

## FISCAL YEAR 2007 HIGHLIGHTS

### *PERFORMANCE HIGHLIGHTS*

In FY 2007, the NLRB updated its Strategic Plan. After a careful review of its performance measures, to ensure that they were meaningful and served to answer the central question most important to the public—What is our overall success in bringing effective resolution to labor disputes in a timely manner?—three overarching performance measures were developed that support the Agency’s strategic goals and short- and long-term objectives.

While the review reduced the number of the Agency’s performance measures, the new measures emphasize the time taken to resolve cases from beginning to end, including the time spent on both the General Counsel and Board sides of the Agency. This moves the NLRB’s performance measurement approach from an emphasis on individual segments of case processing, as in previous years, to one that focuses on the time taken to process an entire case from start to finish. However, since the NLRB has a long and successful history of performance measurement focusing on the timeliness and effectiveness of the individual stages of the casehandling pipeline, the Agency will continue to employ most of the previous targets as internal guides to assess performance in meeting the overarching measures.

The performance measurement to support the first of the NLRB’s two Strategic Goals—to resolve all questions concerning representation impartially and promptly—measures the percentage of representation cases resolved within 100 days of the filing of an election petition. In FY 2007, the NLRB resolved 79 percent of representation cases within 100 days of the filing of an election petition. The five-year target for this measure (by 2012) is 85 percent.

Two performance measures will assess the NLRB’s effectiveness in achieving its second Strategic Goal—investigating, prosecuting, and remedying cases of unfair labor practice cases by both employers or unions, or both, impartially and promptly. Measure #2 measures the percentage of ULP charges resolved by withdrawal, by dismissal, or by closing upon compliance with a settlement or Board order or Court judgment within 120 days of the filing of the charge. In FY 2007, the NLRB resolved 66 percent of ULP charges by withdrawal, dismissal, or closing upon compliance within 120 days of the filing of a charge. The five-year target for this measure (by 2012) is 71 percent.

Measurement #3 measures the percentage of meritorious (prosecutable) ULP cases closed on compliance within 365 days of the filing of the ULP charge. In FY 2007, the NLRB closed 73.5 percent of meritorious charges on compliance within 365 days of the filing of the ULP charge. The five-year target for this measure (by 2012) is 77 percent.

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By being more outcome-based, the NLRB believes these measures will better inform the public as to overall Agency performance in providing quick and effective responses to labor disputes.

***FACTORS THAT AFFECT AGENCY PERFORMANCE***

Various factors can affect each goal, objective, and performance measure contained in the NLRB's strategic and annual performance plans. These factors include the following:

**BUDGET**

The FY 2008 President's Budget request for the NLRB totals \$256.238 million, which is an increase of \$4.7 million over the funding provided in FY 2007. The requested funding will provide the resources necessary to cover the staffing, space requirements, information technology, and other activities critical to handling the Agency's caseload, and ensuring continued integration and tracking of budget and performance. As approximately 80 percent of the Agency's total budget is devoted to personnel costs, budget shortfalls can have a direct impact on staffing resources, and the ability to facilitate casehandling. Our goals assume the level of funding set forth in the President's Budget request.

**CASE INTAKE**

Several additional factors could inhibit or facilitate the Agency's effectiveness in accomplishing its strategic goals. As noted, the Agency does not control the number of cases filed. However, any event or issue that affects labor can spur potential union organizing, resulting in an increase in caseload. In the past 2 years, the increased focus on immigration reform and the formation of the Change to Win labor federation are two such factors that could result in an increase in case intake.

During FY 2007, 22,164 ULP cases were filed with the NLRB, of which 36.6 percent were found to have merit, and 3,150 representation cases were filed, of which the merit factor rate was 62.2 percent. Based on current trends, total ULP and representation cases are estimated to total about 26,500 in FY 2008. Of that total, ULP cases are estimated to be about 23,000, while representation cases are expected to total 3,500.

**SETTLEMENTS**

Currently, of those cases in which merit is found, approximately 95 percent (97 percent in FY 2007) are settled without formal litigation. Cases are settled through the Agency's settlement program, by which the parties agree to a remedy and thereby avoid time-consuming and costly litigation. While the Agency has experienced outstanding success in achieving the voluntary resolution of ULP and representation cases, the settlement rate is not entirely subject to the Agency's control.

*Performance  
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Disputes cannot always be resolved informally or in an expeditious manner. Parties may conclude that litigation serves their legitimate or tactical interests. The Agency's procedures provide for administrative hearings, briefs, and appeals. When the process becomes formal and litigation takes over, Agency costs increase. Every one percent drop in the settlement rate costs the Agency more than \$2 million. Therefore, maintaining high settlement rates promotes performance, efficiency, and cost savings.

### **PRESIDENTIAL APPOINTEES**

Another factor outside the control of the Agency that impacts case production is the timely confirmation of Presidential appointees. The assigned caseload of individual Board Members rises and decisions in difficult or controversial cases can be delayed due to vacancies on the five-member Board. Board Member vacancies and turnover are the primary reason for delays in issuance of Board decisions. The lack of a full-Board complement and the learning curve for new appointees can impair Board productivity and prevent the Board from meeting its performance targets in support of the Agencywide measures.

The Agency has had a full five-member Board since January 2006, consisting of three confirmed Members and two recess appointees. Two of the five sitting Board Members were re-appointed and confirmed in August 2006. However, the recess appointees' terms, absent confirmation, will end upon the adjournment of Congress in late 2007, and the term of the final confirmed appointee will expire in December 2007. This will leave the Board with only two confirmed appointees, which will affect the Board's ability to issue decisions.

The General Counsel's position is also filled by a confirmed appointee, although a vacancy in this position is rare.

### ***TERMS OF BOARD MEMBERS AND GENERAL COUNSEL***

	Appointed	Term Expiration
<b>Robert J. Battista</b> Chairman	12/17/02	12/16/07
<b>Wilma B. Liebman</b> Member	08/14/06	8/27/11
<b>Peter C. Schaumber</b> Member	08/14/06	08/27/10
<b>Peter N. Kirsanow</b> Member	01/04/06	Recess Appointment
<b>Dennis P. Walsh</b> Member	01/17/06	Recess Appointment
<b>Ronald Meisburg</b> General Counsel	08/14/06	08/13/10

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***RELIABILITY OF PERFORMANCE DATA***

The NLRB's performance measurement system used to track case processing times has been highly regarded for decades and modeled by other Federal agencies. Most of the data collected tracks how much time is spent in each step of the case processing "pipeline." The Agency does not rely on any outside sources for the data it uses in its performance measurement system.

This system has been incorporated into an electronic database called the Case Activity Tracking System (CATS). CATS provides case activity and status information to all NLRB offices on the new cases filed each year, as well as cases carried over from the previous year. It provides support for the function and work requirements of the NLRB's attorneys, field examiners, managers, and support staff. CATS has been a key tool for managing caseload and human resources.

Each NLRB office is responsible for collecting performance measurement data and verifying it. Most of the performance information for the Government Performance and Results Act (GPRA) measures is obtained through the CATS data generated to assess the casehandling process initiated in the Regional Offices. Data about each case is collected and reported in all offices daily. Data and reports are available online to users at the Regional and National levels. Verification of the accuracy of the data collected occurs regularly in all Regional Offices, as most resource allocation decisions are made on the basis of this data. The Board maintains its own case management system, supported by Documentum, called the Judicial Case Management System (JCMS), which handles all internal case processing, including the storage, circulation, and approval of documents.

In Headquarters offices there are several other automated systems that furnish data for the performance measures of the Headquarters offices and aid in managing caseload and staff in those offices. Systemic verification occurs monthly during management reviews and during various phases of the budget and GPRA reporting cycles. Data is cross-checked and compared to historical trends to ensure the validation and reliability of the performance data.

When pertinent to the conduct of ongoing audit activities, the Inspector General will review performance measures to consider their appropriateness.

***PROGRAM EVALUATION***

The NLRB evaluates whether programs are achieving their GPRA and other performance targets through different techniques and mechanisms. The five-member Board tracks the status of its GPRA cases on a monthly basis to determine performance against yearly targets that support the Agency's overarching measures and strategic goals. A standing committee comprised of top management officials (Triage Committee) meets weekly to review the status of all pending cases, including GPRA cases. Triage representatives report back to all Board Members on

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performance data and staff workload, among other issues. A separate group of Board officials and supervisors (GPRA Task Force), formed in FY 2007 meets weekly solely to monitor GPRA case activities. The committees coordinate their efforts and issue various reports on case status and performance. The Board has an electronic casehandling management system that captures all case events in a database from which reports are generated. The Board Members also meet and communicate with each other on a regular basis to discuss cases.

Further, the General Counsel has had an evaluation program in place for many years to assess the performance of its Regional operations. The Quality Review Program of the Division of Operations-Management reviews ULP, representation, and compliance case files on an annual basis to ensure that they are processed in accordance with substantive and procedural requirements, and that the General Counsel's policies are implemented appropriately. Those reviews have assessed, among other things, the quality and completeness of the investigative file, the implementation of the General Counsel's priorities in the areas of representation cases, Impact Analysis prioritization of cases, and compliance with Agency decisions. Additionally, personnel from the Division of Operations-Management review all complaints issued in the Regions to ensure that pleadings are correct and supported, and conduct site visits during which they evaluate Regional casehandling and administrative procedures. Also, a field and Operations-Management Committee reviews all ALJ and Board decisions constituting a significant loss in order to assess the quality of litigation. Moreover, the Region's performance with regard to quality, timeliness, and effectiveness in implementing the General Counsel's priorities is incorporated into the Regional Directors' annual performance appraisals.

In addition to the evaluation of Regional Office activities discussed above, the Office of the General Counsel monitors the litigation success rate before the Board and before district courts with regard to injunction litigation. The success rate before the Board has been approximately 80 percent and before the district courts has been 85-90 percent. The Division of Operations-Management regularly reviews case decisions in order to determine the quality of litigation. Similarly, the Agency keeps abreast of its success rate before the circuit courts of appeals and analyzes case decisions in order to ensure quality in its litigation. Other branches and offices, such as the Office of Appeals, Division of Advice, Contempt Litigation and Compliance Branch, and Office of Representation Appeals, provide valuable insight and constructive feedback on the performance and contributions of field offices. Moreover, top Agency management meets regularly with relevant committees of the American Bar Association to obtain feedback on their members' experiences practicing before the NLRB.

## ***FINANCIAL HIGHLIGHTS***

### ***ANALYSIS OF FINANCIAL STATEMENTS***

The NLRB's financial statements summarize the financial activity and financial position of the Agency. The financial statements, footnotes, and the balance of the required supplementary information appear four financial statements and associated footnotes, which were audited for FY 2007. They are:

- (1) ***Balance Sheet***—The NLRB assets were approximately \$32 million as of September 30, 2007. The Fund Balance with Treasury, which was \$23 million, represents the NLRB's largest asset. The Fund Balance consists of unspent appropriated and unappropriated funds from the past six fiscal years and includes backpay settlement funds. The NLRB has one unusual account, Backpay Settlements Due to Others. These are backpay funds that are owed to discriminatees by employers due to the filing of ULP charges with the NLRB. The source of these funds is either the original employer or a bankruptcy court disposition. During the time it takes the Agency to locate discriminatees, these funds are sometimes invested in U.S. Treasury market-based securities.
- (2) ***Statement of Net Cost***—The NLRB's appropriation is used to resolve Representation Cases or ULP Charges filed by employees, employers, unions, and union members. Of the \$266 million net cost of operations in FY 2007, 16 percent was used to resolve Representation Cases and 84 percent was used to resolve ULP Charges.
- (3) ***Statement of Changes in Net Position***—The Statement of Changes in Net Position reports the change in net position during the reporting period. Net position is affected by changes in its two components: Cumulative Results of Operations and Unexpended Appropriations. There was no material change in total Net Position from FY 2006 to FY 2007.
- (4) ***Statement of Budgetary Resources***—The Statement of Budgetary Resources shows budgetary resources available and the status at the end of the period. It represents the relationship between budget authority and budget outlays, and reconciles obligations to total outlays. For FY 2007, the NLRB had available budgetary resources of \$257 million, the majority of which were derived from new budget authority. This represents a .83 percent increase over FY 2006 of available budgetary resources of \$255 million. For FY 2007, the status of budgetary resources showed obligations of \$252 million, or 98 percent of funds available. This is comparable to FY 2006's obligations which totaled \$250 million, or 98 percent of funds available. Total outlays for FY 2007 were \$253 million which is a \$4 million increase from FY 2006's outlays of \$249 million.

*Financial  
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The outlays of funds shown on the statements is for the following: Of the budget appropriation received by the NLRB, approximately 88 percent of the payments are for employees' salaries and benefits, space rent, and building security. The remaining 12 percent is utilized for expenses integral to the Agency's case-handling mission, such as casehandling travel, transcripts in cases requiring a hearing; interpreter services, reflective of a growing community of non-English-speaking workers; travel; witness fees; and information technology.

***LIMITATIONS ON PRINCIPAL FINANCIAL STATEMENTS***

The principal financial statements of the NLRB have been prepared to report the financial position and results and operations of the Agency, pursuant to the requirements of 31 U.S.C. 3515(b). While the statements have been prepared from the books and records of the entity in accordance with generally accepted accounting principles for Federal entities and the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources which are prepared from the same books and records.

The statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity.

***FINANCIAL PLANNING COMMITTEE (FPC)***

The NLRB has a long-established Financial Planning Committee which has been meeting annually since 1992 to review and update the NLRB's five-year Financial Management Plan. The committee met in early FY 2007 to assess the Agency's accomplishments of the FY 2006 goals and review and approve the goals for FY 2007. The committee, after reviewing the goals, and the tasks and milestones associated with each goal, determined that the NLRB's five-year financial management goals should include:

- 1) Improved financial accountability;
- 2) Improved financial systems;
- 3) Development of human resources;
- 4) Improved administration of the credit card program; and
- 5) Use of electronic commerce to improve financial management.

***FPC HIGHLIGHTS***

In FY 2007, the NLRB began the process of converting to an eTravel solution, E<sup>3</sup>Solutions. Currently, the system is being rolled-out to Agency headquarters and field offices. This system will replace Travel Manager which is presently being used by headquarters and select field offices. Through this eTravel solution, employees are able to make travel reservations online and prepare the travel order and the travel voucher which will be transmitted electronically to the Finance Branch for payment. The goal of eTravel is to eliminate paper copies of travel documents.

*Financial  
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During the summer of FY 2007, employees were trained on the new eTravel system, Momentum Financials (including the acquisition and requisition function), and Finmart Reports, the financial reports Agency offices use to track funds. The Momentum Financials will replace the Regional Office Budgeting System, an NLRB-developed system that has been in use for the past 15 years by the Regional Offices to control and track their funds.

In keeping with the competitive sourcing initiative, the Finance Branch began outsourcing invoice payment to the Department of Interior's National Business Center beginning in September 2007. The National Business Center is the provider of the NLRB's accounting, personnel, and payroll systems.

To further the goal of improving administration of the Credit Card Program, the Agency reviewed and updated its administrative policy guidance with respect to the Travel Card Program. The guidance contains a section on the proper use of the travel card. Also, in FY 2007, the Agency published its final regulations in the *Federal Register* covering the collection of debts. These regulations will help facilitate the collection of debts and the referring of those debts over 180 days delinquent to the Department of Treasury for collection.

***IMPROPER PAYMENTS INFORMATION ACT (IPIA)***

The IPIA defined requirements to reduce improper/erroneous payments made by the Federal Government. OMB has also established specific reporting requirements for agencies with programs that possess a significant risk of erroneous payments and for reporting on results of recovery auditing activities. A significant erroneous payment as defined by OMB guidance is an annual erroneous payment in a program that exceeds both 2.5 percent of the program payments and \$10 million.

As such, the NLRB does not make program payments as described in the IPIA and has no information to report with respect to erroneous program payments.

**MANAGEMENT ASSURANCES****FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT (FMFIA)**

The FMFIA requires Federal agencies to provide an annual statement of assurance regarding management controls and financial systems. NLRB management is responsible for establishing and maintaining effective internal control and financial systems that meet the requirements of the FMFIA.

Management control systems reviewed under FMFIA are expected to provide reasonable assurance that the following objectives are being achieved:

- Effectiveness and efficiency of operations;
- Reliability of financial reporting; and
- Compliance with applicable laws and regulations.

The NLRB's approach to assessing its internal controls included the identification and assessment of risks by 20 designated managers on an Agencywide basis in accordance with Office of Management and Budget (OMB) Circular, A-123, *Management's Responsibility for Internal Control*, dated December 21, 2004. In completing this annual review, the designated managers, in conjunction with subordinate staff, as needed, used personal judgment as well as other sources of information. Such sources included: Knowledge gained from day-to-day operations; Inspector General audits and investigations; program evaluations; reviews of financial systems; annual performance plans; and management reviews for the purpose of assessing management controls. The designated managers were responsible for conducting reviews of program operations; assisting program offices in identifying risks and conducting internal control reviews; issuing reports of findings and making recommendations to improve internal controls and risk management.

Based on the internal controls program, reviews, and consideration of other information, senior management's assessment of the NLRB's internal controls is that controls are adequate to provide reasonable assurance in support of effective and efficient operations, reliable financial reporting, and compliance with laws and regulations.

Section 2 of the FMFIA requires Federal agencies to report, on the basis of annual assessments, any material weaknesses that have been identified in connection with their internal and administrative controls. The reviews that took place in FY 2007 provide reasonable assurance that NLRB systems and internal controls comply with the requirements of FMFIA and there are no material weaknesses to report relating to Section 2 of the FMFIA. This is based primarily on the written assessments of the 20 designated managers who responded to an extensive survey.

Section 4 of the FMFIA requires that agencies' financial management systems controls be evaluated annually. The NLRB evaluated its financial management

systems for the year ending September 30, 2007, in accordance with the FMFIA and OMB Circular, A-127, *Financial Management Systems*, Section 7 guidance. The annual statement by the Chief, Finance Branch, indicates that the NLRB's financial systems, taken as a whole, conform to the principles and standards developed by the Comptroller General, OMB, and the Department of Treasury.

**THE FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT OF 1996 (FFMIA)**

FFMIA requires agencies to implement and maintain financial management systems that are substantially in compliance with Federal financial management systems requirements, Federal accounting standards, and the United States Government Standard General Ledger at the transaction level. The NLRB's accounting, payroll, and personnel systems are provided by the Department of the Interior's National Business Center in Denver, Colorado. These systems comply with the principles, standards, and related requirements of the FFMIA.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC

November 7, 2007

**STATEMENT OF ASSURANCE**

The NLRB's management is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act (FMFIA). The NLRB conducted its assessment of the effectiveness of internal control over the effectiveness and efficiency of operations and compliance with applicable laws and regulations in accordance with OMB Circular A-123, *Management's Responsibility for Internal Control*. Based on the results of this evaluation, the NLRB can provide reasonable assurance that its internal control over the effectiveness and efficiency of operations and compliance with applicable laws and regulations as of September 30, 2007 was operating effectively and no material weaknesses were found in the design or implementation of internal controls.

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Robert J. Battista  
Chairman

Handwritten signature of Ronald Meisburg in cursive.

Ronald Meisburg  
General Counsel

## ***STRATEGIC INITIATIVES***

As evidenced in the NLRB's goals and measures, the Agency places the highest priority on issues relating to the quality and timeliness of casehandling. While the NLRB's casehandling procedures have been well established for many years, the Agency has developed several initiatives aimed at further increasing its effectiveness in these areas. The initiatives described below comprise an overall emphasis in certain program areas.

### ***FIRST CONTRACT BARGAINING***

A critical responsibility of the NLRB is to conduct prompt and fair representational elections to resolve questions concerning representation - whether employees will be represented by a labor union for purposes of collective bargaining. The General Counsel has highlighted the ancillary responsibility of the Agency to consider promptly and fairly ULP charges alleging that, following the certification of a labor organization as the bargaining representative of a group of employees, an employer or union has failed or refused to bargain in good faith.

First contract bargaining is the fruition of the free choice that employees have made to embrace collective bargaining. That free choice must be enforced by protecting the collective bargaining process that employees chose. Initial contract bargaining constitutes a critical stage of the negotiation process because it forms the foundation for the parties' future labor-management relationship and, when employees are bargaining for their first collective bargaining agreement, they are highly susceptible to unfair labor practices intended to undermine support for their freely chosen bargaining representative.

In this regard, NLRB records indicate that over the last 5 years, charges alleging that in the initial period after election and certification, employers have refused to bargain constitute approximately 39 percent of all refusal to bargain charges filed with the Agency. These cases tended to have a relatively high merit rate of about 44.06 percent compared to a merit rate of between 35 and 38 percent for all charges. In 2007, the General Counsel announced his initiatives committing to more stringent remedies in these cases. During the year, a little over one quarter of the refusal to bargain cases were initial contract cases and of those 37.18 percent were found to be meritorious. In addition, in 2007, half of the Section 10(j) injunction cases which deal with unfair labor practices that undermine incumbent unions involve parties bargaining for first contracts.

In order to ensure that bargaining rights secured by the free choice of employees through NLRB elections are meaningful, the General Counsel has required that the investigation of ULP charges dealing with first contract bargaining are accorded high priority in the Regional Offices. He also has required the consideration of additional remedies if those charges are found to have merit.

These additional remedies could include seeking Section 10(j) injunctions and the use of the contempt process to further monitor compliance with court enforced Board actions.

***REMEDIES INITIATIVE***

The remedial purpose of the Act is to make whole those persons who have suffered a loss as a result of unfair labor practices. Under this initiative, the Agency is examining additional areas of remedies in support of this basic purpose.

One of the remedies involves the payment of interest on monetary awards. The General Counsel has recently directed the Regions to seek compound interest on monetary awards, rather than simple interest, in future ULP proceedings. A monetary award compensates the injured party for the amount the party would have received absent the unfair labor practice; interest compensates the party for the lost use of the money over the time it takes to adjudicate the unfair labor practice. Because contemporary practice is to assess compound interest on loaned funds, the General Counsel is asking the Board to re-examine whether simple interest properly makes employees whole for the lost use of money they would have received but for the unfair labor practices, or whether, instead, compounding of interest is necessary to make employees whole.

***OUTREACH PROGRAM***

The purpose of the Act and the role of the NLRB in enforcing it, insofar as it relates to the right of employees to select or reject a collective-bargaining representative, are relatively well known. For over 70 years the NLRB has been actively and publicly involved in the protection of employee rights to self-organization, the conduct of secret ballot representation elections, and the enforcement of employer and union obligations to engage in good-faith bargaining. This is the role of the NLRB that is most often the subject of accounts in the press. It is also the role that is featured in communications to employees by unions and employers during organizing campaigns.

Less well known, but of equal stature in the Act, is the protection afforded to employees to engage in “protected concerted activity.” This activity, which can be initiated with or without the presence or involvement of a union, is conducted by or on behalf of two or more employees for “mutual aid or protection,” as described in Section 7 of the Act. Under the Act, an employer cannot lawfully discipline employees for raising such demands or complaints. As with union activity, employees not only have the right to engage in such activity, but they also have the right to decline to engage in this activity without fear of retribution.

In an effort to inform the public fully about all their rights under the NLRA, including their rights with regard to protected concerted activity, the General Counsel has initiated an expansion of the Agency’s traditional outreach program. Under its traditional outreach program, NLRB field and headquarters personnel meet with members of the labor relations communities in their geographic areas to discuss NLRB procedures and developments in the law. These contacts have generally been with labor lawyers representing both unions and management, labor organizations, and business groups. Among these contacts are those with the American Bar Association and state

*Strategic  
Initiatives  
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and local bars and local chapters of the Labor and Employment Relations Association. However, under the General Counsel's new initiative, NLRB agents have expanded the scope of their outreach activities.

Independently or in partnership with other organizations such as the Equal Employment Opportunity Commission, under the expanded outreach program, NLRB agents are initiating contact with schools, community groups, churches, business organizations, and others to make information about the NLRB available to individual workers. Brochures, model speeches, and other materials to facilitate outreach are available to NLRB agents on the Agency's intranet. The Regional Offices, taking advantage of local opportunities and addressing local conditions, are reaching out to employers, unions, workers, and soon-to-be workers, thus maintaining the posture of the NLRB as an impartial enforcement agency.

In addition to both the traditional and expanded outreach program, one of the critical services the Agency has long provided to employers, unions, and employees is the Agency's Public Information Program. Under this program, the Agency provides information about the Agency's program directly to individuals or entities that contact the Agency seeking assistance. In FY 2007, the Agency's 51 field offices received 145,163 public inquiries regarding workplace issues. In responding to these inquiries, Board agents, acting as "Information Officers," spend considerable time explaining the coverage of the NLRA, accepting charges, or referring parties to other Federal or state agencies.

Two other initiatives have also enhanced our public service outreach efforts. The public has easy and cost-free access to the Agency through a toll-free telephone number. Callers to the toll-free number may listen to messages recorded in English and Spanish that provide a general description of the Agency's mission and connections to other government agencies or to Information Officers located in the Agency's Regional Offices. In FY 2007, the toll-free telephone service received 68,556 calls.

**WHAT ARE PROTECTED CONCERTED ACTIVITIES?**

The National Labor Relations Act (NLRA) protects employees' rights to engage in protected concerted activities with or without a union, which are usually group activities (2 or more employees acting together) attempting to improve working conditions, such as wages and benefits. Some examples of such activities include:

- a) Two or more employees addressing their employer about improving their working conditions and pay;
- b) One employee speaking to his/her employer on behalf of him/herself and one or more co-workers about improving workplace conditions;
- c) Two or more employees discussing pay or other work-related issues with each other.

The NLRA also protects any individual employee's right to engage in union support, membership, and activities.

*Strategic  
Initiatives  
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Further, to extend its public services efforts across the Internet, the Agency's Web site ([www.nlr.gov](http://www.nlr.gov)) contains a public information "Questions" page which is designed to provide answers to frequently asked questions involving the NLRA and NLRB procedures. In addition, a new feature has been added to the NLRB's Web site advertising a speaker's bureau which permits individuals and groups to request that a NLRB representative address gatherings to present information about the Agency. Our agents respond to these requests and speakers are assigned, as appropriate.

***ALTERNATIVE DISPUTE RESOLUTION PILOT PROGRAM (ADR)***

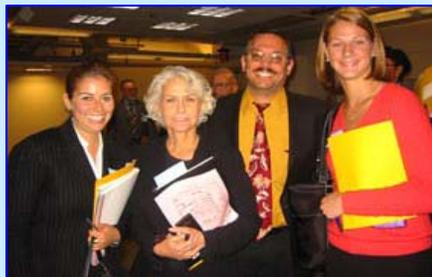
In December 2005, the five-member Board implemented a 2-year pilot "alternative dispute resolution" (ADR) program to assist parties in settling unfair labor practice cases pending before the Board on exceptions to decisions issued by the Agency's administrative law judges. (This program is in addition to the Settlement Program conducted by the General Counsel.)

The Board established this pilot ADR program in response to the success experienced by other Federal agencies and the Federal courts in settling contested cases through ADR, as well as the success of the NLRB's own settlement judge program at the trial level. A successful ADR intervention in a case pending before the Board on exceptions to an administrative law judge's decision will resolve the contested matter. The Board will be able to cease its deliberations on the case and the Board Members and their staffs will be freed to turn their attention to other matters. In addition, as approximately 50 percent of Board decisions generate court of appeals litigation, resolution of the matter through ADR obviates the need for such additional litigation and the commitment of Agency resources to its prosecution. Finally, disputes over the details of compliance often generate additional investigation and litigation following the merits litigation before the Board and courts. Resolution of the matter through the ADR process invariably includes the settlement of those compliance details as well, such as reinstatement and backpay, making further proceedings before the Agency unnecessary.

Participation in the program is voluntary, and a party who enters into settlement discussions under the program may withdraw its participation at any time. The Board provides the parties with an experienced neutral, usually an NLRB administrative law judge, to facilitate confidential settlement discussions to explore resolution options that serve the parties' interests. Where feasible the settlement conferences are held in person, but some conferences may be held telephonically. The Board stays further processing of the unfair labor practice case for 60 days from the first meeting with the neutral or until the parties reach a settlement, whichever occurs first. Extensions of the stay beyond the 60 days may be granted by the neutral only with the agreement of all parties.

**NLRB OUTREACH**

**Pictured: Board Agents Joanna Silverman, Katherine Mankin, John Hatem, and Jessica Toton.**



Board Agents from the NLRB's two Los Angeles Regional Offices participated in the Los Angeles County Unified School District's Collective Bargaining Education Project held at six local high schools. This program permits high school teachers to incorporate labor relations education into their study programs. NLRB employees coached students in mock collective bargaining simulations, attended mock NLRB elections, and informed students about NLRB procedures.

***PRESIDENTIAL  
MANAGEMENT  
INITIATIVES***

The NLRB has integrated the President's management initiatives into the Agency meeting its performance goals.

***WORKFORCE PLANNING***

The NLRB has always sought to operate effectively by efficient management of its human resources. The need to make the most judicious use of existing human resources and to attract qualified staff is critical to the Agency, as by the end of FY 2007, 44 percent of GS 13-15 supervisors and 78 percent of Senior Executive Service members in the Agency were eligible to retire.

The NLRB workforce is spread throughout the country, with about 500 employees located in the Washington, D.C. headquarters, and 1,209 remaining staff located in 32 Regional Offices, 3 Subregional Offices, 16 Resident Offices, and 3 satellite judges offices nationwide. Through its Regional Office field structure, the Agency provides the public with easy access to and direct contact with casehandlers and decision-makers.

The ability of the Agency to continue to achieve its mission and meet performance goals in such a dynamic environment was facilitated by an Agencywide workforce assessment that was completed in FY 2004. The assessment resulted in a five-year plan, the objective of which, in keeping with the President's Management Agenda (PMA), is to use workforce planning and restructuring to make the NLRB more citizen-centered and ensure that the Agency has the diverse workforce - the right people, with the right skills, in the right places - to effectively accomplish its mission.

***COMPETITIVE SOURCING***

Further, in accordance with the PMA, the Agency has utilized competitive sourcing and direct conversion outsourcing opportunities to the fullest extent possible. Managers have reviewed public and private competitions of commercial activities to enhance cost efficiencies and program performance. As a result, under the Federal Activities Inventory Reform Act, in the past year, the Office of the Chief Information Officer (OCIO) increased the number of positions it identifies as commercial by 8 percent. Further, in September 2007, the Division of Administration's Finance Branch began outsourcing invoice payment to the Department of the Interior's National Business Center, the provider of the Agency's accounting, personnel, and payroll systems. Other opportunities for outsourcing continue to be explored within the Agency.

***BUDGET & PERFORMANCE***

The NLRB's annual Performance Plan is integrated into its budget request to form the basis of our Performance Budget. As mentioned previously, the Agency updated its Strategic Plan earlier this year. As part of this process, the

*Presidential  
Initiatives  
(cont'd.)*

Agency replaced the previous measures, which focused on case processing within the Board and General Counsel's offices, with three new, overarching, outcome-based performance measures that focus on the time taken to resolve cases, from beginning to end, including both the Board and General Counsel sides.

The NLRB strengthens budget and performance linkages by establishing a direct, vertical relationship between the performance plans of individual executives in its Regional and Headquarters offices and the performance goals for their programs, which are derived from the Agency's broader strategic goals. Agency goals are implemented on a daily basis through the actions of individual managers leading programs and activities throughout the Agency.

### ***IMPROVED FINANCIAL PERFORMANCE***

The Agency's accounting system is the Department of Interior's National Business Center's Momentum System, which carries an annual cost of approximately \$1 million. The Agency upgraded to this system in 2004, as it provides better web-based functionality and improved integration with other systems.

Momentum will be fully integrated with the Agency's new E-travel compliant travel manager system, E<sup>2</sup>Solutions, which was implemented in August 2007. Additionally, as mentioned previously, to increase efficiencies the Agency is outsourcing the invoice payment function, beginning in September 2007. The improved integration of these systems and functions will enhance financial reporting capabilities, facilitate more efficient and effective program and administrative performance, and enable continued compliance with the Chief Financial Officers Act of 1990.

### ***TECHNOLOGY AND E-GOV ADVANCES***

To support its mission and goals, the NLRB has committed itself to the development of a mainstream information architecture and infrastructure that utilizes the latest technological advances to support program and administrative efforts. The Agency's information technology initiatives support its broader efforts to improve productivity and provide greater transparency. These initiatives, consistent with the Expanding Electronic Government element of the PMA, focus on citizen-centered and results-oriented principles.

Over the last 2 years, the Agency launched major information technology initiatives that are part of our implementation of the President's Management Agenda. These initiatives fall under three major categories: (1) Next Generation Case Management; (2) Improved Web Site with Citizen-centered Portal; and (3) Infrastructure Modernization and Consolidation.

These initiatives were designed to:

- Improve the productivity of the Agency's case management process.
- Transform the way the NLRB does business with the public; make its case processes more transparent; and provide more information to its customers in a timely matter.