staff. For example, as of November 2023, 15 of the agency's 51 full-time equivalent positions—nearly one in three—were vacant. Some of these vacancies have remained open for multiple years. For example, in 2018 NMB created a position to support the NMB Board, and in 2019, it created new positions in the Office of Administration Services and the Office of Fiscal Services, but has not yet filled any of these positions. In addition, over the next 5 years, almost one-half of the NMB's current staff—16 of 36 individuals—will be eligible for retirement, with nine of those staff eligible for retirement as of August 2023.

NMB officials we spoke with repeatedly cited staff vacancies as a primary management concern and noted several related challenges to hiring. NMB lacked a Human Resources Specialist until May 2023, which officials said contributed to delays in updating position descriptions and posting job opportunities. Moreover, Board members told us NMB must prioritize the positions it posts based on the agency's mission needs and noted that the agency tries to fill positions in a specific order. For example, NMB Board members said they wanted to hire the Director of Mediation Services before filling senior mediator positions, so that the director would have input in hiring the staff. Board members said this prioritization can result in some positions remaining vacant for long periods of time. In addition, past job announcements that required mediators to have experience in both the rail and air industries may have limited the pool of potential candidates. NMB Board members and officials said the most recent posting requires mediators to have experience in either the air or rail industry, and Board members said they received a large number of highly qualified candidates in response to this

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posting. Officials said that IT positions have also been challenging to fill, because there is a shortage of qualified candidates, and their skills are in high demand.

NMB continues to operate under a workforce and succession plan it developed in 2014 in response to a prior GAO recommendation, and which was guided by its 2014-2019 strategic plan.<sup>22</sup> NMB updated its strategic plan for fiscal years 2022-2026, which emphasizes the importance of maintaining a well-trained workforce. However, it has not updated its corresponding workforce and succession plan. As a result, the existing plan contains outdated information and does not reflect the agency's current organizational structure. For example, the plan delegates day-to-day oversight, administration, and direction of program operations to NMB's Chief of Staff, a position NMB eliminated in 2018.<sup>23</sup> When NMB created its 2014 workforce and succession plan, it analyzed the risk of vacancy for all positions, as well as whether those positions would likely be filled through internal succession or outside hiring. However, given changes to NMB's organizational structure and the 10 years that have passed since the development of the plan, this analysis is now out of date. Further, due to the agency's small size, some NMB managers and staff serve in multiple roles that are essential to agency operations, making it especially critical that the agency have a current workforce and succession plan in place that accounts for this staffing structure.

Federal strategic and budget planning requirements stipulate that agencies must regularly identify and address workforce needs. Specifically, OMB requires federal agencies to address workforce issues as part of their annual budget submissions.<sup>24</sup> In addition, OPM's Workforce Planning Guide describes the process agencies should use in workforce planning, identifies plan components, and explains the links the

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<sup>22</sup>NMB Board members said that while the workforce and succession plan has not been updated since 2014, NMB also uses a hiring plan to help the agency track its workforce needs. According to officials, this plan is reviewed and updated at least monthly. While the hiring plan provides a snapshot of NMB's current vacancies, it is not a long-term strategic planning document and does not analyze or project future hiring needs or succession plans.

<sup>23</sup>The 2014 workforce and succession plan also includes a Deputy Chief of Staff and an Assistant Chief of Staff for Administration, both positions which also no longer exist at the agency. When NMB eliminated these positions, some but not all of their responsibilities were reassigned to the Chief Financial Officer and Chief Information Officer.

<sup>24</sup>OMB Circular No. A-11, Sec. 85-1.

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plan should have to agency strategic planning.<sup>25</sup> For example, the plan should be long-term in focus, contain a workforce analysis, and describe gaps between current and future states of the workforce. NMB references a new workforce and succession plan in its most recent budget submissions, but as noted previously, NMB is currently operating under a plan developed in 2014. Moreover, because NMB never established procedures for periodically revising its workforce plan as part of its strategic planning and budget processes, its outdated plan does not meet these criteria.

NMB officials told us that the agency's new Human Resources Specialist has drafted a new workforce and succession plan, which is being reviewed, and the agency plans to finalize it sometime during 2024. In addition, NMB filled several vacant positions over the last year. These are positive steps in the short term. However, without also establishing procedures to regularly review and update its workforce and succession plan, NMB may continue to have difficulty understanding and addressing its workforce needs, which could compromise its ability to fully execute its mission.

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## NMB Lacks Procedures for Updating Its Training Policy and Provides Little Training for Staff with Essential Additional Roles

### Training Policy

NMB does not have procedures for keeping its agency-wide training policy up to date. NMB's outdated training policy was last updated in 2013 and is not aligned with the agency's current organizational structure. Like its workforce and succession plan, NMB's training policy assigns important duties to the Chief of Staff position that no longer exists. For example, according to the policy, the Chief of Staff is responsible for occasionally reviewing employee training to determine whether it meets the agency's short- and long-term needs. The Chief of Staff is also responsible for consulting with department Directors on their training needs and approving their Individual Development Plans.

NMB's strategic plan states that the agency will review its training policy annually, and revise it as needed, to ensure that all staff members have

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<sup>25</sup>U.S. Office of Personnel Management, *Workforce Planning Guide*, ES-03483-11/2022 (Washington, D.C.: November 2022).



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Training and Related  
Information for Staff with  
Essential Additional Roles

access to remedial, development, and advancement training as appropriate. However, the policy has not been updated in 10 years because NMB has no procedures to ensure it is regularly reviewed, and some agency officials we spoke with were not aware such a policy existed. During our review, NMB officials said that the agency had begun updating its training policy, though it has not yet completed the update. Without procedures for keeping its training policy current, NMB misses an opportunity to be strategic about the skills and knowledge its employees need. As a result, employee training needs may go unmet, which in turn could negatively affect the agency's ability to carry out its mission.

Some NMB officials and staff are assigned essential agency functions outside of their primary area of expertise or experience, but NMB has no specific training in place and insufficient information related to these additional roles. For example, the Senior Agency Official for Privacy and the Equal Employment Opportunity (EEO) Director, which are two required agency roles, are currently filled by directors whose primary responsibility is leading an NMB program office. Similarly, NMB's ombuds role is filled by a mediator, and the Chief Financial Officer has also been serving as the Acting Director of the Office of Administration Services since 2021. Several officials told us that they received very little or no training on how to perform these additional roles. For example, one official reported seeking advice from officials in similar positions at other federal agencies to identify related resources and training. Other officials said they sought advice from senior NMB officials or do not have all the information they need to confidently carry out their duties.

Some information about each of these roles is available to the officials filling them. For example, the responsibilities of the Senior Agency Official for Privacy are outlined in NMB's privacy policy, and NMB's equal opportunity statement and a description of the ombuds program are available on the agency's website. However, the agency has not developed position descriptions that officials in these roles can use to better understand the scope of their responsibilities and how to execute them. In several cases, officials taking over an essential additional role did not have the benefit of a transition period with their predecessor. One official told us it would have been beneficial to have had an opportunity to learn about the role's priorities and related issues, for example, from the person vacating the position. Three officials told us that additional training and information from NMB for officials with essential additional roles would be helpful to ensure that these officials understand their duties and responsibilities.

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When asked why NMB had not provided training to staff with essential additional roles, NMB Board members said that they thought some officials in these roles received training through specific federal programs, and that NMB has historically relied on the agency's Individual Development Plan process to determine staff training needs.<sup>26</sup> NMB Board members also noted that filling the Senior Agency Official for Privacy position presents particular challenges for a small agency and providing training on this position is difficult due to the technical nature of the work.<sup>27</sup>

Ensuring a high-quality workforce through staff training and development are elements of NMB's strategic vision and values. In its two most recent 5-year strategic plans (for fiscal years 2014-2019 and 2022-2026), NMB stated its commitment "to recruiting and maintaining a workforce that is second to none in talent, training, and diversity" and promoting "an environment that fosters the continuous development of leadership, technical skills, and professional skills in all employees." Those strategic plans also establish staff training and development as priority goals for the agency. Further, Standards for Internal Control in the Federal Government state that management should communicate information internally to enable the agency to achieve its objectives.<sup>28</sup> Such communication would include ensuring all officials and staff fully understand all their job responsibilities. Without sufficient training and related information for staff with essential roles outside of their primary area of expertise, NMB lacks reasonable assurance that its staff will develop the knowledge and skills required to meet the agency's mission and strategic goals.

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<sup>26</sup>All NMB staff are expected to submit an Individual Development Plan annually. Staff are expected to include training they would like to take during the year in these plans and managers are to review and approve the plans.

<sup>27</sup>According to NMB Board members, the Senior Agency Official for Privacy position must be filled by a senior level agency official who does not have other privacy related responsibilities. Because of its small size, NMB has few employees who meet these requirements and has none in its Office of Information Services. Therefore, NMB Board members said that the position must be filled by a senior level official in another office, which means that person will generally have limited capacity for the position due to the demands of their primary job and limited or no background in information security or privacy.

<sup>28</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 2014).

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## NMB Lacks Procedures to Ensure Its Personnel Policies Are Complete and Regularly Updated

Until recently, NMB did not have some key personnel policies in place and failed to update at least one other, because the agency lacks procedures to regularly review and update such policies. Specifically, NMB did not have policies on employee compensation, creditable service for annual leave, bereavement, or voluntary leave transfers—all topics for which there are federal requirements. NMB's Human Resources Specialist, who was hired in May 2023, identified that the agency was missing the policies. She also determined that the agency's executive compensation and transit benefits policies were out of date, and its telework policy was not in compliance with current federal regulations. As of February 2024, the Human Resources Specialist has updated or drafted new policies to address some of these issues, which NMB's Board is currently reviewing, and has begun addressing the others.

The Human Resources Specialist told us she identified these missing and outdated policies as she was conducting related work, rather than through a systematic review of all NMB personnel policies. NMB does not have procedures for regularly reviewing its personnel policies. NMB officials told us the agency plans to conduct a systematic review in the future; however, it has not yet done so due to competing priorities related to personnel, such as updating position descriptions for staff vacancies and improving NMB's employee wellness program. Federal internal control standards state that management should periodically review policies, procedures, and related control activities for continued relevance and effectiveness in achieving agency objectives and addressing risks.<sup>29</sup> Without procedures to regularly review and update its personnel policies, NMB risks operating without needed policies in place or with policies that do not comply with federal regulations.

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## Conclusions

Given the important role NMB plays in preventing transportation disruptions in the rail and air industries, it is critical to ensure efficient oversight of its operations. NMB has fully implemented two of the four recommendations that were open from GAO's previous reports. It could further reduce risks to its information security by fully implementing the remaining two recommendations.

In addition, workforce and succession planning could help mitigate the outsized effect that a small number of vacancies or unexpected attrition can have on an agency with fewer employees. Likewise, updating NMB's training policy and providing sufficient training and guidance for all employee roles could enhance the agency's ability to ensure its employees can carry out their responsibilities, especially for those who

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<sup>29</sup>[GAO-14-704G](#).

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perform essential duties outside of their primary area of expertise. Furthermore, regularly reviewing its personnel policies would help NMB ensure that key policies are in place and comply with federal requirements. In short, establishing procedures for regularly updating NMB's workforce and succession plan, training policy, and personnel policies so they reflect current agency needs could help ensure NMB's efficient operation and enhance its ability to fully meet its mission.

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## Recommendations

We are making the following four recommendations to NMB:

The NMB Board should establish procedures for regularly updating its workforce and succession plan. These procedures should help ensure that NMB's workforce and succession plan is long-term in focus and includes a workforce analysis that identifies skills gaps, an action plan with strategies to close gaps, plans to implement those strategies, and measures to assess progress as described in OPM's Workforce Planning Guide. (Recommendation 1)

The NMB Board should establish procedures for regularly updating its agency-wide training policy. (Recommendation 2)

The NMB Board should provide officials who are assigned essential additional roles with sufficient training and information, including position descriptions, necessary to understand and carry out the full scope of their responsibilities. (Recommendation 3)

The NMB Board should develop procedures to ensure it has all necessary personnel policies in place and that they are regularly reviewed and updated to meet the needs of the agency and comply with federal requirements. (Recommendation 4)

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## Agency Comments

We provided a draft of this report to the National Mediation Board (NMB) for review and comment. The NMB Chair and the agency provided technical comments by email, which we incorporated in the report as appropriate.

NMB concurred with all our recommendations. While the agency agreed that an up-to-date workforce and succession plan is valuable, it stated that the lack of such a plan did not cause the large number of vacancies at the agency. NMB stated that the agency is aware of its staffing needs and that it has been working to fill vacant positions. The agency added that the federal hiring process is lengthy and labor intensive, and that, prior to NMB hiring a Human Resources Specialist, other NMB officials had to balance their regular workload with the work necessary to hire new staff. NMB also said that before the new specialist joined the agency, it

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lacked in-house expertise in federal hiring and relied on an outside service provider that was not very familiar with NMB's work.

We acknowledge that having an up-to-date workforce and succession plan would not solve all of NMB's workforce challenges. However, developing and maintaining such a plan will help NMB to better understand and proactively address its workforce needs as they continue to evolve. In fact, the challenges NMB cited only reinforce the importance of long-term workforce planning, including a process for regularly updating those plans.

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We are sending copies of this report to the appropriate congressional committees, NMB Board, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-7215 or [sawyerj@gao.gov](mailto:sawyerj@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix I.



John D. Sawyer  
Director  
Education, Workforce, and Income Security Issues

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# Appendix I: GAO Contact and Staff Acknowledgments

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In addition to the contact named above, Rebecca Woiwode (Assistant Director), David Barish (Analyst in Charge), and Sandra Baxter made key contributions to this report. Additional assistance was provided by James Bennett, Larry Crosland, Wayne Emilien, Jr., Teague Lyons, Jean McSween, Jay Palmer, James Rebbe, Meg Sommerfeld, Almeta Spencer, LaDonna Towler, Edward Varty, and Adam Wendel.

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